Report To Banff & Buchan Area Committee – 21 August 2018

Reference No: APP/2017/2047

Full Planning Permission for Alterations, Extension and Change of Use of Hotel (Use Class 7) to Form Fishermen's Retreat (Mixed Use); Formation of 2 Residential Flats; Formation of External Walkway; External Cladding at Bayview Hotel, 37 Shore Street, Macduff

Applicant: Ms Susie Seui
Agent: Mantell Ritchie

Grid Ref: E: 370440 N: 864666
Ward No. and Name: W02 – Troup
Application Type: Full Planning Permission
Representations: 0
Consultations: 3
Relevant Proposals Map: Aberdeenshire Local Development Plan 2017
Designations: Town Centre
Complies with Development Plans: No
Main Recommendation: Refuse

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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.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

- Cllr Findlater: “The information provided in the report of handling is not sufficient. Further information on the noise issues is required and should be considered by the committee”.
- Cllr Cassie: “To further examine the reason for refusal in relation to policy P4”.

1.2 This report provides an update to the application that was considered at the meeting of the Banff and Buchan Area Committee on 23 January 2018 (refer to Appendix 7 for original report). At that meeting the Committee agreed that the application be delegated to the Head of Planning and Building Standards to approve on appropriate conditions subject to there being a satisfactory resolution to the noise issue as required, failing which the application will be referred back to Committee for determination.

1.3 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. **Background and Proposal**

2.1 Full planning permission is sought for alterations, extension and change of use of hotel (use class 7) to form a fishermen’s retreat (mixed use); formation of 2 residential flats; formation of external walkway and external cladding at Bayview Hotel, 37 Shore Street, Macduff. The site lies within the defined town centre surrounded by a range of residential, industrial and commercial uses. Location and site plans are attached to the original report.

2.2 Externally, the proposal includes two air source heat pumps and a door on the east elevation, walkway on the south elevation, replacement timber windows on the west elevation and the addition of an external façade to be clad with ‘Knauf Warm Wall’ insulation to be finished with white smooth render. Other proposed materials include wet dash harl painted white for the walls of the lift and walkway additions.

2.3 Since the decision taken in January 2018, the applicant has submitted additional noise information in March and May 2018.

3. **Representations**

3.1 No valid letters of representation have been received.
4. Consultations

4.1 Infrastructure Services (Environmental Health) initially objected to this application on the grounds of insufficient noise information to demonstrate that the two proposed air source heat pumps were capable of operating without causing unacceptable detriment to the residential amenity of neighbours. Environmental Health advised that the noise impact assessment submitted by the agent was unsuitable on the basis that it relates to the air source heat pumps serving domestic premises. This Micro regeneration Certification Scheme (MCS) Planning Standard used by the agent was designed to support permitted development rights for the installation of air source heat pumps in domestic premises, where the noise limit criteria can be met. As this is a commercial development, different standards apply.

4.2 Upon reviewing the information submitted in March and May 2018, the consultee continued to object on the basis that it still had not been sufficiently demonstrated that there would be no impact. Specifically, the qualifications of the author and equipment used were questioned, the measurements did not provide the necessary levels from the air source heat pumps or at the nearest properties and there is no clear methodology followed. A link to Aberdeenshire Council’s guidance was provided, but not followed meaning British Standards assessment methods were not adopted.

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 B2: Town Centres and Office Development
Policy P1: Layout, Siting and Design
Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land
Policy RD1: Providing Suitable Services
Policy RD2: Developers’ Obligations

5.4 Other Material Considerations

None.

6. Discussion

6.1 The key issues in the consideration of this application are the principle of the proposal; layout, siting and design; the impact on neighbouring amenity; and access and servicing. These are covered in detail in the original report and, with the exception of the potential noise impact, were acceptable to the Planning Service and Members.

6.2 The delegated matter, satisfactory resolution of the noise issue, has not been possible despite two attempts at submitting additional information. The key issue is that the author of the report and methodology do not meet the required standards and therefore it is not possible for Environmental Health to conclude there will be no impact on neighbouring properties from the two air source heat pumps (ASHP) that have been installed.

6.3 The ASHPs are positioned at first floor level within an inner courtyard on the rear (east) elevation of the building. Although Environmental Health has confirmed that there are no recorded complaints at this time about the operation of the ASHPs, there are concerns about the potential impact on the nearest domestic properties at a higher level approximately 20-25m away on School Lane and also across Nicol’s Brae.
6.4 Failure to submit information to an acceptable standard means Environmental Health has been unable to remove its earlier objection and agree that the matter is satisfactorily resolved. The applicant has indicated that whilst not meeting British Standards, they believe the data provided meets ISO Standards and they are not prepared to commission a specialist noise consultant. They have requested the application be referred back to committee to determine and the Planning Service considers this the only appropriate route now this impasse has been reached.

6.5 Due to the professional advice from the consultee, the Planning Service must conclude that the proposal does not comply with Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land as insufficient information has been provided to demonstrate that the air source heat pumps will not create an unacceptable impact on neighbouring amenity through noise emissions.

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 proposed development is not considered to give rise to any 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**

Policy P4: Hazardous and Potentially Polluting Developments
10.3 The application is a departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

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 REFUSE for the following reason:-

1. The proposal does not comply with Policy P4: Hazardous and Potentially Polluting Developments and Contaminated Land, as contained within the Aberdeenshire Local Development Plan 2017 as insufficient information has been provided to confirm whether or not the potential noise emission from the air source heat pumps would cause an unacceptable impact in terms of neighbouring amenity, as detailed in the outstanding objection from Environmental Health.

Stephen Archer
Director of Infrastructure Services
Author of Report: Bruce Strachan
Report Date: 19/07/2018
APPENDIX 3
Existing Elevations
APPENDIX 5
Proposed Elevations
APPENDIX 6
Proposed Floor Plans

Second Floor Plan: 1:100

First Floor Plan: 1:100

Ground Floor Plan: 1:100
Report To Banff & Buchan Area Committee – 23 January 2018

Reference No: APP/2017/2047

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Main Recommendation

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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.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

- Cllr Findlater- The information provided in the report of handling is not sufficient. Further information on the noise issues is required and should be considered by the committee.
- Cllr Cassie- To further examine the reason for refusal in relation to policy P4.

1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. **Background and Proposal**

2.1 Full planning permission is sought for alterations, extension and change of use of hotel (use class 7) to form a fishermen’s retreat (mixed use); formation of 2 residential flats; formation of external walkway and external cladding at Bayview Hotel, 37 Shore Street, Macduff. The site lies within the defined town centre surrounded by a range of residential, industrial and commercial uses. Location and site plans are attached as Appendices 1 & 2 respectively, together with existing elevations and floor plans in Appendices 3 & 4.

2.2 The proposal includes a tuck shop, social area/museum and craft area accessible to guests of the fisherman’s retreat and members of the public on the ground floor. On the ground and first floors there are various store rooms, accessible only to the owners. The majority of the first floor is to be accessible to the guests of the fisherman’s retreat including four bedrooms, a kitchen, prayer room and bathrooms.

2.3 The second floor contains one residential flat accessible only to the owners whilst the second residential flat is located on the first floor.

2.4 Externally, the proposal includes two air source heat pumps and a door on the east elevation, walkway on the south elevation, replacement timber windows on the west elevation and the addition of an external façade to be clad with ‘Fnauf Warm Wall’ insulation to be finished with white smooth render. Other proposed materials include wet dash harl painted white for the walls of the lift and walkway additions. The proposed elevations and floor plans are illustrated in Appendices 5 & 6 to this report.

2.5 There are no proposed changes to the current access or servicing to the building.
2.6 Relevant planning history includes:

- APP/2007/3919 Change of use of 1st and 2nd floors of hotel to house in multiple occupation, ground floor of hotel to restaurant and café and installation of extractor fan and chimney (Withdrawn: 07/01/2008)
- APP/2012/2771 Formation of new entrance to bar (Approved: 03/10/2012)

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Business Services (Developer Obligations)** note that the proposal includes the formation of 2 residential flats. Following the publication of the 4 towns report on 16th March 2017 as a development within the defined town centre boundary within Macduff, it is exempt from contributing towards Developer Obligations (infrastructure).

4.2 **Infrastructure Services (Environmental Health)** object to this application on the grounds of insufficient noise information to demonstrate that the two proposed air source heat pumps are capable of operating without causing unacceptable detriment to the residential amenity of neighbours. Environmental Health advise that the noise impact assessment submitted by the agent was unsuitable on the basis that it relates to the air source heat pumps serving domestic premises. This Micro regeneration Certification Scheme (MCS) Planning Standard used by the agent was designed to support permitted development rights for the installation of air source heat pumps in domestic premises, where the noise limit criteria can be met. This proposal is to form a Fisherman’s retreat, providing residential accommodation and a shop, which is considered to constitute a commercial premises. As a consequence, Environmental Health confirm that the MCS Planning Standard is not a suitable noise assessment method for this type of premises and for the number of air source heat pumps proposed. The Environmental Health Service maintain that they require noise assessment information appropriate to the commercial use and type of air source heat pumps proposed, therefore they recommend refusal of the application due to insufficient information to demonstrate that noise emissions from air source heat pumps will operate within acceptable noise limits.

4.3 **Infrastructure Services (Roads Development)** have no objection to the proposal as the existing use required more provision of parking spaces than the proposed use.
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 B2: Town centres and office development
Policy P1: Layout, siting and design
Policy P4: Hazardous and potentially polluting developments and contaminated land
Policy RD1: Providing suitable services
Policy RD2: Developers’ obligations

5.4 **Other Material Considerations**

None.
6. Discussion

6.1 The key issues in the consideration of this application is the principle of the proposal; layout, siting and design; the impact on neighbouring amenity; and access and servicing.

Principle of proposal

6.2 Policy B2 Town centres and office development allows retail and other uses which a lot of people will visit in a defined town centre. Other supported uses include office developments, commercial leisure uses, community and cultural facilities and other public buildings.

6.3 The site lies within the defined town centre of Macduff on a main thoroughfare of the town. It is understood the most recent use of the building was for a hotel which has been disused and vacant for a number of years. The proposed change of use includes various elements including for private residential use, use of a shop and areas by the public and as a fisherman’s retreat. Given that this would result in an increased number of visitors to the building and bring a disused building back in to use, it is considered that this would be acceptable in the town centre location. Furthermore, the proposed uses are found to be acceptable in relation to the surrounding uses particularly due to the proximity to the harbour for the fisherman’s retreat and the accessibility of the site by public transport, footpaths and proximity to public car parks. The proposal therefore complies with Policy B2.

Layout, siting and design

6.4 The proposal includes various external additions to the building including an external walkway which includes the addition of a door and building up an existing wall on the south and east elevation. This addition is considered acceptable as it is of a modest scale in relation to the existing building and would be finished in a similar material and colour. This aspect of the proposal doesn’t introduce any concerns of neighbouring amenity through overlooking due to the siting within the centre of the building and distance from the closest neighbouring properties to the east.

6.5 The proposal includes the replacement of existing windows with timber windows to be painted to match those existing. This is considered acceptable in terms of layout, siting and design.

6.6 Overall, the external amendments and alterations are considered acceptable and comply with Policy P1: Layout, siting and design.

Impact on neighbouring amenity

6.7 The proposed uses are considered compatible with the surrounding uses and would be unlikely to result in an unacceptable impact on neighbouring amenity, particularly when considered against the most recent use as a hotel.
6.8 The proposal includes the installation of two air source heat pumps on the rear (east) elevation of the building. Further information was sought from Environmental Health in the form of a noise assessment, such as a desk top screening assessment. Although a noise impact assessment was provided by the agent, the assessment was undertaken for an air source heat pump being used for residential properties. On the basis that the proposal will be operated as a commercial venture Environmental Heath confirmed that the information was not appropriate for the reason that the proposal is considered a commercial venture and a further assessment is required. Therefore, due to the submission of insufficient evidence to demonstrate that there will be no unacceptable loss of amenity as a result of noise emissions from the air source heat pumps, Environmental Health confirm that they object to the proposal in its current form. The proposal does not comply with Policy P4: Hazardous and potentially polluting developments and contaminated land as insufficient information has been provided to demonstrate that the air source heat pumps will not create an unacceptable impact on neighbouring amenity through noise emissions.

Access and servicing

6.9 The proposal does not include any amendment to the existing servicing to the building and would require less parking than that required by the most recent use as a hotel. Consultation with Roads Development has resulted in no objection to the proposal. The proposal therefore complies with Policy RD 1: Providing suitable services.

Summary

6.10 The proposal for change of use and alterations and amendments are considered acceptable in terms of principle and layout, siting and design. However, the air source heat pump element of the proposal is not considered acceptable as insufficient information has been provided to demonstrate there is no impact on the neighbouring amenity.

6.11 Therefore, although the principle of the proposal is acceptable and the re-use of the building is welcomed, the application is recommended for refusal on the basis this aspect of the proposal does not comply with Policy P4: Hazardous and potentially polluting developments and contaminated land, and is subject to an outstanding objection from Environmental Health.

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 proposed development is not considered to give rise to any 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**

Policy P4: Hazardous and potentially polluting developments

10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

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 REFUSE for the following reasons:-

The proposal does not comply with Policy P4: Hazardous and potentially polluting developments and contaminated land, as contained within the Aberdeenshire Local Development Plan 2017 as insufficient information has been provided to confirm whether or not the potential noise emission from the air source heat pumps would cause an unacceptable impact in terms of neighbouring amenity, as detailed in the outstanding objection from Environmental Health.

Stephen Archer
Director of Infrastructure Services
Author of Report: Fiona Rendall
Report Date: 21 December 2017