

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 24 NOVEMBER 2015

PLANNING APPLICATION – STORE, COMMERCIAL STREET, NEWTYLE

GRID REF: 329953 : 741334

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 15/00783/FULL for the Change of Use from Existing Storage Building to a Shop, Including Alterations to the External Appearance of the Building for Project Management Scotland at Store, Commercial Street, Newtyle. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reasons 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 full planning permission for the change of use of a store to form a shop, including alterations to the external appearance of the building.
- 3.2 The application site lies within the development boundary of Newtyle, in the east of the village and measures approximately 47sqm. The site consists of a rectangular pitched roof single storey stone and slate semi-detached store building. The site is bound by an adjoining store to the northwest, Commercial Street to the northeast, a public house and flats to the southeast and a residential property to the southwest.
- 3.3 The proposal would involve the change of use of the building to form a shop. The proposal would include alterations to the external appearance of the building and would seek to build up existing openings on the southwest and southeast elevations, in materials to match the existing, install 5 rooflights within the pitched roof and form a new entrance and window on the northeast elevation. The proposed windows and doors would be finished in a timber effect UPVC and two signs would be installed on the building. The proposed shop would be open 7 days a week between 7am and 7pm.
- 3.4 The drawing numbered PMS 2072-200C, amends and supersedes the drawings numbered PMS 2072-200A and PMS 2072-200B. The amended drawing includes alterations to the internal layout of the proposed shop, the relocation of the shop entrance to the northeast elevation and the correct annotation for the orientation of the proposed elevations.
- 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 whilst being subject to an objection from the Newtyle & Eassie Community Council.

4. RELEVANT PLANNING HISTORY

None.

5. APPLICANT'S CASE

- 5.1 A Bat Survey Report conducted in September 2015, by GLM Ecology on behalf of Project Management Scotland, was submitted in support of the application. The survey concludes that the application building is in a good condition and has no visible potential for bat entrances. No bat roosts were identified within the building and no bats were recorded emerging from the building during the survey period. The Report suggests however that there may be a small possibility of bats being present under roof slates and therefore suitable mitigation methods should be put in place.
- 5.2 Photographs of the exterior of the existing building 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 (traffic)** – has no objections to the proposal.
- 6.2 **Angus Council Environmental Health** – has no objections to the proposal subject to conditions being attached.
- 6.3 **Scottish Water** – there was no response from this consultee at the time of report preparation.
- 6.4 **Archaeology Service** - has no objections to the proposal subject to conditions being attached.
- 6.5 **Newtyle & Eassie Community Council** – has objected to the application on the grounds of road safety in terms of delivery vehicles and young customers being in close proximity to a blind corner and inadequate parking provisions. Concerns are also raised regarding detrimental impacts upon surrounding residential amenity, viability of existing business in the village and the proximity of the proposal to the public house.

7. REPRESENTATIONS

- 7.1 Ten (10) letters of representation have been received; 2 raising objection, 7 supporting the proposal and 1 neither objecting to nor supporting the proposal. 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:
- Insufficient on-street parking capacity near the application site.
 - Road safety concerns.

Comment – The above matters are discussed under Section 8, Planning Considerations below.

- **Littering and other anti-social behaviour** - it is not the purpose of the planning system to regulate anti-social behaviour and I do not consider that the provision of a shop of this scale would in itself exacerbate any existing anti-social behaviour to a level that would justify refusal of this application.
- **Concerns over the sale of alcohol from the premises and close proximity to an existing public house** – the substantive issue in relation to this proposal is whether a retail use is acceptable from the premises and that matter is discussed below. Issues regarding the sale of alcohol from the premises are more appropriately addressed through the licensing regime.

7.3 The main comments in support of the application are as follows:

- Improved retail choice and competition within the village.
- No perceived parking or road safety issues.
- Potential to create new jobs.

Comment – the suitability of the site for retail use is discussed 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 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

8.3 The development plan policies relevant to consideration of this application are provided in Appendix 1 and have been taken into account in the preparation of this report.

8.4 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 considered by Angus Council at its meeting on 11 December with a view to it being approved and published as the Proposed ALDP 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 Proposed ALDP, as approved by Angus Council, will be subject to a 9 week period for representation commencing in February 2015. Any unresolved representations received during this statutory consultation period 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 will be 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. This may change following the period of representation when the level and significance of any objection to policies and proposals of the plan will be known.

8.5 Policy S1 (a) indicates that proposals for developments on sites not allocated on proposal maps will be supported where they are in accordance with other policies of the local plan. In this respect, attention must now be made to other policies of the ALPR.

8.6 This proposal falls to be primarily considered against Policy SC27: 'Local Shops'. Policy SC27 supports improvements of local shops particularly in areas deficient in shopping facilities, subject to amenity considerations and where the proposal would, amongst other things, add to retail provision within the development boundaries. The proposal would utilise an existing building to provide a small shop which would add to the retail provision within the development boundary of Newtyle. With regards to amenity, the proposed shop would have a similar relationship to nearby residential property as existing retail premises in the village. The shop would attract additional activity in the area but given its very limited size such activity is unlikely to have a significant adverse impact on the amenity of the area. The Environmental Health Service has considered the proposal in terms of noise and odour pollution and is satisfied that it could be accommodated without unacceptable impacts, subject to a regulatory condition to restrict noise limits from any ventilation, extraction or refrigeration plant associated with the development. The proposed development would add to retail provision within the development boundary in a manner that would not have an unacceptable impact upon amenity. On this basis the proposal would comply with Policy SC27 subject to conditions.

- 8.7 Policy S6: 'Development Principles' identifies a number of factors which are relevant in the determination of this proposal. As indicated above the proposal would not result in unacceptable amenity impacts. The alterations to the external appearance of the building are relatively minor and would not be visually incongruent and would not result in detrimental impacts upon the visual amenity of the area.
- 8.8 In relation to roads, parking and access issues it is noted that third parties have raised concerns regarding parking and road safety issues. The applicant has amended the proposal to relocate the proposed entrance in order to address concerns. Whilst there is no off-street parking proposed that is not unusual for a small retail unit within a village. In this case there is on-street parking available in the vicinity and given the limited size of the proposed unit it is unlikely to generate significant additional vehicle movements. The Roads Service has been consulted on the proposal, has considered the application in terms of the traffic likely to be generated by it and its impact on the public road network, and has indicated no objection. On this basis it is considered the proposal would not cause any unacceptable road safety, parking or access issues.
- 8.9 A Bat Survey was submitted in support of the application which indicated no bats were found in or around the site. However mitigation methods were suggest should any bats be found during construction, this matter can be regulated by condition. The proposal does not give rise to any significant issues in terms of the remaining criteria of Schedule 1 and would therefore comply with Policy S6.
- 8.10 Returning to Policy S1 (a), the proposal would be compatible with relevant policies of the local plan and as such would also comply with Policy S1.
- 8.11 The letters submitted in relation to the proposal by third parties are noted and the issues raised have been addressed above. The Community Council has also raised concerns regarding the viability of existing businesses within the village. However, it is not the purpose of the planning system to restrict commercial competition and the Council's planning policies generally seek to facilitate new small-scale shops within development boundaries.
- 8.12 In conclusion, the proposal to form a small shop in the location proposed would be compatible with the surrounding land uses and would not result in unacceptable impacts upon amenity or road safety. The proposal would provide for an additional local shop within Newtyle in a manner which would comply with the relevant policies of the local plan subject to conditions. There are no material considerations that justify refusal of the 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. 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 condition(s):

Reason(s) for Approval:

The proposal would provide an additional retail establishment within Newtyle in a manner that would comply with the relevant policies of the development plan subject to conditions. There are no material considerations that justify refusal of the planning application contrary to the provisions of the development plan.

Conditions:

1. No demolition or development shall take place prior to a photographic survey being undertaken by the developer and approved in writing by the planning authority. All elevations, both external and internal (where it is safe to access the building), together with the setting of the building, and any unusual feature/s, shall be photographed and clearly annotated on a plan. Photographs, which should be digital files (jpeg, tiff, pdf) submitted by email, on CD or via online file sharing services, shall be clearly marked with place name for identification, national grid reference and planning reference and deposited with the Archaeology Service for addition into the local Sites and Monuments Record.

Reason: To ensure a historic record of the building.

2. Noise from any ventilation, extraction or refrigeration plant associated with the development shall not give rise to a noise level assessed with windows open within any dwelling or noise sensitive building, in excess of that equivalent to Noise Rating Curve 35 between 0700 and 2200 and Noise Rating Curve 25 at all other times.

Reason: To ensure the proposal would not result in unacceptable noise impacts and to protect the amenity of the area.

3. That the proposed development shall be undertaken in accordance with the mitigation methods listed in Section 1.18 of the Bat Survey Report, dated September 2015, carried out by GLM Ecology for Project Management Scotland submitted as part of this application.

Reason: To ensure that protected species are not disturbed during construction.

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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Appendix 1 : Location Plan
Appendix 2 : Development Plan Policies

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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 SC27: Local Shops

Subject to amenity considerations, proposals for the development and improvement of local shops will be supported, particularly in areas deficient in shopping facilities where they:

- add to retail provision within the development boundaries; or
- provide a visitor facility in a suitable location;
- are ancillary to an existing rural business; or
- provide or retain convenience goods shops and post offices in the rural area.