

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 9 OCTOBER 2018

PLANNING APPLICATION – 20 HIGH STREET MONTROSE DD10 8JL

GRID REF: 371415: 758048

SERVICE LEADER – PLANNING AND COMMUNITIES

Abstract:

This report deals with planning application No 18/00288/FULL for the change of use of a class 1 retail unit to a Tanning Salon at 20 High Street Montrose DD10 8JL for Luxuria Tanning. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the condition 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 planning permission for the change of use of a class 1 retail unit to a Tanning Salon.

3.2 The application site is located on the west side of High Street approximately 40m north of its junction with John Street. The building is Category B listed and is in the Montrose Conservation Area. The application site comprises the ground floor which was last in use as a shop unit. No external alterations are proposed by this application. The proposal would not alter existing access, drainage or water supply arrangements. A location plan is provided at Appendix 1 below.

3.3 The application has been subject to neighbour notification and was advertised in the press as required by legislation.

3.4 This application requires to be determined by the Development Standards Committee because it has attracted more than five individual objections and is recommended for approval.

4. RELEVANT PLANNING HISTORY

There is no planning history directly relevant to the determination of this planning application. Planning permission and listed building consent were granted in application 2007 for air conditioning units at the property.

5. APPLICANT'S CASE

The applicant's agent has submitted a Supporting Statement and marketing information. That information can be viewed on the [Public Access](#) website. That information is summarised as

follows: -

Supporting Statement

- The salon would provide tanning facilities for up to six customers at any one time;
- Two members of staff would be on duty;
- The facility would be open to mid-evening;
- The floor area is under 200 sq. metres;
- The proposal fits in with the strategy to locate new employment opportunities in the established town centres;
- The location fits with the strategy for accessible developments;
- No ventilation systems are required;
- The re-use of the premises will see the High Street retain its vibrancy.

Marketing Information

- The previous tenant Thomas Cook terminated the lease with effect from 2 June 2017;
- The rent paid by Thomas Cook is the same as the current asking rent;
- The rent is considered to be fair and comparable with other properties marketed in the High Street and their market rents.

6. CONSULTATIONS

- 6.1 **Angus Council Roads** – does not object to the proposal.
- 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.

7. REPRESENTATIONS

- 7.1 53 representations have been received. 47 object to the proposal, two indicate that they offer neutral comments but indicate that an existing tanning salon should not be closed, and four offer support. The letters of representation will be circulated to Members of the Development Standards Committee and are available to view on the council's [Public Access](#) website.

- 7.2 The main points of objection are as follows: -

- **Impact on existing tanning salon businesses;**
- **No requirement for more tanning salons;**
- **Road traffic and parking issues;**
- **Mess and litter.**

The main points of support are as follows: -

- **New facility;**
- **Good customer service.**

The relevant planning matters are discussed below in section 8.

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 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.3 Section 64 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 the conservation area in determining this application.
- 8.4 In this case the development plan comprises:-
- TAYplan (Approved 2017)
 - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.5 The proposal is not of strategic significance and therefore the policies of TAYplan are not referenced. The relevant policies of the ALDP are provided in Appendix 2 and have been taken into account in the preparation of this report.
- 8.6 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.
- 8.7 The application site is located within Core Retail Area of Montrose town centre as defined by the ALDP. Policy TC17 promotes a town centre first approach and seeks to direct uses that attract significant numbers of people including retail, commercial leisure, offices, community and cultural facilities to town centre locations. Support is 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. The policy indicates that uses falling within Class 2 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will be appropriate within Montrose town centre. Policy TC18 deals specifically with Core Retail Areas. It indicates that proposals seeking the change of use of existing ground floor retail premises will be acceptable where it can be demonstrated that the existing business is no longer viable and the property has been marketed for sale or lease as a going concern for a reasonable period at a reasonable market price; or at least 10% of the total number of retail units within the Core Retail Area are vacant.
- 8.8 The proposed tanning salon would occupy an existing building and is a Class 2 use. The principle of the proposed use in the town centre is acceptable. The property was last occupied by a retail use and therefore the Policy TC18 requirements are relevant. The applicant's agent has submitted information that indicates the property has been vacant for more than 12-months and that it has been actively marketed over that period at a reasonable market value. In addition, available survey information indicates that the vacancy rate for retail units in the Core Retail Area is 10%. The proposed change from a retail unit to a Class 2 use is compatible with the provisions of TC18 in this case. The policy indicates that where change of use is acceptable proposals should include an appropriate active frontage. This application does not propose any alteration to the exterior of the building but a condition is proposed that requires an active frontage to the street.
- 8.9 The property is a listed building and it is located within the conservation area. The proposal does not involve any physical alteration to the exterior of the listed building. The interior of the building appears to have been altered in the past and the proposal would involve subdivision of the internal space to provide small rooms. The subdivision of the internal space would not affect the special interest of the listed building. The character of the conservation area is derived in part from the mix of commercial uses that are found at ground floor. It is a busy and active area where there is a high degree of pedestrian movement and interaction with businesses located at the ground floor. The proposal represents a Class 2 use and that is by definition a use where the services are provided principally to visiting members of the public. Around 80% of ground floor commercial properties within the Core Retail Area are in retail use and the proposal would not adversely affect the character of the area as a busy town centre retail location.
- 8.10 There is no reason to consider that the proposed use would give rise to unacceptable amenity impacts. This is a Class 2 use and such uses are commonly found in the vicinity of residential property, and other similar uses operate in proximity of neighbouring property without significant impact. The proposed use is unlikely to generate traffic impacts that are markedly different from the current lawful use and the Roads Service has offered no objection.

- 8.11 The proposal does not give rise to any other significant policy issues. It is of a scale and nature appropriate to the location and complies with relevant development plan policy.
- 8.12 In relation to material considerations it is relevant to note that a number of representations have been submitted. Those representations are material in so far as they relate to relevant planning matters and have been taken into account in the preparation of this report. The availability of other tanning salons in the town and the associated issue of completion between businesses is not a material planning consideration. As discussed above the principle of the proposed use complies with development plan policy. The proposed use is unlikely to generate traffic impacts that are markedly different from the current lawful use and the Roads Service has offered no objection. There is no reason to consider that the proposed use would generate more mess or litter than any other town centre use, including the lawful use of the premises as a retail unit and it is unlikely to give rise to significant impacts on the amenity of occupants of nearby property.
- 8.13 The letters of support are noted but the provision of good customer service is not a material planning consideration. Similarly the provision of a new facility is not in itself a material planning consideration although it is relevant to note that the proposal provides for the reuse of a listed building within the Conservation Area. It 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.
- 8.14 The proposal provides for the reuse of a vacant unit located within a listed building. The new use would be compatible with development plan policy and would help maintain the vitality and viability of the town centre. The proposal would not affect the special interest of the listed building and would maintain the character and appearance of the conservation area. The representations submitted in objection and in support of the proposal have been taken into account in the preparation of this report. The representations do not alter the conclusion that the proposal complies with development plan policy and they do not identify material considerations that justify refusal of planning permission.

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 conditions:

Reason(s) for Approval:

The proposal provides for the reuse of a vacant unit located within a listed building. The new use would be compatible with development plan policy and would help maintain the vitality and viability of the town centre. The proposal would not affect the special interest of the listed building and would maintain the character and appearance of the conservation area. There are no material considerations that justify refusal of planning permission.

Conditions:

1. The window glass of the building that fronts High Street shall not be painted, tinted or otherwise obscured and no furniture or fixings which may obscure visibility above a height of 1.5m above finished floor level shall be placed within 2m of the inside of that window glass.

Reason: To ensure an active frontage is maintained in the interest of serving passive surveillance of the street, the appearance of the street scene and preventing the creation of a dead frontage.

**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.

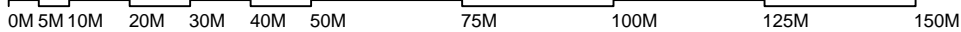
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APPENDIX 1: LOCATION PLAN
APPENDIX 2: RELEVANT DEVELOPMENT PLAN POLICIES



LOCATION PLAN
SCALE 1:1250

SITE AREA
= 96SQM



Job Title: PROPOSED CHANGE OF USE TO TANNING SALON, 20 HIGH STREET, MONTROSE, DD10 8JE	Dwg No. 1105.1250.01	Rev. A
Drawing Title: LOCATION PLAN	Date: MARCH 2018	Drawn. GB
	Scale: 1:1250 @ A3	

Rev. A	Date: 2018.04.09	Description: BOUNDARY REVISED	Initial: SR
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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 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 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 TC18: Core Retail Areas

Within the Core Retail Areas as identified within the Proposals Maps, development proposals for retail uses (Class 1) which are appropriate to the character, scale and function of the town centre will be supported.

Development proposals seeking the change of use of existing ground floor retail premises (Class 1) will be acceptable where the proposed use is a restaurant or café (Class 3) or where:

- it can be demonstrated that the existing business is no longer viable and the property has been marketed for sale or lease as a going concern for a reasonable period at a reasonable market price; or
- at least 10% of the total number of retail units within the Core Retail Area are vacant.

Where development proposals satisfy the above criteria the following will also apply:

- ground floor development should include an appropriate active frontage; and
- a condition may be applied to restrict the permission to the use specified.

Within the Core Retail Areas, development proposals for residential and non-residential uses will be supported within the upper floors subject to the proposal according with other relevant policies within the Local Development Plan. Residential use on ground floors will not be supported.

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.