

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 08 AUGUST 2017**

**PLANNING APPLICATION – PUBLIC CONVENIENCE, OLD SHORE HEAD, ARBROATH**

**GRID REF: 364349 : 740612**

**REPORT BY HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

**Abstract:**

This report deals with planning application No 17/00372/FULL for the change of use from public convenience to hot food takeaway, crab and lobster shack, including alterations to the building and the formation of an outdoor seating area at the site Public Convenience, Old Shore Head, Arbroath by Carswell Properties Ltd. 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 full planning permission for the 'Change of Use from Public Convenience to Hot Food Takeaway Crab & Lobster Shack including Alterations to Building and Formation of Outdoor Seating Area'.
- 3.2 The application site measures approximately 212sqm and is located to the west of an area of open green space at Old Shorehead, Arbroath. The site is bound by Old Shorehead Road at the north and Marketgate to the west, a grassed open area at the east and the Brothock Water at the south. The surrounding Old Shorehead area is a mixture of residential and commercial uses. The building at the site was formerly an Angus Council public convenience and is a single storey structure with a rectangular footprint of 44sqm. Windows on the building face north, east and west. Access points are gated doorways at the east and west elevations. The walls are dash render and brick base course, all painted dark blue. The roof is an irregular pitched roof, unequally divided and stepped by overlapping ridge with opposing north and south slated profiles. Fascia boards and soffits are painted timber. A location plan is provided at Appendix 1 below.
- 3.3 The application seeks to change the use of the public convenience to a hot food takeaway. External alterations proposed at the building would be the formation of servery hatches at the north and west elevations with shelves, glass canopies, fold out glass side screens and protective shutters for out of hours. A staff access door would be formed at the existing west elevation access doorway and a staff and customer disabled toilet, that would be externally accessed only, formed at the existing east access doorway. Existing windows would be blocked up at the east elevation and 63sqm of customer seating area formed to the west of the building.
- 3.4 The application has not been subject of variation.

- 3.5 The application was subject to statutory neighbour notification and was advertised in the local press as required by legislation.
- 3.6 The application property is owned by Angus Council but is leased to the applicant. This application requires to be determined by the Development Standards Committee due to the recommendation of approval, where the proposal has attracted more than 5 objections.

#### 4. RELEVANT PLANNING HISTORY

There is no relevant planning history.

#### 5. APPLICANT'S CASE

5.1 Supporting documentation has been submitted and consists of:

- Extraction System Cross Section Drawing –drawing No. 1190/SK/10 shows a north to south cross section of the building and the proposed cooking and extraction system that would discharge at an elevated point at the south facing elevation between the stepped roof ridges. Technical information relating to the cooking and extraction unit is provided on the drawing;
- Environmental Health Service Information Required to Support Planning Application for Commercial Kitchen Form – The form indicates a varied range of meal types would be prepared on the premise by frying, microwave, boiling and grilling. An extraction flue would be installed and routed within the premises. The number of meals to be served per day and the proposed hours of operation of the business and any ventilation plant are indicated as unknown. Additional abatement equipment is indicated as carbon filters in extraction equipment, however, manufacture and specification details are not provided;
- Environmental Health Service Risk Assessment for Odour - The completed form is a self-assessment by the applicant and scores on odour impacts such as dispersion, cooking type and proximity of receptors. The applicant has indicates from their score the impact risk of odour is high and would require a high level of odour control.

All supporting information listed above was requested by Angus Council Environmental Health Service, to allow it to provide comment on the application in relation to the impacts of development on residential amenity.

5.2 The supporting information is available to view on the Council's [Public Access](#) system.

#### 6. CONSULTATIONS

- 6.1 **Angus Council Roads** – Offered no objection to the proposal in relation to road safety. In relation to flooding, it is indicated that the building is at flood risk from both fluvial and coastal flood events. Advises the building is adapted to be as flood resilient as possible during the refurbishment process.
- 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 **Aberdeenshire Council Archaeology Service** – Offered no objection to the proposal.
- 6.5 **Angus Council Environmental Health** - Offered no objection to the proposal provided conditions are attached regulating noise from development and requiring the provision of schemes for the extraction of cooking odours and waste management.
- 6.6 **Angus Council Economic Development** – Has indicated that the proposal to redevelop an unused building in the harbour area of the town as a crab and lobster shack has the potential to extend the available food offering, increase visitors to the Arbroath Harbour area and lead to associated benefits for the local economy. *It should be noted that the application is for a use that would constitute a hot food takeaway. The Planning Authority may be able to control the means of cooking food at a location but it cannot readily control the type of food or menu available at a premises.*

- 6.7 **Angus Council Property Services** – Has indicated that the property is leased to the applicant. A condition of the lease states that the ‘tenant shall use the premises for office/storage as defined by Use Class 4 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and for no other use whatsoever.’ *It should be noted that the lease restriction is a civil matter between the lessee and Angus Council as land owner. The lease condition is not a material planning consideration.*

## 7. REPRESENTATIONS

- 7.1 Thirteen letters of representation have been received in relation to the proposal at the stage of writing this report. Twelve letters are in objection and one in support. Two letters of objection are from the same household. 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: -

- **Increase in traffic and congestion and adverse impact on road safety;**
- **Lack of parking provision and increase in illegal parking;**
- **Adverse impact on amenity from odours, noise, littering and activity;**
- **Increase in loitering and general nuisance;**
- **Negative impact on visual amenity and character of the conservation area;**
- **Increase in seagulls and vermin attracted to the site;**
- **Lack of detail for the provision of the storage of waste.**

The main points of support are as follows: -

- **Good tourist trade and draw to area;**
- **Would complement other local businesses.**

These matters will be addressed under Planning Considerations below.

Other matters raised are addressed below: -

- **Removal/void of disabled parking space** – the parking space is located on the public road and the consent of the Roads Authority would be required for its removal. This application does not involve removal of the parking space.
- **The public convenience should not have closed/should be demolished** – the public convenience has been closed since February 2014 and has been leased to a third party (Report No. 340/14 refers). This application is not an opportunity to revisit that decision. The proposal does not involve demolition of the building, the terms of the lease do not require demolition, and there is no planning basis to require demolition.
- **Overprovision of restaurant and takeaway facilities in area and competition with/from other commercial establishments** – business competition is not a planning consideration and is not material to the determination of the current proposal. The acceptability of this proposal in relation to the Council’s land use planning policy is discussed below.
- **Ownership of the land and building** – Angus Council Property Service confirmed the public convenience building has been leased to the applicant and the requisite Land Certificates have been completed. The ownership history of the site is not material to the determination of the current proposal.
- **Person was not neighbour notified** – Neighbour Notification was undertaken in accordance with the provisions of Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The objector’s property is located in excess of 20m of the application site and was therefore not required to be notified. Notwithstanding this, the application was advertised in the local press on 31 May 2017.
- **The green and toilets are historically and legally accepted as common ground** - Angus Council Property Service confirmed the public convenience building has been leased and the applicant has completed the requisite Land Ownership Certificate. Common ground is not a recognised land use or status in a planning context and the ownership history of the site is not material to the determination of the current proposal.
- **Marked parking bays are required for residents of Old Shore Head** – the application for change of use from public convenience to hot food takeaway is not related to designated parking provision for neighbouring residents and is not material to the determination of the current proposal.

- **Will devalue neighbouring property** – the impact on property price is not a planning consideration and is not material to the determination of the current proposal.

## **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 The application site is located in the Conservation Area and Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the council 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 (ALDP) (Adopted 2016)
- 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 Policy DS1 of the ALDP identifies development boundaries for towns and, amongst other things, states that proposals for 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. 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. The application site lies within the development boundary of Arbroath and is not allocated or otherwise identified for development.
- 8.6 Policy TC8 seeks to safeguard existing community facilities except in specified circumstances. The proposal relates to a vacant building that was formerly used as a public convenience. Angus Council has determined that the building is surplus to requirements (Report 340/14) and there are other toilet facilities in the wider area. No alternative community use has been identified for the building and the loss of the existing facility would not have an adverse impact on the community.
- 8.7 A hot food takeaway is a use that attracts visitors. ALDP policy advocates a town centres first approach for uses of this nature and the application site is not within the defined town centre. However, the building sits within the Conservation Area and is reasonably prominent and it would be desirable to secure a new use that would allow it to be maintained in a manner that contributes positively to the amenity of the area. The harbour area is a location where uses that support its recreational function are not uncommon and are generally appropriate. The proposed use is one that is commonly found in the surrounding area and one that would support the recreational use of the area. A small-scale facility of the nature proposed would not have a significant impact on the vibrancy, vitality and viability of the town centre. Similarly, the nature of the use proposed would not significantly change the mixed use character of the area.
- 8.8 The key issue in relation to the proposed hot food takeaway is its impact on amenity. Policy DS4 indicates that development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the amenity or environment of existing or future occupiers of adjoining or nearby property. The Council's Advice Note 18 also provides guidance in relation to hot food takeaways. The Advice Note indicates that the preferred location for hot food takeaways are within the periphery of town centres outwith designated prime shopping areas, or in mixed-use areas, subject to compliance with other relevant criteria. The application site is in a mixed use area and is not directly abutting residential properties at ground floor level. The public footways in the vicinity of the site are not unusually narrow and the Roads Service has not raised any concern regarding the adequacy of those footways. The general location is compatible with the Advice Note guidance.

- 8.9 The Advice Note 18 recognises that hot food takeaways can have potential impacts in respect of cooking smells, noise, parking, footways, litter, opening hours and ventilation. In that respect the Environmental Health Service has indicated it is satisfied that an appropriate extraction and ventilation system can be provided to deal with cooking odours. A condition is proposed that requires full details of that system before the hot food takeaway is brought into use. Similarly the Environmental Health Service has offered no objection in relation to noise emission but a condition is proposed that seeks to regulate such emissions. There is an existing litter bin on the street in the proximity of the site. A condition is proposed that requires approval of a scheme for the management and disposal of food waste from the premises.
- 8.10 Concerns have been raised in letters of objection in relation to the impact of the development on amenity. The site is located close to the harbour where there are a range of activities that potentially give rise to noise and odour. It is also located in an area where Council policy generally supports smoking and processing of fish on a small domestic scale. The building is in the region of 15m from the closest property to the north and around 20m from the closest property to the west and in both cases are separated by the public roadway. These separation distances are reasonably generous within an urban area and exceed those typically found between hot food takeaways and residential property in the surrounding area. As indicated above the Environmental Health Service has offered no objection to the proposal subject to conditions. The proposal is likely to generate additional activity and congregation in the area, particularly given the proposed outside seating area but outside seating is positively promoted in the area and can be found around the harbour area and in the vicinity of Danger Point at the east end of Old Shore Head. The site is on a popular route between the town centre and the harbour area and the Council is actively seeking to strengthen linkages between the Abbey, High Street and Harbour areas. It is open to view from public roads and adjacent properties provide natural surveillance of the area. In these circumstances any additional activity or congregation is not considered to give rise to unacceptable impacts and anti-social behaviour is controlled by other regulatory regimes. The site is located in an area which is accessible on foot. Advice Note 18 indicates that it would generally be unreasonable to expect dedicated off-street parking to be provided by a hot food takeaway business. It goes on to indicate that outwith town centre locations, availability or unavailability of public car parking will constitute grounds for refusal if parking impinges on the amenity enjoyed in nearby residential streets or is regarded as presenting a road safety hazard by the Roads Service. In this case the Roads Service has offered no objection to the proposal in terms of road traffic, pedestrian safety and car parking. The proposal may provide some additional pressure on parking in the area but as indicated that must be balanced against the desirability of finding a new use for an existing building. In relation to litter, the Advice Note recognises that the dropping of litter by customers is outwith the control of the proprietor and is controlled by other regulatory regimes. Notwithstanding this, there are litter bins in the wider area and there is one located close to the premises. Advice Note 18 indicates that planning conditions will not normally be used to restrict opening hours of hot food takeaways as these can be more appropriately addressed through the licensing system. The proposal does not give rise to significant issues in terms of the remaining considerations of Policy DS4.
- 8.11 Policy PV8 deals with built and cultural heritage and the building is in the Conservation Area. As indicated above there is a statutory duty under Section 64 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in determining this application. Policy DS3 deals with design quality and placemaking and indicates development proposals should deliver a high design standard and draw upon those aspects of townscape that contribute positively to the character and sense of place of the area in which they are to be located. The external alterations to the building are minor and this is an area where some activity, including outdoor activity is characteristic. Similarly outdoor seating areas are not uncommon. Overall the proposal would not significantly affect the current visual appearance of the site and it would not adversely affect the character or appearance of the Conservation Area. Indeed, it would be desirable to secure a new use that would allow the building to be maintained in a manner that contributes positively to the area. The Archaeological Service has indicated that no archaeological mitigation is required.
- 8.12 Policy PV12 deals with flood risk. Policy PV13 relates to flood resilience and adaptation and amongst other things advocates the use of flood resilient materials and construction techniques. The site sits next to the Brothock Water and the Roads Service has confirmed the building is at flood risk from both fluvial and coastal flood events. However, this proposal is for change of use of an existing building and would not increase the number of buildings at risk of flooding. Any reuse of the building would present some risk but that does not raise significant conflict with the ALDP policy. The Roads Service has suggested that the applicant adapts the building to be as flood resilient as possible during the refurbishment process. This could include raising the internal floor level and using flood resilient materials such as tiles on the

floors and walls. Electric sockets should be raised above ground floor level and material should not be stored at floor level. Adopting a flood resilient approach means that the building can recover more quickly from a flood reducing business down time. That approach is consistent with Policy PV13 and is addressed by condition.

- 8.13 The proposal does not give rise to any significant issues in terms of development plan policy and is of an appropriate scale and nature for the location.
- 8.14 In terms of other material considerations regard must be had to those letters of representation that raise relevant planning matters. The letter that offers support is noted and the proposal could draw trade to the area. The proposal may result in additional competition between businesses but that is not a material planning consideration.
- 8.15 The letters of objection raise concern regarding impacts on road safety and parking. However, this matter is addressed above. Any new use for the building is likely to generate some additional demand on parking and that must be balanced against the desirability of securing a new use for the building. In this case the Roads Service has offered no objection to the proposal. Issues regarding potential impact on amenity are relevant concerns and again this issue is discussed above. The proposed hot food takeaway is separated from nearby residential properties by public roads and distances in excess of 10m. This is a mixed use area close to a working harbour, a boat builders yard and public houses. There are other hot food takeaways in the surrounding area that co-exist with housing at much closer distances. In this case the Environmental Health Service is satisfied that noise and odour from the use can be controlled. The site benefits from natural surveillance provided by surrounding properties and anti-social behaviour is controlled by other regulatory regimes. The proposal involves minimal alteration to the external appearance of the building and this type of use and the activity it would generate is not inappropriate in the Conservation Area. There are litter bins in the proximity of the site and a condition is attached that requires implementation of a scheme for the management and disposal of food waste.
- 8.16 In conclusion, the proposal provides a new use for an existing building in the Conservation Area. The proposal is broadly compliant with development plan policy subject to the proposed planning conditions. Those conditions seek to mitigate impacts that would arise from the proposed use. The proposal would not have an adverse impact on the character or appearance of the Conservation Area and securing a new use that would help retain the building in an appropriate condition would be beneficial. The letters submitted in support and opposition to the proposal by third parties are noted and discussed above and the material planning issues raised have been taken into account in preparation of this report. However, the proposal is considered to comply with the relevant policies of the development plan, subject to the proposed conditions, and 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 undernoted conditions:

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

The proposed development provides a new use for an existing building in the Conservation Area in a manner that complies with relevant policies of the development plan subject to the stated conditions. It would not have a significant adverse impact on the character or appearance of the Conservation Area. There are no material considerations that justify refusal.

### **Conditions:**

1. That noise from fixed equipment associated with the hot food takeaway 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: In order to safeguard the amenity of occupants of neighbouring noise sensitive property.*

2. The system for the extraction of cooking odours from within the hot food takeaway is not approved. The hot food takeaway shall not be brought into use until a system for the extraction of cooking odours has been installed in accordance with a scheme that has been approved in writing by the Planning Authority. The scheme for the extraction of cooking odours shall include:
  - Full details of the proposed odour abatement system including grease filters, pre-filters and carbon filters or any other odour abatement method as considered necessary;
  - Detailed drawings showing all ductwork and the final discharge position with no restrictions i.e. caps or cowls
  - A detailed maintenance and cleaning schedule for the kitchen extraction equipment

Thereafter the approved odour extraction system shall be maintained and operated in accordance with the approved scheme and shall be fully operational at all times when the hot food takeaway is in use. For the avoidance of doubt the system for the extraction of cooking odours from within the hot food takeaway is not approved.

*Reason: In order to ensure the provision and maintenance of a satisfactory cooking odour extraction system in the interests of safeguard the amenity of occupants of neighbouring property.*

3. That prior to the opening of the hot food takeaway a scheme for the management of food waste shall be submitted to and approved in writing by the Planning Authority. The approved scheme shall be fully implemented on the date of commencement of the use and shall be maintained and operated whilst the hot food takeaway operates from the site.

*Reason: In order to ensure the provision of a scheme for the appropriate management of food waste arising from the proposed use in the interests of the amenity of the area.*

4. That any amplified music from the hot food takeaway shall be controlled so as to be inaudible within any dwelling or noise sensitive building.

*Reason: In order to safeguard the amenity of occupants of neighbouring noise sensitive property.*

5. That prior to the commencement of development details of a scheme to mitigate the impact of flooding on the building through the use of flood resilient materials and construction techniques shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details.

*Reason: In order to mitigate the impact of a flood event on the building and in accordance with Policy PV13 of the Angus Local Development Plan.*

**STEWART BALL  
HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

**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 a material extent in preparing the above report.

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**DATE: 12 JULY 2017**

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



## Appendix 1 : Location Plan

## **Appendix 2 : Relevant Development Plan Policies**

### **Angus Local Development Plan**

#### **Policy DS1 : Development Boundaries and Priorities**

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

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

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

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

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

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

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

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

\*Sharing an edge or boundary, neighbouring or adjacent

#### **Policy DS3 : Design Quality and Placemaking**

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

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

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

## **Policy DS4 : Amenity**

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

Angus Council will consider the impacts of development on:

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

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

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

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

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 TC17 : Network of Centres**

Angus Council will seek to protect and enhance the scale and function of the centres as set out in Table 2 below.

A town centre first policy is applied to uses including retail, commercial leisure, offices, community and cultural facilities that attract significant numbers of people. Support will be given to development

proposals in town centres which are in keeping with the townscape and pattern of development and which conform with the character, scale and function of the town centres.

All development proposals within a Commercial Centre will have to satisfy criteria within Policy TC19 Retail and Town Centre Uses.

### **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.

### **Policy PV12 : Managing Flood Risk**

To reduce potential risk from flooding there will be a general presumption against built development proposals:

- on the functional floodplain;
- which involve land raising resulting in the loss of the functional flood plain; or
- which would materially increase the probability of flooding to existing or planned development.

Development in areas known or suspected to be at the upper end of low to medium risk or of medium to high flood risk (as defined in Scottish Planning Policy (2014), see Table 4) may be required to undertake a flood risk assessment. This should demonstrate:

- that flood risk can be adequately managed both within and outwith the site;
- that a freeboard allowance of at least 500-600mm in all circumstances can be provided;
- access and egress to the site can be provided that is free of flood risk; and
- where appropriate that water-resistant materials and construction will be utilised.

Where appropriate development proposals will be:

- assessed within the context of the Shoreline Management Plan, Strategic Flood Risk Assessments and Flood Management Plans; and
- considered within the context of SEPA flood maps to assess and mitigate surface water flood potential.

Built development should avoid areas of ground instability (landslip) coastal erosion and storm surges. In areas prone to landslip a geomorphological assessment may be requested in support of a planning application to assess degree of risk and any remediation measures if required to make the site suitable for use.

### **Policy PV13 Resilience and Adaptation**

Development should not require an increase in the provision and / or maintenance of flood defences.

To increase resilience to the effects of climate change such as flood and drought, extreme weather events and rising sea levels Angus Council may require development proposals to incorporate adaptation measures including:

- use of flood resistant materials and construction techniques;
- removal of culverts and other engineering works where opportunity arises and avoidance of development over or requiring new culverts or other unnecessary engineering works unless there is no practical alternative;
- minimising the area of impermeable surfaces by using permeable surfaces where possible for car parking and hard landscaping and where appropriate, green roofs and green infrastructure; and
- natural flood management measures which reduce water flow and enhance biodiversity and the quality of the water environment. Such schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

### **Policy PV18 Waste Management in New Development**

Proposals for new retail, residential, commercial, business and industrial development should seek to minimise the production of demolition and construction waste and incorporate recycled waste into the development.

Where appropriate, Angus Council will require the submission of a Site Waste Management Plan to demonstrate how the generation of waste will be minimised during the construction and operational phases of the development.

Development proposals that are likely to generate waste when operational will be expected to include appropriate facilities for the segregation, storage and collection of waste. This will include provision for the separate collection and storage of recyclates within the curtilage of individual houses.

### **A11 Working - Domestic Scale Fish Processing**

Smoking and processing of fish on a small domestic scale will continue to be supported within the Fit o' the Toon area.