

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 9 MARCH 2021**

**PLANNING APPLICATION – 148 HIGH STREET MONTROSE DD10 8JB  
GRID REF: 371403 - 757796**

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

**Abstract:**

This report deals with planning application No [20/00697/FULL](#) for the change of use of a class 1 retail unit to a nail bar (sui generis) or a Class 2 (financial, professional and other services) use at 148 High Street Montrose for Mr Dinh Ha Truong. 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 nail bar (sui generis) or Class 2 (financial, professional and other services) use at 148 High Street Montrose. A location plan is provided at Appendix 1.

3.2 The application site is located on the west side of High Street approximately 25m south of its junction with Hume Street. The building is Category C listed with a 19th century shopfront and is located within the conservation area. The proposal seeks to change the use of the ground floor, mostly recently used as a shop but currently vacant. No external alterations are proposed and existing connections to services would be utilised.

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

**4. RELEVANT PLANNING HISTORY**

Planning application 08/00645/FULL for change of use from retail area to a dwelling was granted planning permission on 29 August 2008. This planning permission applied to an area to the rear of premises not fronting onto High Street and has been

implemented.

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

The application is supported by information relating to the marketing of the property and relating to retail vacancies in the core retail area. That information can be viewed on the [Public Access](#) and is summarised as follows:-

The marketing information indicates that the last tenant of the property vacated the premises in January 2020 and it was let to the applicant in October 2020. The retail vacancy survey was carried out in November 2020 and indicates that the number of retail units in the core retail area which were vacant or appearing to be vacant was around 10% of the total number of retail units.

## **6. CONSULTATIONS**

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

6.2 **Scottish Water** – does not object to the proposal.

6.3 **Community Council** – has offered no objection.

6.4 **Angus Council Environmental Health** – offer no objection to the proposal subject to conditions to restriction noise emissions from the premises in order to protect residential amenity.

## **7. REPRESENTATIONS**

7.1 79 representations have been received. 78 object to the proposal and 1 offers support. The letters of representation are attached at Appendix 2 and are available to view on the council's [Public Access](#) website.

7.2 The following matters have been raised and are discussed under Planning Considerations below:

- Adverse impact on existing nail bar businesses in the town (commercial competition)
- Nail bars not permitted in High Street
- Lack of need for another nail bar in Montrose
- Unethical practices by proposed operator
- Impact on health and safety of public
- Support for opening new business in the town

## **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 referred to in this report. The policies of the ALDP form the main basis for the consideration of the proposal and are reproduced at Appendix 3.

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. The local development plan notes that the Angus town centres are affected by a number of pressures including an increase in internet-based shopping and the expansion of out of centre retail development. It indicates that the Angus town centres must respond to the pressures facing them in order to continue to contribute to the character, vitality and prosperity of the region.

8.8 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 these 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 their character, scale and function. 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.

8.9 Policy TC17 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. Class 2 uses include financial, professional and other services which it is appropriate to provide in a shopping area and where the services provided are principally to visiting members of the public. Class 2 includes beauticians but appears to exclude nail bars despite that use having similar characteristics to a beautician. A nail bar offers a service to visiting members of the public and is an appropriate activity in a shopping area. The principle of a nail bar or a Class 2 use in Montrose town centre is acceptable.

8.10 It is understood that the property was last occupied by a retail use and has been vacant since January 2020. Available information indicates that the vacancy rate for retail units in the Core Retail Area is around 10% and as such the proposed change from a retail unit to a nail bar or Class 2 use is compatible with the provisions of TC18. 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.

8.11 The property is a listed building and it is located within the conservation area. The proposal does not involve any physical alteration to the interior or exterior 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 uses 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.

- 8.12 There is no reason to consider that the proposed use would give rise to unacceptable amenity impacts. Nail bars and Class 2 uses are commonly found in the vicinity of residential property, and other similar uses operate in proximity of neighbouring property without significant impact. Environmental Health has requested planning conditions to regulate noise from the premises. 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. 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.
- 8.13 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.
- 8.14 The principal objections relate to impacts on existing nail bar businesses within the town but commercial competition is not a material planning consideration. Objectors also suggest that the operator would carry out non-standard, unhygienic and harmful practices. Whether or not an operator uses best practice to carry out the services it provides is not a matter which is regulated by the planning system. Comments relating to the appropriateness of a High Street location for a nail bar are noted but development plan policy allows for a change of use of retail premises where 10% of retail units within the core retail area are vacant. The letter of support identifies benefits in allowing a new business to establish in the town. The building 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.
- 8.15 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.

## 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 uses proposed would be compatible with development plan policy given the current vacancy rate within the core retail area and as it would not result in adverse impacts on amenity, built heritage interests, or access subject to the stated planning conditions. It 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 and in accordance with Policy TC18 of the Angus Local Development Plan (2016).*

2. Noise from any ventilation or extraction plant associated with the development shall not exceed NR Curve 35 between 0700 and 2200 and NR Curve 25 at all other times as measured within any dwelling or noise sensitive premises with the windows open at least 50mm.

*Reason: In order to safeguard the residential amenity of adjacent property from an unacceptable level of noise associated with the proposed uses.*

3. All amplified music or vocals emanating from the premises shall be inaudible when assessed within any habitable room of a dwelling or other room of a noise sensitive premise with the receiver room windows partially open for ventilation.

*Reason: In order to safeguard the residential amenity of adjacent property from an unacceptable level of noise associated with the proposed uses.*

**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.

**REPORT AUTHOR: KATE COWEY SERVICE LEADER - PLANNING & COMMUNITIES**  
**EMAIL DETAILS: PLANNING@angus.gov.uk**  
**DATE: 24 FEBRUARY 2021**

APPENDIX 1: LOCATION PLAN  
APPENDIX 2: LETTERS OF REPRESENTATION  
APPENDIX 3: RELEVANT DEVELOPMENT PLAN POLICIES  
APPENDIX 4: PLANNING SERVICE PRESENTATION