AGENDA ITEM NO 4

REPORT NO 243/21

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 16 AUGUST 2021

2-4 ROODS, KIRRIEMUIR

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission for change of use from public bar to 2 No. two bedroom ground floor flats, application No 20/00798/FULL, at Ogilvy Arms Bar, 2-4 Roods, Kirriemuir.

1. RECOMMENDATIONS

It is recommended that the Committee:-

(i) review the case submitted by the Planning Authority **(Appendix 1)**; and

(ii) review the case submitted by the Applicant **(Appendix 2)**.

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. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information to determine the Review without further procedure. If members do not determine the review without further procedure, the Review Committee must determine the manner in which the review is to be conducted. The procedures available in terms of the regulations are: written submissions, hearing sessions or inspection of the land to which the review relates.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

5. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment is not required.

6. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

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: Sarah Forsyth
E-Mail: LEGDEM@angus.gov.uk

List of Appendices:
Appendix 1 – Submission by Planning Authority
Appendix 2 – Submission by Applicant

ANGUS COUNCIL'S SUMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 20/00798/FULL

APPLICANT- MR & MRS DOUGLAS

PROPOSAL & ADDRESS – CHANGE OF USE FROM PUBLIC BAR TO 2NO. TWO BEDROOM GROUND FLOOR FLATS AT OGILVY ARMS BAR 2 – 4 ROODS KIRRIEMUIR DD8 4EY

CONTENTS

AC1	**Report of Handling**	
	Policy Tests (Angus Local Development Plan 2016)	
	Policy DS1, DS3, DS4, TC2, TC18, PV8 & PV15 Angus Local Development Plan (2016) https://www.angus.gov.uk/media/angus_local_development_plan_adopted_september_2016	
	Consultation Responses	
AC2	Roads Traffic – 19.02.21	
AC3	Environmental Health – 26.03.21	
	Letters of Representations - None	
	Application Drawings	
AC4	Refused Location Plan	
AC5	Refused Drawings	

	Further Information Relevant to Assessment	
AC6	Site Photos	
AC7	Decision Notice	
	Supporting Information	
AC8	Supporting Statement	

Angus Council

Application Number:	20/00798/FULL
Description of Development:	Change of use from public bar to 2no. two bedroom ground floor flats
Site Address:	Ogilvy Arms Bar 2 - 4 Roods Kirriemuir DD8 4EY
Grid Ref:	338521 : 753992
Applicant Name:	Mr & Mrs Douglas

Report of Handling

Proposal

The application proposes the change of use of an existing public house located within the Kirriemuir town centre to form two number 2 bedroom ground floor flats. The works include the formation of new and altered window and door openings on the west (rear) elevation of the property. The application form indicates that the flats would connect to the public water supply and foul drainage networks and existing surface water drainage arrangements would be utilised. No parking provision is proposed. Waste storage has been indicated within an open area to the rear (west) of the existing building.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 5 March 2021 for the following reasons:

- Conservation Area

A site notice was posted for Conservation Area Development on 6 March 2021.

Planning History

None.

Applicant's Case

A Supporting Statement was submitted alongside the proposal which acknowledges a conflict with the core retail area policy but highlights that the business has been closed since March 2020 and is unlikely to re-open in the foreseeable future due to Covid-19. It suggests that there is not enough custom to sustain all of the existing pubs in the town. It states the building does not have an active shop frontage and there are upper floor flats in the area which take access from the same street. It concludes that there are 7 closed business premises in the Core Retail Area with more possible in the imminent due to Covid-19.

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - Offers no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Environmental Health - Objects to the proposal due to insufficient evidence to demonstrate a satisfactory level of amenity would be afforded to the proposed flats. This is due to the proximity of proposed habitable windows to existing bin stores at the west of the building which have been the source of regular complaints regarding the accumulation of waste and associated malodour to the Environmental Health Service. The Service also notes that complaints have previously been received (2012) in relation to the public house and acknowledge that if approved the proposal would reduce the potential of amenity impacts upon existing residential neighbours.

Representations

There were no letters of representation.

Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
Policy DS3 : Design Quality and Placemaking
Policy DS4 : Amenity
Policy TC2 : Residential Development
Policy TC18 : Core Retail Areas
Policy PV8 : Built and Cultural Heritage
Policy PV15 : Drainage Infrastructure

TAYplan Strategic Development Plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

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.

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.

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.

Policy DS1 in the ALDP states 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 LDP.

The proposal seeks permission to change a ground floor public house premises within Kirriemuir's core retail area and conservation area into two dwellings.

The local development plan indicates that core retail areas accommodate a concentration of retailers which attract shoppers and visitors to these areas. The plan indicates that the council recognises that there is a requirement to ensure that the vitality and visual appeal of the core retail areas is not diluted by an over-representation of non-retail businesses, which lack the shopper and visitor attraction potential of retail uses and can lead to less active frontages causing the core retail area to fragment and change character.

Policy TC18 seeks to maintain the main retail function of core retail areas but allows for the change of use of retail premises to restaurants and cafes because these uses are considered to complement the shopping experience. While it offers support to development proposals for residential uses within upper floors, it is explicit that *residential use on ground floors will not be supported*.

The change of use of the building to two flats is contrary to Policy TC18 which does not allow residential use of ground floor premises within the core retail area. While the application property is not currently in retail use and does not have a shopfront appearance onto Roods, it has been used for the sale of food and/or drink which the development plan indicates can be complementary to the shopping experience and the existing use is an acceptable one in a core retail area.

Information submitted in support of the application suggests that the public house has been closed since March 2020 and may not reopen due to Covid-19. It states there are a number of other vacant properties in the area and there is not enough custom to sustain all of the existing pubs in the town. The development plan approach to core retail areas allows appropriate alternative commercial uses in circumstances where vacancy levels of retail premises exceed 10%. However, while alternative commercial use of the property may be acceptable, Policy TC18 offers no support for residential use of ground floor premises within the core retail area and the proposal is contrary to that policy.

Policy TC2 indicates that within development boundaries, proposal for residential development will be supported where the site is not protected for another use and is consistent with the character and pattern of development in the surrounding area. Policy TC2 also requires all proposals for new residential development to be compatible in terms of land use; to provide a satisfactory residential environment; not to result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and to include provision for affordable housing in accordance with Policy TC3 Affordable Housing.

The proposal would not result in unacceptable impact on the natural environment, surrounding amenity, access or infrastructure; and does not require to include provision for affordable housing.

The residential environment that would be created for occupants of the proposed flatted property would experience some impact in terms of proximity to public houses close to the site (Roods bar, The Attic) and the rear areas of the proposal flats. Those impacts may be greater than those experienced by existing first and second floor property because of their closer proximity to the sources of noise and activity at ground floor level. The introduction of ground floor residential use in this area may result in an increase in complaints and pressure to apply controls impacting on the viability of other established public houses.

Environmental Health has also raised concerns about the proximity of habitable rooms in the proposed flats to areas used for external bin storage at the back (west) of the property. They refer to complaints received relating to odour in that area. They have suggested that insufficient evidence has been provided to demonstrate a satisfactory level of amenity could be afforded to the proposed flats and object on that basis.

Policy TC2 requires the provision of a satisfactory residential environment and having regard to the above factors it is considered that the proposal would not provide a satisfactory residential environment given its proximity to public houses close to the site and the position of existing bin storage areas adjacent to habitable room windows.

In terms of impacts on the built environment and conservation area, the flats would occupy a building which fronts onto a pedestrianised section of Roods, a narrow street characterised by shops and other commercial uses at ground floor which has a distinctive and intimate character. The physical alterations to the building would not harm the character or appearance of the conservation area. Details to secure appropriate windows could be secured by planning condition.

The building does not have a shopfront onto Roods and contains openings of a domestic appearance. The change of use of the property to residential use in isolation is unlikely to result in a significant impact on the character of the conservation area. However, were residential use repeated on other ground floor

properties within Roods pedestrianised area (particularly those with an active shopfronts) it could significantly harm that character. This part of Roods is a characterised by commercial property at ground floor. Those commercial uses attract shoppers and visitors into the town centre which contributes to its vibrancy, vitality and visual appeal. As indicated in Policy TC18, an over representation of uses which do not appeal to shoppers and visitors can lead to less active frontages causing the area to fragment and change character.

Available information suggests that there are no infrastructure issues that would affect the provision of two new flats. Water supply and drainage arrangements would be in accordance with Policy PV15.

In summary, the proposal would change the use of a public bar located within the core retail area into two flatted properties. Development plan policy does not permit residential use of ground floor property in the core retail area because of the impact it would have on the vibrancy, vitality and viability of those areas. The proposal seeks to introduce residential property close to existing public houses and would require habitable room windows close to an area of bin storage at the rear which has been the source of complaint. Those factors would result in a substandard residential environment for the householders and would increase the risk of complaint which could impact on the viability of other public houses in that area. While an alternative commercial use of the property may be acceptable, residential use is contrary to development plan policy and would result in a substandard residential enviornment. There are no material considerations which justify approval of planning permission.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Decision

The application is refused

Reason(s) for Decision:

1. The proposal is contrary to Policy TC18 of the Angus Local Development Plan (2016) because it proposes residential use of ground floor premises within Kirriemuir core retail area and that policy indicates that residential use on ground floors will not be supported.

2. The proposal is contrary to Policy TC2 of the Angus Local Development Plan (2016) because the provision of ground floor residential property close to public houses near the site and the position of a bin storage area adjacent to habitable room windows at the rear of the property would not result in the provision of a satisfactory residential environment.

Notes:

Case Officer: Stephanie Porter
Date: 13 May 2021

Appendix 1 - 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:

o 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.
o 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.
o 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.
o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
o 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:

o 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.
o the restoration or replacement of traditional buildings.
o 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 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:

o 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
o 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:

o ground floor development should include an appropriate active frontage; and
o 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.

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)

AC2

ANGUS COUNCIL

PLACE
PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO	**20/00798/FULL**

Tick boxes as appropriate

ROADS	No Objection	✓	
	Interest		(Comments to follow within 14 days)
	Date	19 / 02 / 21	

PLEASE DO NOT TAKE AWAY THE LAST SET OF PLANS WHERE POSSIBLE COPIES WILL BE PROVIDED ON REQUEST

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX

From:	GrahamIH
To:	PorterSG
Cc:	ThomsonSD
Subject:	20/00798/FULL Change of use from public bar to 2no. two bedroom ground floor flats Ogilvy Arms Bar 2 - 4 Roods Kirriemuir DD8 4EY
Date:	26 March 2021 11:09:52

Steph

Thank you for consulting this Service on the above application. I have looked at the information submitted and would provide the following comments:

The area surrounding the application site is typical of a town centre location with a number of other licensed premises, other commercial uses and residential properties nearby. The application building has operated as a public house for a number of years and complaints regarding music and patron noise have previously been received from occupants of residential properties although our records do not show any reports being made since 2012. If granted approval the current proposals would reduce the risk of amenity impacts affecting existing residential neighbours.

Notwithstanding the above this Service has concerns regarding the close proximity of existing bin areas to the proposed rear windows of the application building. These areas are the focus of regular complaints due to the accumulation of waste lying outwith the allocated bins and associated malodour and this Service would therefore object to the application unless it can be adequately demonstrated that a satisfactory level of amenity can be afforded to the proposed residential units.

I trust you find the above comments helpful but please do not hesitate to contact me if you wish to discuss anything further.

Regards

Iain

Iain Graham | **Environmental Health Officer** | Angus Council - Place | Housing, Regulatory and Protective Services | Angus House, Orchardbank Business Park, Forfar, DD8 1AN | ☎01307 492026

AC4

Refused

Refused

Reproduced by permission of Ordnance Survey on behalf of HMSO.
© Crown Copyright and database rights 100023404, 2021.

LOCATION PLAN SCALE - 1:1250

AC5

UK Planning Maps

Map data

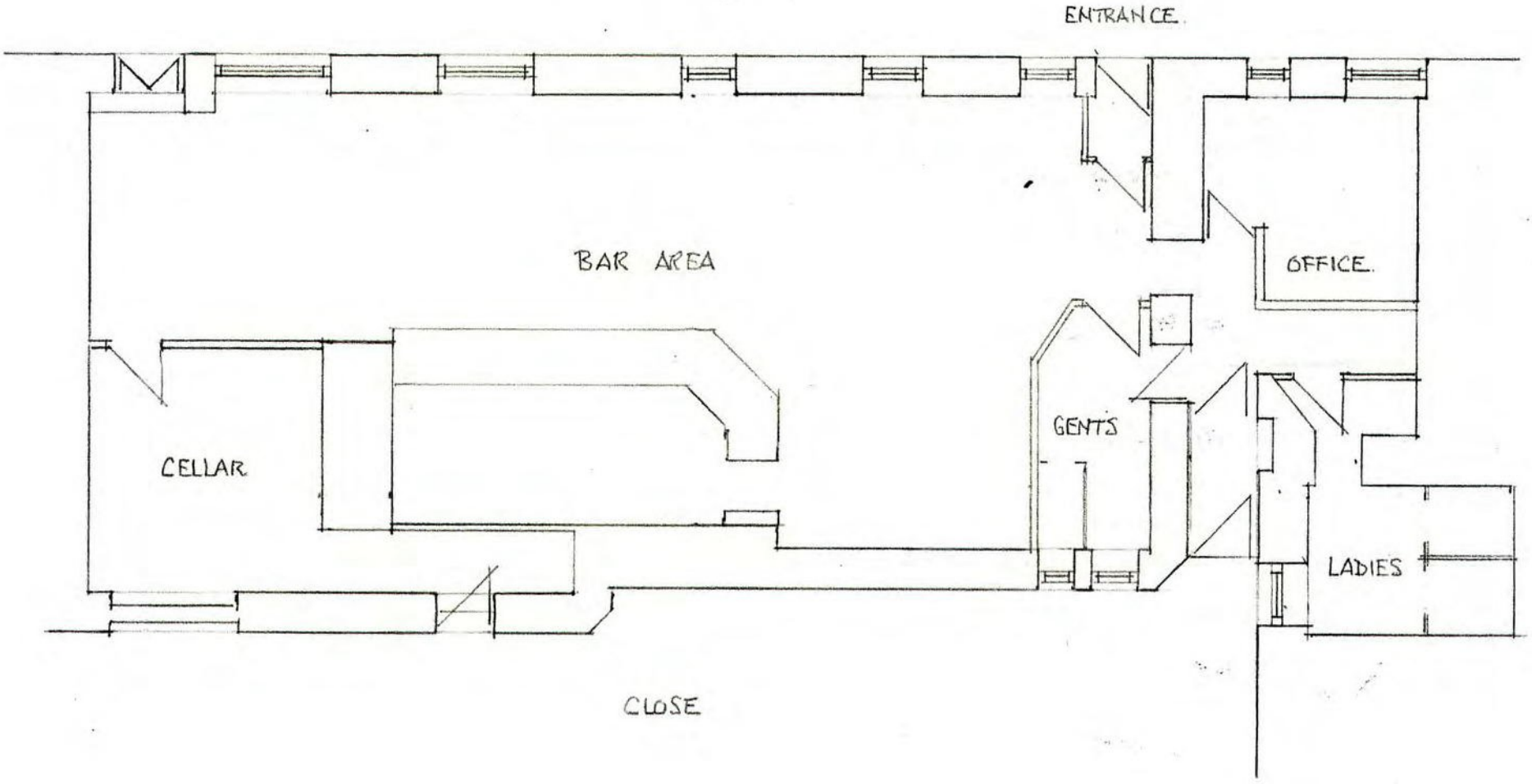
6 Roods, Kirriemuir, DD8 4EZ

Map area bounded by: 338472,753960 338562,754050. Produced on 29 January 2021 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2021. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: b90cuk/566367/767163

Refused

AC5

THE ROODS



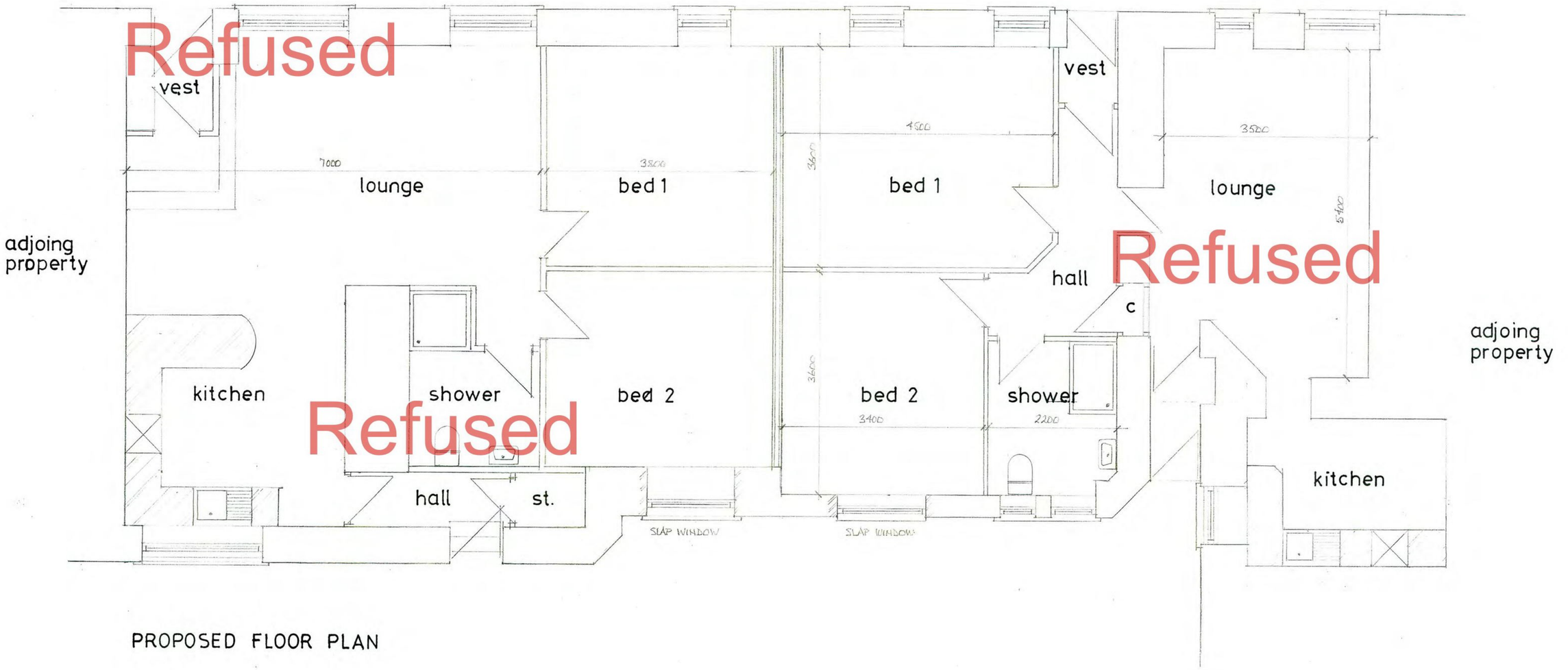
EXISTING FLOOR PLAN SCALE 1:100

Refused

THE OGILVY BAR, ROODS, KIRRIEMUIR.

PROPOSED ALTERATIONS to the OGILVY BAR 2-4, LOWER ROODS, KIRRIEMUIR. Scale 1:50. JULY 2020.

AC5

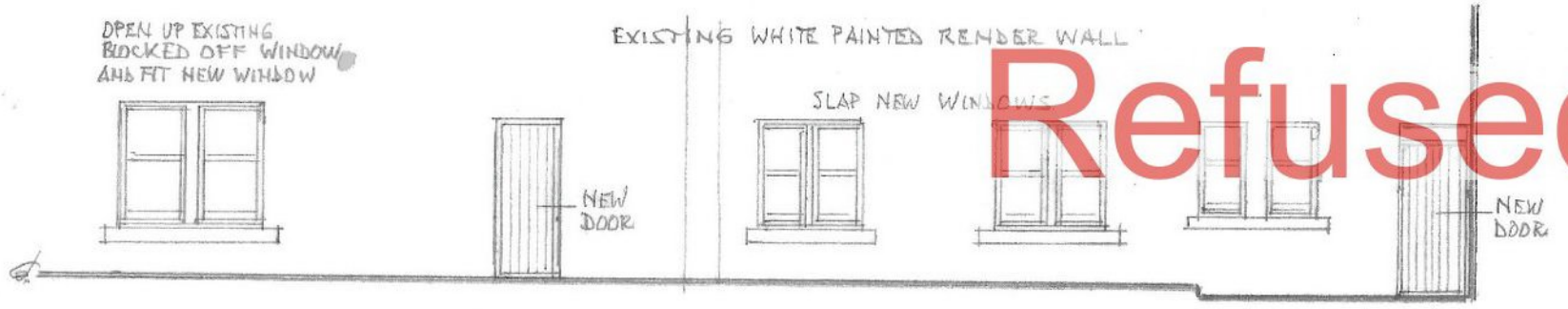


PROPOSED FLOOR PLAN

Refused

AC5

EAST ELEVATION ON TO THE ROODS ~ BOTH AS EXISTING AND PROPOSED.



Refused

WEST ELEVATION

OGILVY BAR, KIRRIEMUIR. SCALE 1:100

AC6

6

AC6

STOP

WARNING
Fire Exit
Keep Clear

AC6

ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE : 20/00798/FULL

To **Mr & Mrs Douglas**
c/o L D Bertram
Garlowbank Farmhouse
Kirriemuir
Angus
DD8 4LH

With reference to your application dated 24 February 2021 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of use from public bar to 2no. two bedroom ground floor flats at **Ogilvy Arms Bar 2 - 4 Roods Kirriemuir DD8 4EY** for **Mr & Mrs Douglas**

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

1. The proposal is contrary to Policy TC18 of the Angus Local Development Plan (2016) because it proposes residential use of ground floor premises within Kirriemuir core retail area and that policy indicates that residential use on ground floors will not be supported.

2. The proposal is contrary to Policy TC2 of the Angus Local Development Plan (2016) because the provision of ground floor residential property close to public houses near the site and the position of a bin storage area adjacent to habitable room windows at the rear of the property would not result in the provision of a satisfactory residential environment.

Amendments:

The application has not been subject of variation.

Dated this **14 May 2021**

Kate Cowey - Service Leader
Planning & Communities
Angus Council
Angus House
Orchardbank Business Park
Forfar DD8 1AN

AC7

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

Please read the notes carefully to ensure effective compliance with the new regulations.

DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

PLANNING DECISIONS

Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
Development Standards Committee/Full Council	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	***DPEA (appeal to Scottish Ministers) – See details on attached Form 1***
Delegated Decision	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	***Local Review Body – See details on attached Form 2***
Other Decision	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	***DPEA (appeal to Scottish Ministers) – See details on attached Form 1***

Notification of initiation of development (NID)

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

Notification of completion of development (NCD)

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

Display of Notice while development is carried out

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Telephone 01307 492076 / 492533
E-mail: planning@angus.gov.uk
Website: www.angus.gov.uk

AC7

FORM 1

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided by Angus Council

1. If the applicant is aggrieved by the decision of the planning authority-

a) to refuse permission for the proposed development;
b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to The Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site https://eplanning.scotland.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided through Angus Council's Scheme of Delegation

1. If the applicant is aggrieved by the decision of the planning authority-

   a) to refuse permission for the proposed development;
   b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
   c) to grant planning permission or any approval, consent or agreement subject to conditions,

   the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

   A Notice of Review Form and guidance can be found on the national e-planning website https://eplanning.scotland.gov.uk. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PLANNING

Your experience with Planning

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

Q.1 I was given the advice and help I needed to submit my application/representation:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.2 The Council kept me informed about the progress of the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.3 The Council dealt promptly with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.4 The Council dealt helpfully with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.5 I understand the reasons for the decision made on the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.6 I feel that I was treated fairly and that my view point was listened to:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

OVERALL SATISFACTION: Overall satisfaction with the service: ……

Q.7 Setting aside whether your application was successful or not, and taking everything into account, how satisfied or dissatisfied are you with the service provided by the council in processing your application?

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
☐	☐	☐	☐	☐

OUTCOME: Outcome of the application:

Q.8 Was the application that you had an interest in:-

Granted Permission/Consent ☐ Refused Permission/Consent ☐ Withdrawn ☐

Q.9 Were you the:- Applicant ☐ Agent ☐ Third Party objector who made a representation ☐

Please complete the form and return in the pre-paid envelope provided.
Thank you for taking the time to complete this form.

Planning Reference No 20/00798/FULL

Supporting statement for change of use Application

"Ogilvy bar, Kirriemuir"

Although we are aware that our application for change of use conflicts with current policy relating to the core retail area of Kirriemuir, we would like you to consider the following points when reviewing our application.

1) Premises have been for sale as licensed premises for 6 years.
2) Due to current Covid situation the business has now been closed for 1 year (since March 2020) and does not look like opening again in the foreseeable future.
3) As there are many public houses in Kirriemuir all struggling to make a living it does not seem viable to re-open another to only close again due to lack of business.
4) There is already 1 other public house in the same street and as peoples habits have changed, more people are staying at home to drink.
5) Externally the property does not look like a shop front but lends itself to a residential style premises.
6) There are residential flats on both sides of the lower Roods Pedestrian area, on upper levels, with their front doors accessing the street.
7) There are 7 closed business premises in the core retail area in Kirriemuir – with more possible closures with Covid lockdown.

Mr & Mrs Douglas.

APPENDIX 2

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW – 2-4 ROODS, KIRRIEMUIR

APPLICATION NO 20/00798/FULL

APPLICANT'S SUBMISSION

Page No

ITEM 1 Notice of Review

ITEM 2 Appeal Statement

ITEM 3 Decision Notice

ITEM 4 Report of Handling

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013
The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA https://www.eplanning.scot

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr & Mrs	Ref No.	
Forename	GRAHAM	Forename	LAWRENCE
Surname	DOUGLAS	Surname	BERTRAM
Company Name		Company Name	
Building No./Name	c/o THE OGILVY BAR	Building No./Name	GARLOWBANK FARMHOUSE
Address Line 1	2-4, LOWER ROODS	Address Line 1	
Address Line 2		Address Line 2	
Town/City	KIRRIEMUIR	Town/City	KIRRIEMUIR
Postcode	DD8 4EZ	Postcode	DD8 4LH
Telephone		Telephone	01575 575900
Mobile		Mobile	
Fax		Fax	
Email		Email	lar.bertram@btinternet.com

3. Application Details

Planning authority	ANGUS COUNCIL
Planning authority's application reference number	20/00798/FULL

Site address

THE OGILVY BAR,
2-4, LOWER ROODS,
KIRRIEMUIR,
DD8 4EZ.

Description of proposed development

CHANGE OF USE FROM PUBLIC BAR TO 2N° TWO BEDROOM GROUND FLOOR FLATS.

Date of application 12/11/2020 Date of decision (if any) 18TH MAY 2021

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)	☑
Application for planning permission in principle	☐
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)	☐
Application for approval of matters specified in conditions	☐

5. Reasons for seeking review

Refusal of application by appointed officer	☑
Failure by appointed officer to determine the application within the period allowed for determination of the application	☐
Conditions imposed on consent by appointed officer	☐

6. Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions	☐
One or more hearing sessions	☐
Site inspection	☑
Assessment of review documents only, with no further procedure	☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land?	☑
Is it possible for the site to be accessed safely, and without barriers to entry?	☑

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE SEE ATTACHED SUPPORTING STATEMENT.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☑

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

SUPPORTING STATEMENT

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form ☑

Statement of your reasons for requesting a review ☑

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☑

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature: [redacted] Name: MR L.D. BERTRAM Date: 10TH JUNE 2021.

Any personal data that you have been asked to provide on this from will be held and processed in accordance with Data Protection Legislation.

Item 2

Planning Reference No 20/00798/FULL

Supporting statement for change of use Application

"Ogilvy bar, Kirriemuir"

Although we are aware that our application for change of use conflicts with current policy relating to the core retàil area of Kirriemuir, we would like you to consider the following points when reviewing our application.

1) Premises have been for sale as licensed premises for 6 years.
2) Due to current Covid situation the business has now been closed for 1 year (since March 2020) and does not look like opening again in the foreseeable future.
3) As there are many public houses in Kirriemuir all struggling to make a living it does not seem viable to re-open another to only close again due to lack of business.
4) There is already 1 other public house in the same street and as peoples habits have changed, more people are staying at home to drink.
5) Externally the property does not look like a shop front but lends itself to a residential style premises.
6) There are residential flats on both sides of the lower Roods Pedestrian area, on upper levels, with their front doors accessing the street.
7) There are 7 closed business premises in the core retail area in Kirriemuir – with more possible closures with Covid lockdown.

Mr & Mrs Douglas.

ANGUS COUNCIL

Item 3

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE : 20/00798/FULL

To **Mr & Mrs Douglas**
c/o L D Bertram
Garlowbank Farmhouse
Kirriemuir
Angus
DD8 4LH

With reference to your application dated 24 February 2021 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of use from public bar to 2no. two bedroom ground floor flats at **Ogilvy Arms Bar 2 - 4 Roods Kirriemuir DD8 4EY** for **Mr & Mrs Douglas**

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

1. The proposal is contrary to Policy TC18 of the Angus Local Development Plan (2016) because it proposes residential use of ground floor premises within Kirriemuir core retail area and that policy indicates that residential use on ground floors will not be supported.

2. The proposal is contrary to Policy TC2 of the Angus Local Development Plan (2016) because the provision of ground floor residential property close to public houses near the site and the position of a bin storage area adjacent to habitable room windows at the rear of the property would not result in the provision of a satisfactory residential environment.

Amendments:

The application has not been subject of variation.

Dated this **14 May 2021**

Kate Cowey - Service Leader
Planning & Communities
Angus Council
Angus House
Orchardbank Business Park
Forfar DD8 1AN

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

Please read the notes carefully to ensure effective compliance with the new regulations.

DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

PLANNING DECISIONS

Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
Development Standards Committee/Full Council	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	***DPEA (appeal to Scottish Ministers) – See details on attached Form 1***
Delegated Decision	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	***Local Review Body – See details on attached Form 2***
Other Decision	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	***DPEA (appeal to Scottish Ministers) – See details on attached Form 1***

NOTICES

Notification of initiation of development (NID)

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

Notification of completion of development (NCD)

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

Display of Notice while development is carried out

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Telephone 01307 492076 / 492533
E-mail: planning@angus.gov.uk
Website: www.angus.gov.uk

FORM 1

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided by Angus Council

1. If the applicant is aggrieved by the decision of the planning authority-

a) to refuse permission for the proposed development;
b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to The Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site https://eplanning.scotland.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions decided through Angus Council's Scheme of Delegation

1. If the applicant is aggrieved by the decision of the planning authority-

   a) to refuse permission for the proposed development;
   b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
   c) to grant planning permission or any approval, consent or agreement subject to conditions,

   the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

   A Notice of Review Form and guidance can be found on the national e-planning website https://eplanning.scotland.gov.uk. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PLANNING

Your experience with Planning

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

Q.1 I was given the advice and help I needed to submit my application/representation:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.2 The Council kept me informed about the progress of the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.3 The Council dealt promptly with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.4 The Council dealt helpfully with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.5 I understand the reasons for the decision made on the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

Q.6 I feel that I was treated fairly and that my view point was listened to:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
☐	☐	☐	☐	☐	☐

OVERALL SATISFACTION: Overall satisfaction with the service: ……

Q.7 Setting aside whether your application was successful or not, and taking everything into account, how satisfied or dissatisfied are you with the service provided by the council in processing your application?

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
☐	☐	☐	☐	☐

OUTCOME: Outcome of the application:

Q.8 Was the application that you had an interest in:-

Granted Permission/Consent ☐ Refused Permission/Consent ☐ Withdrawn ☐

Q.9 Were you the:- Applicant ☐ Agent ☐ Third Party objector who made a representation ☐

Please complete the form and return in the pre-paid envelope provided.
Thank you for taking the time to complete this form.

Item 4

Angus Council

Application Number:	20/00798/FULL
Description of Development:	Change of use from public bar to 2no. two bedroom ground floor flats
Site Address:	Ogilvy Arms Bar 2 - 4 Roods Kirriemuir DD8 4EY
Grid Ref:	338521 : 753992
Applicant Name:	Mr & Mrs Douglas

Report of Handling

Proposal

The application proposes the change of use of an existing public house located within the Kirriemuir town centre to form two number 2 bedroom ground floor flats. The works include the formation of new and altered window and door openings on the west (rear) elevation of the property. The application form indicates that the flats would connect to the public water supply and foul drainage networks and existing surface water drainage arrangements would be utilised. No parking provision is proposed. Waste storage has been indicated within an open area to the rear (west) of the existing building.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 5 March 2021 for the following reasons:

- Conservation Area

A site notice was posted for Conservation Area Development on 6 March 2021.

Planning History

None.

Applicant's Case

A Supporting Statement was submitted alongside the proposal which acknowledges a conflict with the core retail area policy but highlights that the business has been closed since March 2020 and is unlikely to re-open in the foreseeable future due to Covid-19. It suggests that there is not enough custom to sustain all of the existing pubs in the town. It states the building does not have an active shop frontage and there are upper floor flats in the area which take access from the same street. It concludes that there are 7 closed business premises in the Core Retail Area with more possible in the imminent due to Covid-19.

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - Offers no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Environmental Health - Objects to the proposal due to insufficient evidence to demonstrate a satisfactory level of amenity would be afforded to the proposed flats. This is due to the proximity of proposed habitable windows to existing bin stores at the west of the building which have been the source of regular complaints regarding the accumulation of waste and associated malodour to the Environmental Health Service. The Service also notes that complaints have previously been received (2012) in relation to the public house and acknowledge that if approved the proposal would reduce the potential of amenity impacts upon existing residential neighbours.

Representations

There were no letters of representation.

Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
Policy DS3 : Design Quality and Placemaking
Policy DS4 : Amenity
Policy TC2 : Residential Development
Policy TC18 : Core Retail Areas
Policy PV8 : Built and Cultural Heritage
Policy PV15 : Drainage Infrastructure

TAYplan Strategic Development Plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

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.

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.

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.

Policy DS1 in the ALDP states 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 LDP.

The proposal seeks permission to change a ground floor public house premises within Kirriemuir's core retail area and conservation area into two dwellings.

The local development plan indicates that core retail areas accommodate a concentration of retailers which attract shoppers and visitors to these areas. The plan indicates that the council recognises that there is a requirement to ensure that the vitality and visual appeal of the core retail areas is not diluted by an over-representation of non-retail businesses, which lack the shopper and visitor attraction potential of retail uses and can lead to less active frontages causing the core retail area to fragment and change character.

Policy TC18 seeks to maintain the main retail function of core retail areas but allows for the change of use of retail premises to restaurants and cafes because these uses are considered to complement the shopping experience. While it offers support to development proposals for residential uses within upper floors, it is explicit that *residential use on ground floors will not be supported*.

The change of use of the building to two flats is contrary to Policy TC18 which does not allow residential use of ground floor premises within the core retail area. While the application property is not currently in retail use and does not have a shopfront appearance onto Roods, it has been used for the sale of food and/or drink which the development plan indicates can be complementary to the shopping experience and the existing use is an acceptable one in a core retail area.

Information submitted in support of the application suggests that the public house has been closed since March 2020 and may not reopen due to Covid-19. It states there are a number of other vacant properties in the area and there is not enough custom to sustain all of the existing pubs in the town. The development plan approach to core retail areas allows appropriate alternative commercial uses in circumstances where vacancy levels of retail premises exceed 10%. However, while alternative commercial use of the property may be acceptable, Policy TC18 offers no support for residential use of ground floor premises within the core retail area and the proposal is contrary to that policy.

Policy TC2 indicates that within development boundaries, proposal for residential development will be supported where the site is not protected for another use and is consistent with the character and pattern of development in the surrounding area. Policy TC2 also requires all proposals for new residential development to be compatible in terms of land use; to provide a satisfactory residential environment; not to result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and to include provision for affordable housing in accordance with Policy TC3 Affordable Housing.

The proposal would not result in unacceptable impact on the natural environment, surrounding amenity, access or infrastructure; and does not require to include provision for affordable housing.

The residential environment that would be created for occupants of the proposed flatted property would experience some impact in terms of proximity to public houses close to the site (Roods bar, The Attic) and the rear areas of the proposal flats. Those impacts may be greater than those experienced by existing first and second floor property because of their closer proximity to the sources of noise and activity at ground floor level. The introduction of ground floor residential use in this area may result in an increase in complaints and pressure to apply controls impacting on the viability of other established public houses.

Environmental Health has also raised concerns about the proximity of habitable rooms in the proposed flats to areas used for external bin storage at the back (west) of the property. They refer to complaints received relating to odour in that area. They have suggested that insufficient evidence has been provided to demonstrate a satisfactory level of amenity could be afforded to the proposed flats and object on that basis.

Policy TC2 requires the provision of a satisfactory residential environment and having regard to the above factors it is considered that the proposal would not provide a satisfactory residential environment given its proximity to public houses close to the site and the position of existing bin storage areas adjacent to habitable room windows.

In terms of impacts on the built environment and conservation area, the flats would occupy a building which fronts onto a pedestrianised section of Roods, a narrow street characterised by shops and other commercial uses at ground floor which has a distinctive and intimate character. The physical alterations to the building would not harm the character or appearance of the conservation area. Details to secure appropriate windows could be secured by planning condition.

The building does not have a shopfront onto Roods and contains openings of a domestic appearance. The change of use of the property to residential use in isolation is unlikely to result in a significant impact on the character of the conservation area. However, were residential use repeated on other ground floor

properties within Roods pedestrianised area (particularly those with an active shopfronts) it could significantly harm that character. This part of Roods is a characterised by commercial property at ground floor. Those commercial uses attract shoppers and visitors into the town centre which contributes to its vibrancy, vitality and visual appeal. As indicated in Policy TC18, an over representation of uses which do not appeal to shoppers and visitors can lead to less active frontages causing the area to fragment and change character.

Available information suggests that there are no infrastructure issues that would affect the provision of two new flats. Water supply and drainage arrangements would be in accordance with Policy PV15.

In summary, the proposal would change the use of a public bar located within the core retail area into two flatted properties. Development plan policy does not permit residential use of ground floor property in the core retail area because of the impact it would have on the vibrancy, vitality and viability of those areas. The proposal seeks to introduce residential property close to existing public houses and would require habitable room windows close to an area of bin storage at the rear which has been the source of complaint. Those factors would result in a substandard residential environment for the householders and would increase the risk of complaint which could impact on the viability of other public houses in that area. While an alternative commercial use of the property may be acceptable, residential use is contrary to development plan policy and would result in a substandard residential enviornment. There are no material considerations which justify approval of planning permission.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Decision

The application is refused

Reason(s) for Decision:

1. The proposal is contrary to Policy TC18 of the Angus Local Development Plan (2016) because it proposes residential use of ground floor premises within Kirriemuir core retail area and that policy indicates that residential use on ground floors will not be supported.

2. The proposal is contrary to Policy TC2 of the Angus Local Development Plan (2016) because the provision of ground floor residential property close to public houses near the site and the position of a bin storage area adjacent to habitable room windows at the rear of the property would not result in the provision of a satisfactory residential environment.

Notes:

Case Officer: Stephanie Porter
Date: 13 May 2021

Appendix 1 - 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:

o 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.
o 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.
o 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.
o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
o 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:

o 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.
o the restoration or replacement of traditional buildings.
o 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 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:

o 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
o 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:

o ground floor development should include an appropriate active frontage; and
o 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.

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)