

## Garioch Area Committee Report – 17 April 2018

Reference No: APP/2018/0317

**Proposal: Change of Use of Bakery (Use Class 1) to Hot Food Takeaway (Sui Generis) and Installation of Flue at 13 Oldmeldrum Road, Newmachar, Aberdeenshire, AB21 0PN**

**Applicant: Mr Bo Ling**  
**Agent: Neil Rothnie Architects**

Grid Ref:  
Ward No. and Name: W12 - East Garioch  
Application Type: Full Planning Permission  
Representations: 40  
Consultations: 4  
Relevant Proposals Map: Within the settlement of Newmachar  
Designations:  
Complies with Development Plans: Yes  
Main Recommendation: Grant



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## **1. Reason for Report**

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1f of Part 2C Planning Delegations of the Scheme of Governance as there have been valid objections from six or more individuals or bodies with separate postal addresses or premises.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

## **2. Background and Proposal**

- 2.1 This application seeks full planning permission for a change of use from a bakery (class 1) to a hot food takeaway (sui generis) at 13 Oldmeldrum Road, Newmachar. The vacant property is located within the settlement of Newmachar and is situated on the A947. The site comprises a 2 storey, pitched roof building that requires the change of use. The building is built up to the mutual boundary of neighbouring properties and does not contain any private outdoor space. The applicant has rights of access over a neighbouring area of land to the north of the site. The principle elevation of the building fronts Oldmeldrum Road to the east, while the north, south and west boundaries of the site are bounded by the curtilage of the neighbouring properties at 11, 11a, 13a and 13b Oldmeldrum Road. There are a number of residential properties in close proximity to the site and Newmachar Fish Bar is located to the north east, approximately 20 metres from the site.
- 2.2 It is proposed to change the use of the existing vacant building into a hot food takeaway, constituting a change of use from class 1 (shops) to sui generis. The proposed development would result in the creation of a new entrance door to the east elevation of the building, which would be accessed from Oldmeldrum Road. A new illuminated sign would be positioned above the proposed doorway, this proposal is being assessed under a tandem application, APP/2018/0316, and will not be discussed in this report. A stainless steel flue would be fitted to the north elevation roof plane which would be connected to the proposed ventilation and filtration equipment. No other external changes are proposed, but internal alterations would be carried out to facilitate this change of use. One existing off-street car parking space is allocated to the north of the site. No new connections to public water supply and drainage infrastructure are proposed as the premises would be serviced by existing connections.
- 2.3 The agent has advised that the proposed opening hours of operation for the business would be 16:00 – 22:30, each day.
- 2.4 Relevant planning history:
- APP/2018/0316 Erection of Illuminated Sign. Advertisement consent – pending consideration.
- 2.5 Supporting information:

A letter responding to the letters of objection was been received from the agent on 13 March 2018.

### 3. Representations

- 3.1 A total of 40 valid representations (34 support/6 objection) have been received as defined in the Scheme of Governance. This does not include multiple representations from the same household which equate to 42 letters in total. All issues raised have been considered. The letters raise the following material issues:

Support:

- *New amenity for the settlement of Newmachar;*
- *Social/community benefit;*
- *Reduce the need to travel;*
- *Increase parking during the day;*
- *Create employment opportunities;*
- *Make use of vacant building;*
- *Improve road safety.*

Objection:

- *Nuisance cause by noise and odour;*
- *Road safety concerns;*
- *Traffic and parking;*
- *Loss of privacy and overlooking.*

### 4. Consultations

- 4.1 **Infrastructure Services (Contaminated Land)** has stated that there is no indication of any past use which might have cause contamination. Therefore this service has no further comment to make on this application.
- 4.2 **Infrastructure Services (Environmental Health)** has no objection to this application subject to a condition being attached to any permission granted in relation to the ventilation and filtration equipment proposed.
- 4.3 **Infrastructure Services (Roads Development)** has commented that the parking requirement for this application is no different to the parking requirement for the existing approved use as a bakery, therefore this service has no objection to this application.
- 4.4 **Scottish Water** has comment that a suitably sized grease prevention system requires to be installed on the discharge to the public sewer for the kitchen sink area, in order to protect the sewer from fat and grease build-up. If permission is granted, the applicants will be made aware of this via an informative.

## **5. Relevant Planning Policies**

### **5.1 Scottish Planning Policy**

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

### **5.2 Aberdeen City and Shire Strategic Development Plan 2014**

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

### **5.3 Aberdeenshire Local Development Plan 2017**

Policy P3: Infill and householder developments within settlements (including home and work proposals)

Policy P4: Hazardous and potentially polluting developments and contaminated land

Policy RD1: Providing suitable services

### **5.4 Other Material Considerations**

None.

## **6. Discussion**

6.1 The key issues under consideration for this proposal are whether the principle of the development is acceptable, the potential impact on the residential

amenity of neighbouring properties, as well as parking and traffic considerations.

- 6.2 In order to determine the merits of this application, it will be assessed against Policy P3: Infill and householder developments within settlements (including home and work proposals), Policy P4: Hazardous and potentially polluting developments and contaminated land and Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017.

#### Principle of the development

- 6.3 It is proposed to re-use a vacant shop, which previously operated as a bakery, for a hot food takeaway within the settlement of Newmachar. As the development is located within a settlement, the principle of development will be assessed against Policy P3. This policy states that any development must respect the scale, density and character of its surroundings and shall not erode the character or amenity of the surrounding area.
- 6.4 In respect of the above it is considered that the proposed development will not significantly impact the character of the area, especially given the previous use of the building. While it is noted that the site is surrounded by predominantly residential development, there is an existing takeaway 20 metres from the site. In addition, there are a number of other retail and leisure facilities that can be found along Oldmeldrum Road, therefore the character of the settlement would not be impacted upon or eroded by this development. The Planning Service is also satisfied that by re-using the existing building, with only minor external alterations proposed to the east elevation, the development will not impact the scale or density of the surrounding area.
- 6.5 In terms of visual amenity, a new entrance door and window are proposed to the east elevation, which would be used as the main entrance door to the takeaway and these aspects are considered acceptable to the Planning Service. A stainless steel flue would project from the north elevation roof plane and would finish level with the height of the existing chimney to the west of the proposed flue. While there is potential for this element of the development to be seen from the north, south and east of the site, it is considered that this aspect will be relatively inconspicuous due to its location and height. In light of the above it is considered that the proposed changes to the external fabric of the building will have no significant impact nor detract from the visual amenity of neighbouring properties.
- 6.6 Concerns have been raised through letters or representation, regarding privacy of neighbouring properties. While there are existing windows to the south elevation that overlook the neighbouring property to the south, it is considered that these windows have long been established and would not result in any further loss of privacy than the bakery would have. The proposed new entrance door to the east elevation would cause no loss of privacy to neighbouring properties as it overlooks Oldmeldrum Road. There are no existing windows to the north or west elevations and it is not proposed to create any additional window openings to either elevations, therefore resulting in no loss of privacy to the neighbouring properties. In light of this, it is considered that the proposal would not result in any greater loss of privacy that what would have been present with the previous use.

- 6.7 In light of the above, the Planning Service are satisfied that the development complies with Policy P3 of the Aberdeenshire Local Development Plan.

#### Noise and odour

- 6.8 As previously stated, a stainless steel flue would project approximately 2.4 metres from the north elevation roof plane and it is considered that this aspect is not in close proximity to neighbouring properties. Environmental Health has raised no concern with the proposed ventilation and filtration equipment, but have asked that a condition be attached to any permission granted, to ensure that this element of the proposal is fully installed in accordance with the detailed submitted. It has previously been established that the proposed flue would not have a visual impact to neighbouring properties. The Planning Service has now established that there would be no undue impact to neighbouring properties in terms of noise or odour generated from the ventilation and filtration equipment due to its intended location; away from neighbouring residential properties. The building is detached from neighbouring residential housing and it is not considered that the noise generated from this use would have any undue impact on neighbouring residents

#### Traffic and parking

- 6.9 In terms of parking, Roads Development has stated that the requirement for this use would be 3 spaces. The Service has noted that 1 parking space is provided to the north of the site and the 2 other parking spaces could be accommodated on street, either on Oldmeldrum Road or within a nearby residential street, which are well within walking distance of the proposal.
- 6.10 Concerns have been raised, through letters of representation, that there is insufficient parking surrounding the site and that this proposal would result in dangerous parking on a busy road. The speed limit for Oldmeldrum Road (A947) is 30mph when traveling through this section of Newmachar. There is unrestricted parking to the west of Oldmeldrum Road which can accommodate approximately 3 or 4 cars and is in close proximity to the site. To the east of Oldmeldrum Road there is a parking bay that could accommodate approximately 5 more cars. If no parking can be found on this section of Oldmeldrum Road then further parking can be found on Disblair Road and School Road to the north of the site. Both streets could be used to accommodate car parking for patrons visiting the proposed takeaway if there were no spaces on this section Oldmeldrum Road. There is also unrestricted parking on Oldmeldrum Road, further south of the proposed takeaway.
- 6.11 Newmachar Fish Bar is located approximately 20 metres north east of the site and would share the same stretch of parking as the proposed takeaway. Their opening hours are 16:00 – 22:00 each day, similar to the proposed opening hours of this takeaway. The parking requirement for Newmachar Fish Bar would also be 3 parking spaces, therefore a total of 6 car parking spaces would be required in this area. It is considered that this requirement could easily be accommodated on Oldmeldrum Road or the surrounding streets. In addition, given that nature of the development, as takeaways, people would only be staying for short periods of time, therefore there will be a high turnover of parking. It is envisaged that there would be peak times of trade for both takeaways, although these may not coincide with one another. Therefore, on

balance, it is considered that there is sufficient car parking provision surrounding the proposed takeaway.

- 6.12 The neighbouring properties to the north (13 and 13b Oldmeldrum Road) and south (11 and 11a Oldmeldrum Road) gain vehicular and pedestrian access to their properties via the driveways located off Oldmeldrum Road, which border the application site. Concerns have been raised with regard to patrons or delivery drivers parking across their driveways, blocking access to their driveways. It was noted on a site investigation that there are bollards in place which would prevent any cars from blocking the access to the neighbouring properties to the north and south and these points of access are also clearly marked, 'KEEP CLEAR'.
- 6.13 Oldmeldrum Road and the A947 is likely to be less congested during the proposed opening hours. Although, the takeaway would operate during the evening 'rush hour' this would only be for a small period of its operational hours and only on a Monday to Friday. It is considered that the frequency of vehicles passing the takeaway would reduce later on into the evening. It is also noted that there is a pedestrian crossing approximately 25 metres north of the application site where pedestrians can safely cross Oldmeldrum Road safely.
- 6.14 6 valid letters of objection have been received, all of which make comment to the potential parking and road traffic issues which would result from this development. 34 letters of support have been received, some which refute the potential parking issues raised. These letters state that the proposed use and operating hours would make an improvement to traffic and parking conditions in the morning and would ease congestion, specifically during school hours. .
- 6.15 In light of the information detailed above, it is considered that the proposed change of use would not generated an unsafe level of parking, traffic or road safety. Therefore, the proposal is deemed to comply with Policy RD1 in that it is considered that the development would be adequately serviced in terms of parking.

#### Other material matters

- 6.16 An internal bin store is being proposed to the west of the application site. There is a door to the south elevation that would allow for bins taken to the roadside in order for the refuse to be collected. As the bin store is located internally within the building, it is not considered that any undue noise would arise from this aspect of the development. In addition, it is very unlikely that there would be significant noise generated from this or the bins being taken to the roadside for waste uplift.
- 6.17 The agent has advised that the proposed opening hours of operation for the business would be 16:00 – 22:30, each day. The opening hours are similar to the neighbouring takeaway.
- 6.18 Concerns have been raised in relation to the opening hours and the uplift of bins. As stated, the uplift of bins may generate some noise although it is not anticipated that this would be inexcusable. In terms of opening hours, any noise generated during operational hours would be contained within the building. The building is detached from neighbouring residential housing and it

is not considered that the noise generated from this use would exasperate neighbouring residents.

- 6.19 Contaminated Land has confirmed that there is no indication of any past use which might have caused contamination. Therefore, the Service has no objection to the proposed development.
- 6.20 The Planning Service is aware of concerns of mutual right of access and land ownership surrounding the site, these are civil matters and therefore outwith the remit of the Planning Service. As such, these concerns cannot be taken into account as part of this application.
- 6.21 A significant number of representations have been received within the public comment period, while many of them raised material considerations, some did not and these comments could therefore not be considered as part of this application.

### Conclusion

- 6.22 In light of the above, it is considered that the proposed development complies with the relevant policies of Aberdeenshire Local Development Plan 2017, in that there will no undue impact to the character or amenity of the surrounding area due to the proposed development and the proposed use is appropriately located. The application is therefore recommended for approval.

## **7. Area Implications**

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

## **8. Implications and Risk**

- 8.1 An equality impact assessment is not required because the grant of permission in this case would not have a differential impact on any of the protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

## **9. Sustainability Implications**

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## **10. Departures, Notifications and Referrals**

- 10.1 Strategic Development Plan Departures



None.

## 10.2 Local Development Plan Departures

None.

- 10.3 The application is not a Departure from the Local Development Plan or Strategic Development Plan and no departure procedures apply.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

## 11. Recommendation

### 11.1 **GRANT Full Planning Permission subject to the following conditions:-**

1. The development hereby approved shall not be brought to use unless the ventilation and filtration equipment has been installed in accordance with the approved details and its operation has been demonstrated to the planning authority in consultation with environmental health. Once provided, the approved ventilation and filtration equipment shall be permanently retained thereafter.

Reason: To ensure that odour from the development does not result in undue loss of amenity for surrounding properties.

2. The use hereby approved shall not operate outwith the hours of 16:00 – 22:30, Monday to Friday; Saturday and Sunday.

Reason: In order to ensure that the development would not result in undue loss of amenity for surrounding properties.

### 11.2 Reason for Decision

The proposed development accords with the applicable policies contained within the local development plan and there are no material considerations or technical issues which indicate that permission should be refused.

**Stephen Archer**  
**Director of Infrastructure Services**  
**Author: Cameron Kirk (Planner)**  
**Date: 29/03/2018**