

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 14 DECEMBER 2021

PLANNING APPLICATION – FORMER TEALING PARISH CHURCH, KIRKTON OF
TEALING, TEALING, DD4 0RD

GRID REF: 340353 : 737944

REPORT BY SERVICE LEAD - PLANNING & SUSTAINABLE GROWTH

Abstract: This report deals with planning application No. [20/00449/FULL](#) by Mr Gilbert Nicoll for the conversion of a disused church to a dwellinghouse and associated works at the former Tealing Parish Church, Kirkton Of Tealing, Tealing. This application is recommended for approval subject to conditions.

1. RECOMMENDATION

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

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

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

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

3. INTRODUCTION

3.1 The applicant seeks full planning permission for the conversion of a disused church to a house and associated works. The application site incorporates the former church building, hearse house and pathways around the site. The church is designated as a category A listed building and the hearse house is a category B listed building. A plan showing the location of the site is provided at Appendix 1.

3.2 The application proposes internal and external alterations to the existing church. External alterations would include replacement of existing windows; black cast iron gutters to be repaired and replaced; and walls to be repointed in lime mortar. On the east elevation the existing harling would be removed, and the wall repointed with lime mortar. An air source heat pump is proposed adjacent to the southwest elevation. The former hearse house would be used as a garage/outbuilding for the dwelling, but no works are proposed to this building. A new underground drainage system would be located under the pathways.

3.3 In addition, works would be undertaken to the interior of the building to create living accommodation. The internal works do not in themselves require planning permission and are subject of a separate application for listed building consent.

- 3.4 The application has been subject of statutory neighbour notification and advertised in the press as required by legislation.
- 3.5 This application requires determination by the committee as it involves land in the council's ownership.

4. RELEVANT PLANNING HISTORY

- 4.1 Listed Building Consent application [17/00031/LBC](#) for the erection of an internal steel beam supporting structure, reinstatement of first floor and associated alterations was approved subject to conditions on 2 November 2017. Works associated with that permission have been implemented.
- 4.2 Listed Building Consent application [20/00448/LBC](#) for alterations to the building to facilitate its use as dwellinghouse is subject of Report 388/21.

5. APPLICANT'S CASE

- 5.1 The following documents have been submitted in support of the application:
- Conservation Plan
 - Design Statement
 - A site investigation Report and Engineers letters for Drainage
 - Window Condition Reports and Photographs
- 5.2 The supporting information is available to view on the council's [Public Access](#) website and the supporting information is summarised at Appendix 2.

6. CONSULTATIONS

- 6.1 **Scottish Water** – no objection but advises there is no public drainage system in the area.
- 6.2 **Community Council** – no response was received.
- 6.3 **Angus Council – Roads (Traffic)** – no objection. It has advised that the car parking provision is acceptable at this location and in the circumstances of this development.
- 6.4 **SEPA** – no objection and indicated that the consultation is covered by standing advice.
- 6.5 **Angus Council – Parks and Burial Grounds** - no objection. The service has discussed drainage arrangements with the applicant and identified necessary remediation measures. The applicant's legal responsibilities are identified in the event that any human remains are found during works. The service confirms the proposed parking arrangements are acceptable.
- 6.6 **Aberdeenshire Council Archaeology** – no objection and welcome proposals to bring a vacant historic building back into use. However further information is requested, and conditions are proposed.

7. REPRESENTATIONS

- 7.1 Two letters of representation have been submitted and raise objection to the proposal. The letters are provided at Appendix 3 and can be viewed on the council's [Public Access](#) website.

- 7.2 The following matters have been raised and are discussed at Planning Considerations below: -
- Lack of suitable amenity for proposed dwellinghouse;
 - Adverse impact on amenity of existing property;
 - Lack of parking and impacts upon traffic;
 - Concern regarding foul drainage arrangements;
 - Adverse impact on graveyard.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 In this case the development plan comprises:-
- [TAYplan](#)
 - [Angus Local Development Plan](#) (ALDP) (Adopted 2016)
- 8.3 The application is not of strategic significance and the policies of TAYplan are not referred to in this report. The ALDP forms the main basis for the consideration of the proposal and the relevant policies are reproduced at Appendix 4.
- 8.4 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard shall be paid to the desirability of preserving the building or its setting.
- 8.5 The church is a Category A listed building and the hearse house is listed Category B. The listing for the church includes the associated churchyard. Category A listed buildings are identified as being outstanding examples of a particular period, style or building type. Category B listed buildings are identified as major examples of a particular period, style or building type.
- 8.6 Policy TC8 seeks to safeguard existing community facilities but allows for their loss in specified circumstances. The church has been vacant and largely unused for a period in the region of 35 years and it is identified on the Buildings at Risk Register for Scotland. While information on the viability of alternative community use has not been sought, the spiritual needs of the community are met at another venue. It is understood that previous proposals to utilise the building as a heritage or interpretation centre were not successfully progressed. The building has not been in beneficial community use for a considerable period, and it is in risk of further deterioration if a new use is not secured. In these circumstances, the proposal is not considered to give rise to any conflict with the objectives of the policy.
- 8.7 Policy TC2 indicates that proposals for new residential developments in development boundaries 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. The Policy 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.
- 8.8 The application site lies within the Kirkton of Tealing development boundary and is not identified or safeguarded for any particular use. The building is existing and is of long-standing; it is an established part of the character and pattern of development in the

area. The nature of the buildings use would change and that would impact the character of the area and that is discussed further below.

- 8.9 The building is in a predominantly residential area, but the surrounding land comprises a graveyard. The presence of houses within graveyards is not unprecedented. There are other examples of churches within or adjacent to graveyards that have been converted to housing and the two uses are not fundamentally incompatible. The parks and burial grounds service has been consulted and has offered no objection to the proposal. The use of the church building as a house would have some impact on the character of the area and the graveyard in particular. However, the property is on the Buildings at Risk Register and its condition has deteriorated while it has not been in use, and that deteriorating condition has an adverse impact on the character and amenity of the graveyard. Any perceived adverse impact associated with the proposed new use must be balanced against the desirability of securing a use that would allow the building to be retained and maintained in good condition. Securing a new use for the building that would allow it to be retained in good condition would help maintain the overall character and amenity of the graveyard and the wider area. In general terms the proposed use is compatible with other uses in the surrounding area.
- 8.10 The building is reasonably large occupying a spacious setting and is some distance from neighbouring buildings. It has potential to accommodate a car park space and associated domestic storage within the hearse house, but a condition is proposed that requires details of proposed bin and waste receptacle storage. The proposed house would not have dedicated private outdoor amenity space, but that is not a specific policy requirement for proposals that involve conversion of existing buildings. In this case the absence of private outdoor amenity space must be balanced against the generous indoor space that is available, and the desirability of securing a new use for a category A listed building. The proposal can provide a good standard of residential amenity for future occupants.
- 8.11 This is an existing building and direct impacts upon neighbouring property by virtue of its presence will remain largely unchanged. Its condition has deteriorated over several years and its repair and reuse would provide some benefit to the general amenity of the area. Window openings in the building are existing and no new openings are proposed. Upper floor window distances to neighbouring property would comply with council design guidance that seeks to safeguard privacy and amenity, but precise details of the specification of replacement windows could appropriately be secured by planning condition. The nature of the proposed use of the building would change, but the level of activity associated with its use as a single dwelling is likely to be less than that which could occur if the building was returned to its former use as a place of worship. The proposed use would not result in unacceptable impact upon the amenity of occupants of nearby property, and repair of the building is likely to provide some wider amenity benefit.
- 8.12 The site is not subject of any natural heritage designation. Repair and maintenance work has been undertaken to the roof of the church building and no further works are proposed in this area. No alteration is proposed to the hearse house. The development would not result in any significant direct or indirect impacts on the natural environment.
- 8.13 In terms of built environment considerations, the buildings and the associated churchyard are listed as being of special architectural and/or historic interest. The proposed external alterations would principally involve repair to stonework and the repair and replacement of windows. The provision of predominantly below ground equipment to facilitate drainage would not affect the buildings setting or the setting of the churchyard. While the internal subdivision of the building to create living accommodation would significantly alter the buildings character, important features within the building that are referenced in the list description would be retained. Some alteration to the fabric of the building is inevitable to facilitate a new use and Historic Environment Scotland has raised no objection to the associated application for listed building consent. The overall appearance of the church as an ecclesiastical building

would be retained and the alterations would not have a significant detrimental effect on the buildings special interest. Conditions are proposed that would require further approval of detailed matters to minimise impact on the listed buildings and their setting.

- 8.14 The council's archaeological advisor has indicated the site has potential for previously unrecorded archaeology at the site. The archaeologist has recommended a planning condition to address outstanding matters and a note on any permission granted would provide information in relation to legal responsibilities should any human remains be found during works. Overall, the proposal is considered to be in accordance with relevant built heritage and design policies and also the legislative requirements to ensure the protection of the special interest of the listed buildings.
- 8.15 The roads service has indicated no objections in respect of parking, road traffic, and pedestrian safety. Similarly, the parks and burial ground service has offered no objection regarding the access arrangements for parking in the hearse house. It is understood that the vehicular access is not in the applicant's ownership and the landowner would accordingly have powers to regulate and control appropriate use of that land. It is recognised that any new use of the existing building is likely to generate some additional vehicular traffic and some requirement for car parking. A pragmatic approach that facilitates reuse of the listed buildings is appropriate.
- 8.16 The dwelling would connect to the public water supply. A private system is proposed for foul drainage and that has been designed such that it would be contained within existing extents of the vehicular access and path network. The generality of that arrangement has been reviewed and it is understood that the principle is likely to comply with relevant building regulations, and it is capable of meeting the requirements identified by the parks and burial grounds service. It is also likely to comply with relevant guidance published by SEPA. A private drainage system in an area where there is no public drainage is compatible with development plan policy.
- 8.17 The proposal is of a scale and nature appropriate to its location, and it is compatible with development plan policy.
- 8.18 In relation to material considerations it is relevant to have regard to representations submitted in respect of the proposal, the desirability of preserving a listed building, and the content of Scottish Planning Policy.
- 8.19 For the reasons detailed above the proposed use of the existing building as a house is considered to provide a good living environment for future occupants, and given the separation distance to neighbouring properties, is not considered to significantly affect the amenity of occupants of nearby property. The property to the east of the church building has a sizeable private garden area and a single window serving a proposed bedroom would face that area at a distance in the region of 17m. Any new use for the building would be likely to generate some traffic and demand for parking, and the roads service has confirmed it finds the parking proposals associated with this application acceptable. Similarly, any new use, including reuse as a place of worship, would be likely to require provision of new drainage infrastructure. Surface water from the building is likely to currently discharge to soakaway in the graveyard, and the discharge of water from the treatment plant will be little different. Any perceived detrimental impact on the amenity of the graveyard must be balanced against the positive impact of securing the repair and retention of the church building in good condition.
- 8.20 Government policy guidance indicates that the planning system should promote the care and protection of designated historic environment assets. It indicates that change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Tealing Church is a category A listed building and its associated hearse house is listed category B. Both have largely been unused for several years during which time their condition has deteriorated. The church is on the Buildings at Risk Register and without positive intervention its condition is likely to

further deteriorate. The desirability of securing a new use for important listed buildings is a significant material consideration.

- 8.21 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In this case TAYplan is less than 5-years old but the ALDP has recently become more than 5-years old as it was adopted in September 2016. The policies contained in the ALDP are generally consistent with TAYplan and SPP and are therefore considered to provide an appropriate basis for the determination of this application. However, the reuse of important listed buildings in a manner that would safeguard their special interest would contribute towards sustainable development. There are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal when assessed against the wider policies in the SPP.
- 8.22 In conclusion, the proposal provides for the reuse of important listed buildings in a manner that would not significantly adversely affect their special interest or setting. All Information and third party comments submitted in relation to the application have been considered in the preparation of this report, and where appropriate conditions are proposed to address issues. The proposal is in accordance with the development plan as it is compatible with the character and pattern of development and surrounding land uses in the area, and as it does not give rise to unacceptable impacts on amenity, natural and built environment, road safety, or infrastructure, subject to conditions. There are no material considerations that justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

10. CONCLUSION

It is recommended that the application be approved for the following reason, and subject to the following condition(s):

Reason(s) for Approval:

The proposal provides for the reuse of listed buildings in a manner that does not significantly and adversely affect their special interest or setting. It is in accordance with the development plan as it is compatible with the locational criteria identified in the plan and as it does not give rise to unacceptable impacts on amenity, natural and built environment, road safety or infrastructure, subject to conditions. There are no material considerations that justify refusal of planning permission contrary to the provisions of the development plan.

Conditions:

1. That no development in connection with the planning permission hereby approved shall take place unless the following is submitted to and approved in writing by the Planning Authority:-
 - a) an updated window condition report and details of all proposed new windows and doors (including materials, glazing specification and configuration, method of opening, and final colour). Thereafter the works shall be undertaken in accordance with the approved window condition report and only the approved windows and doors shall be installed in the building.
 - b) precise details of the proposed air source heat pump, including details of noise emissions, location, and colour. Thereafter the air source heat pump shall be installed and operated only in accordance with the approved details.
 - c) precise details of a scheme for the storage of bins and waste receptacles. Thereafter the building shall not be occupied until such time as the approved scheme has been implemented.
 - d) precise details of the foul drainage arrangements that will serve the development. Thereafter the building shall not be occupied until such time as the approved drainage arrangements have been installed and are operational.
 - e) an archaeological written scheme of investigation (WSI) and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To allow the planning authority to verify the acceptability of the required details in the interests of preserving the special interest of the listed building, to ensure adequate provision for the treatment of foul drainage, and to safeguard and record the archaeological potential of the area.

Note for decision notice:

Human Remains (Right of Sepulchre)

The Right of Sepulchre under Scots Law means it is a criminal offence to disturb human remains without lawful authority. All development works should cease in the event that human remains are identified and the Police/Procurator Fiscal informed immediately as well as the Council's Parks and Archaeology Services. The finding of human remains may not prohibit any proposed development works continuing but could cause delay while the remains were investigated and lawful authority to disinter obtained if necessary.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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APPENDIX 1: LOCATION PLAN

APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION

APPENDIX 3: LETTERS OF REPRESENTATION

APPENDIX 4: RELEVANT DEVELOPMENT PLAN POLICIES

APPENDIX 5: PLANNING SERVICE PRESENTATION