

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 12 SEPTEMBER 2023

PLANNING APPLICATION – ST RULES PARISH CHURCH, 4 CHURCH STREET,
MONIFIETH
GRID REF: 349525 : 732348

REPORT BY SERVICE LEADER – PLANNING & SUSTAINABLE GROWTH

Abstract: This report deals with planning application [23/00235/FULL](#) submitted by Mrs Gillian Noble for the change of use and alterations to church building to form a mixed use licensed cafe, meeting rooms, exhibition and event spaces at St Rules Parish Church, 4 Church Street, Monifieth, Dundee. This application is recommended for conditional approval.

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 change of use and alterations to church building to form a mixed-use licensed cafe, meeting rooms and exhibition and event spaces at St Rules Parish Church, 4 Church Street, Monifieth, Dundee. A plan showing the location of the site is provided at Appendix 1.

3.2 The site relates to the Category B listed church only, and does not include the churchyard or any other external space. The building is directly surrounded by a churchyard and is located in a predominantly residential area near to Monifieth town centre. Church Street bounds the western boundary of the churchyard, Gerard Hall is located to the south and a sheltered housing complex is located to the east with housing to the north.

3.3. The altered building would include a kitchen and counter area in the northeast corner of the building and a multi-use space, a seating and play area, a meeting room and toilet facilities on the remainder of the ground floor of the building. At first floor the existing mezzanine would be retained, and further seating and a multi-use space would be provided, with additional toilets and a store. The internal works required to facilitate the proposed use do not in themselves require planning permission and are subject of a separate application for listed building consent (ref: [23/00234/LBC](#) refers).

3.4 Extraction equipment including flues serving the proposed kitchen area are proposed

on the north elevation. Solar panels are proposed on the south facing roof plane, and windows within the existing flat roof extension would be replaced. The existing windows (including the stained glass windows) in the original section of the church building would be retained and the external frames repainted. Some existing vents on the north elevation would be infilled to improve acoustic performance.

3.5 The application has been amended to increase the height of the flue proposed on the north elevation of the building and some existing vents on the same elevation infilled.

3.6 The application has been advertised in the press, a site notice was posted and neighbour notification was carried out as required by legislation.

4. RELEVANT PLANNING HISTORY

4.1 Parallel listed building consent application [23/00234/LBC](#) for 'internal and external alterations to church building to allow for an alternative use' is also being considered by this committee and is subject of Report no. 251/23.

5. APPLICANT'S CASE

5.1 The following documents have been submitted in support of the application: -

- A Bat Survey
- Odour Assessment
- Noise Impact Assessment
- Noise Management Plan
- Supporting Statement
- Various technical information sheets relating to cooking equipment, ventilation and extractors

5.2 The information submitted in support of the application is available to view on the [Public Access](#) system and is summarised at Appendix 2.

6. CONSULTATIONS

6.1 **Angus Council – Roads (Traffic)** – no objection.

6.2 **Angus Council – Environmental Health** – no objection in terms of amenity impacts subject to conditions to control noise and require the submission of further ventilation details.

6.3 **Angus Council – Parks and Burial Grounds Service** – no objection. It has confirmed that the churchyard was last used for interments around 1970.

6.4 **Monifieth Community Council** - made an observation regarding parking, traffic management and access.

6.5 **Aberdeenshire Council Archaeology** – no objection subject to a planning condition to secure a programme of archaeological works.

6.6 **Scottish Water** – no objection.

7. REPRESENTATIONS

3 letters of representation have been received raising objection to the proposal. Those letters are provided at Appendix 3 and are available to view on the council's [Public Access](#) website. In summary terms the following issues are raised and are addressed below in Section 8 of this report: -

- Proposal is incompatible with neighbouring uses
- Concern regarding scale of the proposal, late evening opening, alcohol license, use for private functions and subsequent potential amenity impacts including noise and general activity in the area
- Concern regarding impacts upon access, parking, road traffic and pedestrian safety, including impacts from deliveries and illegal parking, particularly given absence of on site parking and nature of surrounding streets
- Similar proposal at an alternative location near the waterfront is better

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: -
- [National Planning Framework 4](#) (NPF4) (Published 2023)
 - [Angus Local Development Plan](#) (ALDP) (Adopted 2016)
- 8.3 The development plan policies relevant to the determination of the application are reproduced at Appendix 4 and have been taken into account in preparing this report.
- 8.4 The ALDP was adopted in September 2016 while NPF4 was adopted on 13 February 2023. Planning legislation indicates that where there is any incompatibility between the provision of the national planning framework and a provision of a local development plan, whichever of them is the later in date is to prevail.
- 8.5 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.
- 8.6 Policy DS1 of the ALDP states that 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 other relevant policies of the plan. The policy promotes the redevelopment of brownfield land in preference to greenfield sites. NPF4 Policy 9 indicates that development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Development plan policies seek to safeguard existing community facilities but allows for their loss in specified circumstances. Policies and council guidance (including Advice Note 2/2018) also seek to encourage, promote and facilitate development in town centres, recognising they are a national asset, and in other appropriate location where uses are compatible and amenity impacts are acceptable. It states that this will be achieved by applying the town centre first approach to help centres adapt positively to long-term economic, environmental and societal changes, and by considering impacts on surrounding areas. Policies also seek to protect and enhance historic environment assets and places, to enable positive change as a catalyst for the regeneration of places and that redundant or neglected historic buildings are brought back into sustainable and productive uses.
- 8.7 St Rules Parish Church is a category B listed building constructed in 1812-1813 and is described in the list description as a gothic church, rectangular plan with square tower at west end. Supporting information suggests the church is currently vacant as a result of a new church facility recently being constructed on Monifieth High Street. That information suggests that there is no possibility of the church returning to an ecclesiastical use. No information regarding the viability of alternative community

use(s) has been submitted. The current proposal provides for a mixed-use licensed cafe, exhibition space, meeting rooms and event space and the information submitted by the applicant suggest the new use would provide a creative arts and crafts centre supporting local artists while also providing a space for the public to meet. The use as proposed would continue to provide a level of community benefit and the loss of the existing church would not result in an adverse impact on the community as an alternative church facility has been provided nearby. Furthermore if the building was to sit empty for a considerable period it is at risk of 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 in terms of safeguarding community facilities and it would bring an historic redundant building back into a productive use which could provide a degree of benefit to the local community if operated in the manner proposed.

- 8.8 The application site is located within the Monifieth development boundary as defined by the ALDP. It is not allocated or otherwise identified for development. It is not within, but is close to the defined town centre boundary. Whilst it is an edge of town centre location, the area is largely residential in character. However the property itself is within an existing use class that would allow it to be used for a variety of purposes that could generate visitors and activity throughout the day and in a largely unrestricted manner. The principle of reusing a vacant listed building in an edge of centre location for the proposed use is broadly compatible with development plan policy and there is no evidence that a facility of this nature would have a significant adverse impact on the vitality or viability of the town centre.
- 8.9 The new use is likely to generate activity into the predominantly residential area, but information on potential noise and odour emissions has been submitted and alterations have been made to the proposal to limit noise and odour impacts. The footprint of the building would not be increased, and no new external window openings are proposed. The environmental health service has considered the information submitted and has offered no objection in terms of amenity impacts subject to conditions to control noise and the submission of further ventilation details. Having regard to the nature of the use proposed and the character of the surrounding area, it is also appropriate to restrict the hours of operation of the proposed facility to safeguard the amenity of those that live in the area. Associated impacts must be considered in the context of the existing lawful use of the building which could generate noise and activity, and against the desirability of securing a new use for an important listed building. Subject to the mitigation identified in the proposed planning conditions, the proposal would be no more onerous (in terms of amenity impacts) than what the existing building could be lawfully used for. In general terms, there is no reason to consider that the proposed use would be incompatible with existing uses in the area and impacts upon amenity are not unacceptable subject to the conditions proposed.
- 8.10 The use would attract visitors and that is likely to generate traffic in the area. There is no allocated on-site parking or vehicle access proposed as this would not be practicable due to the surrounding churchyard. However, there is on street parking available nearby which was utilised when the building was in operation as a church, and this use could continue to operate without the need for planning permission. The site is also within easy walking distance of the town centre and its associated public car parks and transport linkages. A vehicle access serving the church and churchyard, taken from Manse Place to the north, would be utilised for deliveries and for drop off of those with restricted mobility. This access is existing. The roads service has reviewed the proposal and indicated no objections in respect of parking, road traffic, and pedestrian safety. Similarly, the parks and burial ground service (who maintain the surrounding churchyard) has offered no objection regarding the access arrangements. Again, the associated traffic impacts must be considered in the context of the existing lawful use of the building which could generate traffic activity, and against the desirability of securing a new use for an important listed building. The

property is in an urban location close to the town centre where good links to public transport are available and the proposal would help secure the reuse of vacant listed building. Accordingly, the usual requirements for on-site parking may be relaxed in accordance with the council's parking standards. It is recognised that any new use of the existing building is likely to generate additional vehicular traffic and some requirement for car parking. A pragmatic approach that facilitates reuse of the listed buildings is appropriate. In these circumstances, the principle of the development at this location is considered acceptable in terms of relevant policy considerations.

- 8.11 The site is not subject of any natural heritage designation but the building is of a construction that may be favourable for bats. A bat survey was carried out but found no bats emerging from the building and very little bat activity in the area surrounding the church. The survey does not recommended the need for mitigation. The development would not result in any significant direct or indirect impacts on the natural environment.
- 8.12 In terms of built environment considerations, the building is listed as being of special architectural and/or historic interest and some alteration to the fabric of a former church building is almost inevitable when facilitating a new use. The installation of new flues serving the proposed kitchen area on a small lean-to extension on the north elevation of the building would be the most significant external alteration in that area. The largest flue would project around 5m from the roof of the small lean to, extending just above the wallhead height of the rear church wall. The other flue is located on the same lean-to, but has a much smaller roof projection of around 1m. While those interventions (particularly the larger flue) are reasonably significant, they are located on an extension on a secondary elevation of the building and the flue being sited adjacent to the north elevation wall reduces its prominence in views towards the church. The flues are necessary to facilitate the proposed new use and on balance it is considered that they can be accommodated without unacceptable impacts on the character or setting of the listed building.
- 8.13 The proposal also involves the installation of solar panels on the south elevation roof slope. The proposed panels would cover around 25% of that roof slope and would be positioned centrally in two rows between the two projecting roof vents. Historic Environment Scotland guidance indicates that such installations should be planned carefully, and cautions against the installation of solar panels on the principal elevation. In this case the principal elevation of the church is considered to be the west elevation which faces Church Street, contains the church tower and main building entrance. While the south elevation is a reasonably prominent and important elevation of the building, it is considered that the panels could be accommodated in this location without causing a significant or unacceptable impact on the character of the listed building or its setting. There is little scope to accommodate free standing panels within the grounds of the church as it is not within the control of the applicant and due to its ongoing use as a graveyard. Siting panels on the north facing roof slope would not maximise solar gain. On balance, and noting that the panels cover only around 25% of the roof slope and would be positioned in a manner which would not visually unbalance the south elevation of the building, it is considered that the proposed solar panels would not unacceptably impact on the character of the listed building or its setting, and it is desirable to incorporate renewable energy technology to support the proposed new use and to help to address the global climate emergency.
- 8.14 The other external alterations proposed are relatively insignificant. The repainting of the external window frames, infilling existing vents on the main building and replacing windows and installing small vents in a non-original extension is acceptable. These works would not significantly affect the character or special interest of the listed building or its setting, and HES has no objection to the parallel application for listed building consent. The site is also located in an area of archaeological interest and the information requested by the archaeology service could be secured by planning

condition. The alterations are considered acceptable for this location and do not give rise to any significant conflict with the council's Design and Placemaking Supplementary Guidance or policies relating to renewable energy proposals.

- 8.15 The existing water supply and drainage arrangements serving the building would remain the same (public network). The development would not result in unacceptable impacts upon existing infrastructure.
- 8.16 The proposal is of a scale and nature appropriate to its location and does not give rise to any significant issue in terms of other development plan policy. As with any proposal, the application attracts support from some development plan policies and is not entirely compatible with others. However, when those matters are balanced and considered in the round, the reuse of the vacant listed building as a mixed use café meeting, exhibition and event space is in general compliance with the development plan.
- 8.17 In relation to material considerations it is relevant to have regard to relevant planning matters raised in representations. Matters relating to land use compatibility, amenity considerations, access and parking are addressed in detail above. It is noted that the building could potentially be reused for other uses within Class 10 (which includes creches, museums, libraries, public halls, law courts, places of worship) without the requirement for planning permission. The application is supported by information to demonstrate that impacts can be mitigated and relevant consultees have no objection to the proposal. While all impacts cannot be mitigated entirely and there is likely to be an increase in activity associated with the proposed new use, it is highly desirable to see a vacant listed building brought back into a purposeful new use. Whilst there are suggestions the proposal would be better suited to an alternative location, the key consideration is whether the proposed use is acceptable at this location and the conclusion reached above is that the proposal accords with development plan policy. There are no matters raised in representations which would justify refusal of an application which is otherwise compatible with development plan policy.
- 8.18 In conclusion, the proposal provides for the reuse of an important listed building in a manner that would not unacceptably affect its character, 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, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

10. CONCLUSION

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

Reason(s) for Approval:

The proposal provides for the reuse of a listed building in a manner that does not significantly or adversely affect its special interest or setting. The proposal 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. The development to which this permission relates must be begun not later than the expiration of three years from the date of its grant.

Reason: In order to clarify the duration of this permission in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 (as amended) and to ensure that it will lapse if not implemented within that period.

2. Prior to the commencement of the development hereby approved the following shall be submitted to and approved in writing by the planning authority;
 - (a) an archaeological written scheme of investigation (WSI). Thereafter a programme of archaeological works shall be 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 brought into use 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.
 - (b) precises details of an ventilation system within the commercial areas, which ensures cooking odours are not exhausted into or escape into any neighbouring dwellings. For the avoidance of doubt the details shall include:
 - i. full specifics of the proposed odour abatement system including grease filters, pre-filters and carbon filters or any other odour abatement method as considered necessary;
 - ii. detailed drawings showing all ductwork and the discharge position of the exhaust in relation to adjacent properties;
 - iii. a maintenance and cleaning schedule for the kitchen extraction equipment.Thereafter the approved system shall be installed and operational prior to the commencement of the use hereby approved and operated and maintained in accordance with the scheme for all time coming.
 - (c) a noise management plan to minimise the impact of noise at local receptors. This plan shall include measures to limit noise arising externally. Thereafter the development shall be operated in accordance with the approved noise management plan;
 - (d) precise details of all proposed new windows (including materials, glazing specification and configuration, method of opening, and final colour) and

the precise paint colour of all existing windows to be re-painted. Thereafter the development shall be undertaken in accordance with the approved details.

- (e) precise details of a scheme for the storage of bins and waste receptacles. Thereafter the building shall not be brought into use until such time as the approved scheme has been implemented.
- (f) precise details of all solar panels (including projection above roof plane and precise details of method of fixing to the roof) all external flues/ vents (including location and colour). Thereafter the development shall be undertaken in 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 and in the interest of protecting residential amenity.

- 4. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed NR Curve 35 between 0700 and 2300 and NR Curve 25 at all other times as measured within any dwelling or noise sensitive premises with the windows open at least 50mm.

Reason: In order to minimise potential noise emission in the interests of protecting the amenity of nearby noise sensitive property.

- 5. Noise arising from within the building (including amplified music) shall be controlled to an extent that it is inaudible as measured within any dwelling or noise sensitive premises with the windows open at least 50mm.

Reason: In order to minimise potential for noise emission in the interests of reducing impact on occupants of nearby noise sensitive property.

- 6. The use hereby approved shall not operate outwith the following hours;
 - Tuesday/Wednesday/Sunday 08:00 to 16:00;
 - Thursday/Friday 08:00 to 20:00; and
 - Saturday 08:00 to 21:00.

Reason: In order to minimise potential for noise emission in the interests of reducing impact on occupants of nearby noise sensitive property.

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: DEVELOPMENT PLAN POLICIES