

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE - 11 SEPTEMBER 2018**

**PLANNING APPLICATION - 39 - 41 KINNAIRD STREET ARBROATH DD11 4EF**

**GRID REF: 363592 : 741594**

**REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES**

**Abstract:**

This report deals with planning application No 18/00429/FULL for a change of use from a young person's supported accommodation residential institution to six flatted dwellings, including the formation of a rear attic dormer access, at 39-41 Kinnaird Street, Arbroath, for Anne Charles Estates Limited. This application is recommended for approval.

**1. RECOMMENDATION**

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

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

**3. INTRODUCTION**

3.1 The applicant seeks full planning permission for 'Change of Use from Young Person's Supported Accommodation Residential Institution to Six Flatted Dwellings Including Formation of Rear Attic Dormer Access'.

3.2 The application site is 420sqm in area and is a two-and-a-half storey terraced building at the east side of Kinnaird Street, Arbroath. The building is traditional in appearance, with red sandstone walls and slate roof. Windows on the building face east and west and the building is abutted by residential dwellings at the north and south. There is an enclosed garden area at the rear of the building at the east and the building is bound by Kinnaird Street at the west. The building at the site was formerly a children's home operated by Angus Council. A copy of the location plan is provided at Appendix 1.

3.3 The proposal would provide 2 x two bedroom flats on the ground floor, 2 x two bedroom flats on the first floor and 2 x one bedroom flats in the second floor attic space. Each flat would have access to 280sqm of communal private amenity space at the rear of the building. There is no provision for off-street parking at the site. External alterations at the building would involve the formation of an external attic roof dormer access and the formation of an additional flight of stairs at the outdoor stairwell at the rear of the property, providing access to the two flats proposed within the attic space.

- 3.4 The Existing Floor Plans and Elevations Drawing no. 5946\_S\_004 Revision A, dated 22 March 2018, the Existing Site Plan drawing no. 5916\_P\_302 Revision A, dated 28 May 2018, the Location Plan drawing no. 5916\_S\_001 Revision A, dated 22 March 2018, the Proposed Floor Plans and Elevations drawing no. 5916\_P\_305 Revision A, dated 25 May 2018, the Proposed Site Plan drawing no. 5916\_P\_303 Revision A, dated 28 May 2018 and the Proposed Stairwell Elevations drawing no. 5916\_P\_306 Revision A, dated July 2018, amend and supersede the older copies of the same named and numbered drawings, in that they show the correct scales and scale bars and the rear stairwell and bin recess is accurately measured.
- 3.5 The application was advertised in the Dundee Courier.
- 3.6 The application is being presented to the Development Standards Committee as Angus Council has a financial interest in the development as land owner, where the application has attracted letters of objection.

#### 4. RELEVANT PLANNING HISTORY

There is no relevant planning history.

#### 5. APPLICANT'S CASE

The Bat Survey consists of a Stage 1 Preliminary Roost Assessment and building inspection and concludes that, following Bat Conservation Trust Guidance 2016, the building is assessed as having negligible risk for roosting bats. It is considered that renovation and building work can proceed as the proposal carries a negligible risk to bats.

#### 6. CONSULTATIONS

- 6.1 **Community Council** - There was no response from this consultee at the time of report preparation.
- 6.2 **Angus Council - Roads** - This Service reviewed the proposal in terms of the effect and timing of traffic movement to and from the site, car parking and impacts on highway safety and offered no objection to the proposal.
- 6.3 **Scottish Water** - Offered no objection to the proposal.
- 6.4 **Scottish Natural Heritage** - Indicated the submitted bat survey was sufficient and, as it found the building to have negligible potential for bat roosts, further surveys should not be necessary.
- 6.5 **Angus Council - Property Services** - There was no response from this consultee at the time of report preparation.

#### 7. REPRESENTATIONS

- 7.1 Three letters of representation have been received in relation to 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 concern were as follows: -
- Proposal will have an adverse impact on the amenity of the area;
  - Proposal will not provide a good living environment;
  - Proposal will place additional pressure on street parking in the area.

These matters are addressed in the Planning Considerations Section 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 2017)
  - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.3 The application is not of strategic significance and the policies of TAYplan are not referenced in this report. The relevant policies of the ALDP are provided in Appendix 2 and have been taken into account in the preparation of this report.
- 8.4 Policy DS1 in the Angus Local Development Plan (ALDP) indicates that all proposals will be expected to support delivery of the Development Strategy and, that for unidentified sites within development boundaries, proposals will be supported where they are of a scale and nature appropriate to the location and where they accord with other relevant policies in the ALDP.
- 8.5 The building proposed for development was last used as a children's home, which is a residential institution use that shares similarities with flatted dwelling residential use. It is not allocated or protected for another use. The proposal would result in reconfiguration of the property to form six flatted dwellings. The proposed residential use is compatible with other uses in the area. Flatted dwellings are common in the area and whilst dormer accommodation in roof-spaces is less usual this property has existing dormer windows to the front and rear. The reconfigured units would provide 4 x two bedroom flats and 2 x one bedroom flats ranging from 31sqm to 48sqm of internal floor space. Each flat would have access to 280sqm of communal private amenity space at the rear of the building. There is ample space for recycling and waste storage at the site including an existing bin store which is indicated to be used. The proposal is capable of providing a satisfactory residential environment.
- 8.6 There is an external stone and brick stairwell at the rear of the building which provides access to the first floor. This form of stairwell, which is U-shaped with landing, is a traditional feature that is replicated at the rear of the neighbouring building at the south and similar examples are found elsewhere in Arbroath. The proposal seeks to extend and increase the height of this stairwell to allow access to the two flats proposed in the attic space. Access into the attic flats would be taken through an opening formed in the roof that would mimic the design and form of the two existing rear dormer windows. The stairwell extension would be formed of steel support rails, balustrades and handrails, in a steel paint finish, that would provide two additional flights of stairs with intervening U-shaped landing. The design solution is considered to be acceptable and would affect the rear elevation of the building, which is only readily visible from the rear communal private amenity space and from neighbouring garden ground. The front elevation of the building would appear unchanged and the impact on the visual appearance and the pattern of development of the surrounding area is considered to be negligible.
- 8.7 The proposed extension would increase the height of the existing stairwell by 2.9m whilst maintaining the existing 4.2m projection (excluding ground floor bin recess) from the rear elevation wall. The heightened extension landing would align with the eaves of the roof and the resultant stairwell top landing would be at a height of 6.2m, which would be 4.2m below the existing roof ridge height. The metal frame design of the stairwell extension would minimise loss of daylight/sunlight and overshadowing to neighbouring land and, given the separation distances to neighbouring land boundaries, the impacts on daylight and shadow from increasing the height of the stairwell are not considered to be significant. Persons using the stairwell would be using it for access/egress purposes to the two attic flats proposed and, whilst the proposal to extend the stairwell does have the potential to increase overlooking of neighbouring garden ground from a greater height, the use of the stairwell would be intermittent and for short periods of time. The existing stairwell, other stairwells in the area and upper floor windows in existing buildings currently provide a degree of overlooking of rear garden areas. Therefore it is considered the

impacts of overlooking and loss of privacy would not be significantly different from that already experienced.

- 8.8 The property has most recently been used as a children's home. That use would have generated a degree of activity in the area. The property could be used for a similar purpose (residential institution) without the requirement for planning permission and again such use could give rise to a reasonable degree of movement and activity. The provision of six flatted dwellings in the building is unlikely to give rise to significant impacts on the amenity of occupants of neighbouring property. The proposal does not give rise to any significant impacts on the amenity of the surrounding area or on that of occupants of neighbouring property.
- 8.9 The absence of on-site parking within historic town areas is not uncommon and there is on-street car parking available on Kinnaird Street and in the wider area. The building was most recently used as a children's home and that use would have generated some vehicular movement through both staff and visitors. Any reuse of the building is likely to result in some additional movement and demand for car parking. The Roads Service has reviewed the proposal in terms of the effect and timing of traffic movement to and from the site, car parking and impacts on highway safety and offered no objection to the proposal. Scottish Water has offered no objection to the proposal and it would not give rise to significant impacts on other infrastructure.
- 8.10 A Bat Survey was submitted in support of the application and was ratified by Scottish Natural Heritage. The survey indicates that the building is assessed as having negligible potential for roosting bats and building work can proceed as the proposal carries a negligible risk to bats. The proposal does not give rise to any significant issues in terms of protected species and Policy PV5.
- 8.11 The proposal does not give rise to any requirement for affordable housing in terms of Policy TC3. However, the nature of the proposed units is such that they would be affordable by design.
- 8.12 The proposal complies with relevant development plan policy.
- 8.13 In terms of material considerations a number of representations have been submitted. Residential use is appropriate at this location and the proposed units would provide a reasonable standard of residential amenity. The proposal would be required to comply with relevant building standards. Directs impacts on amenity associated with the proposal are discussed above and are not considered to be unacceptable. Six flats is unlikely to give rise to noise or odour impacts that are untypical of any residential area. There would be movement and activity associated with the proposal but again this would not be at a level untypical in any residential area. The Roads Service is satisfied that there is adequate parking provision in the surrounding area and any new use for the building would generate some demand for on street parking.
- 8.14 The proposal does not give rise to any significant issues in terms of the relevant policies of the development plan. The representations have been taken into account in so far as they raise material planning considerations, however, there are no matters raised that justify refusal of the application. The proposal complies with the relevant provisions of the development plan and there are no material considerations that justify refusal.

## **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:

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

The proposal complies with the relevant provisions of the development plan and would provide six flatted dwellings in an existing residential area at a scale and nature appropriate to the location. There are no material considerations that justify refusal.

**KATE COWEY  
SERVICE LEADER - PLANNING & COMMUNITIES**

**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: 31 AUGUST 2018**

APPENDIX 1: LOCATION PLAN  
APPENDIX 2: DEVELOPMENT PLAN POLICIES

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

### **Angus Local Development Plan 2016**

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

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

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

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

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

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

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

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

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

\*Sharing an edge or boundary, neighbouring or adjacent

#### **Policy 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.

#### **Policy TC2 : Residential Development**

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

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

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

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

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

- retention, renovation or acceptable replacement of existing houses;
- conversion of non-residential buildings;
- regeneration or redevelopment of a brownfield site that delivers significant visual or environmental improvement through the removal of derelict buildings, contamination or an incompatible land use;
- single new houses where development would:
- round off an established building group of 3 or more existing dwellings; or

- meet an essential worker requirement for the management of land or other rural business.
- in Rural Settlement Units (RSUs)\*\*; fill a gap between the curtilages of two houses, or the curtilage of one house and a metalled road, or between the curtilage of one house and an existing substantial building such as a church, a shop or a community facility; and
- in Category 2 Rural Settlement Units (RSUs), as shown on the Proposals Map, gap sites (as defined in the Glossary) may be developed for up to two houses.

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

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

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

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

### **Policy TC3 Affordable Housing**

Angus Council will seek to secure the delivery of affordable housing equivalent to 25% of the total number of residential units proposed on all residential sites of 10 or more units, or where a site is equal to or exceeds 0.5ha.

Where a qualifying site is being developed in phases of less than 10 units or less than 0.5 hectares the affordable housing requirement will be applied based on the overall capacity of the site.

Angus Council will work in partnership with developers and consider innovative and flexible approaches to secure delivery of an appropriate affordable housing contribution. Where appropriate, Section 75 or other legal agreements may be used.

Details of the scale and nature of the affordable housing contribution sought from individual sites, including tenure, house size and type, will be subject to agreement between the applicant and Angus Council taking into account:

- local housing needs (set out in the current Housing Needs and Demand Assessment);
- physical characteristics of the site;
- development viability; and
- availability of public sector funding.

The Affordable Housing Policy Implementation Guide sets out how the Council will implement this policy and secure the delivery of Affordable Housing in line with the provisions of Scottish Planning Policy and guidance.

### **Policy PV5 : Protected Species**

Angus Council will work with partner agencies and developers to protect and enhance all wildlife including its habitats, important roost or nesting places. Development proposals which are likely to affect protected species will be assessed to ensure compatibility with the appropriate regulatory regime.

#### **European Protected Species**

Development proposals that would, either individually or cumulatively, be likely to have an unacceptable adverse impact on European protected species as defined by Annex 1V of the Habitats Directive (Directive 92/24/EEC) will only be permitted where it can be demonstrated to the satisfaction of Angus Council as planning authority that:



- there is no satisfactory alternative; and
- there are imperative reasons of overriding public health and/or safety, nature, social or economic interest and beneficial consequences for the environment, and
- the development would not be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range

#### Other Protected Species

Development proposals that would be likely to have an unacceptable adverse effect on protected species unless justified in accordance with relevant species legislation (Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992) subject to any consequent amendment or replacement.

Further information on protected sites and species and their influence on proposed development will be set out in a Planning Advice Note.

#### **Policy PV15 : Drainage Infrastructure**

Development proposals within Development Boundaries will be required to connect to the public sewer where available.

Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria\*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority. SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

\*Enabling Development and our 5 Criteria (<http://scotland.gov.uk/Resource/0040/00409361.pdf> )