



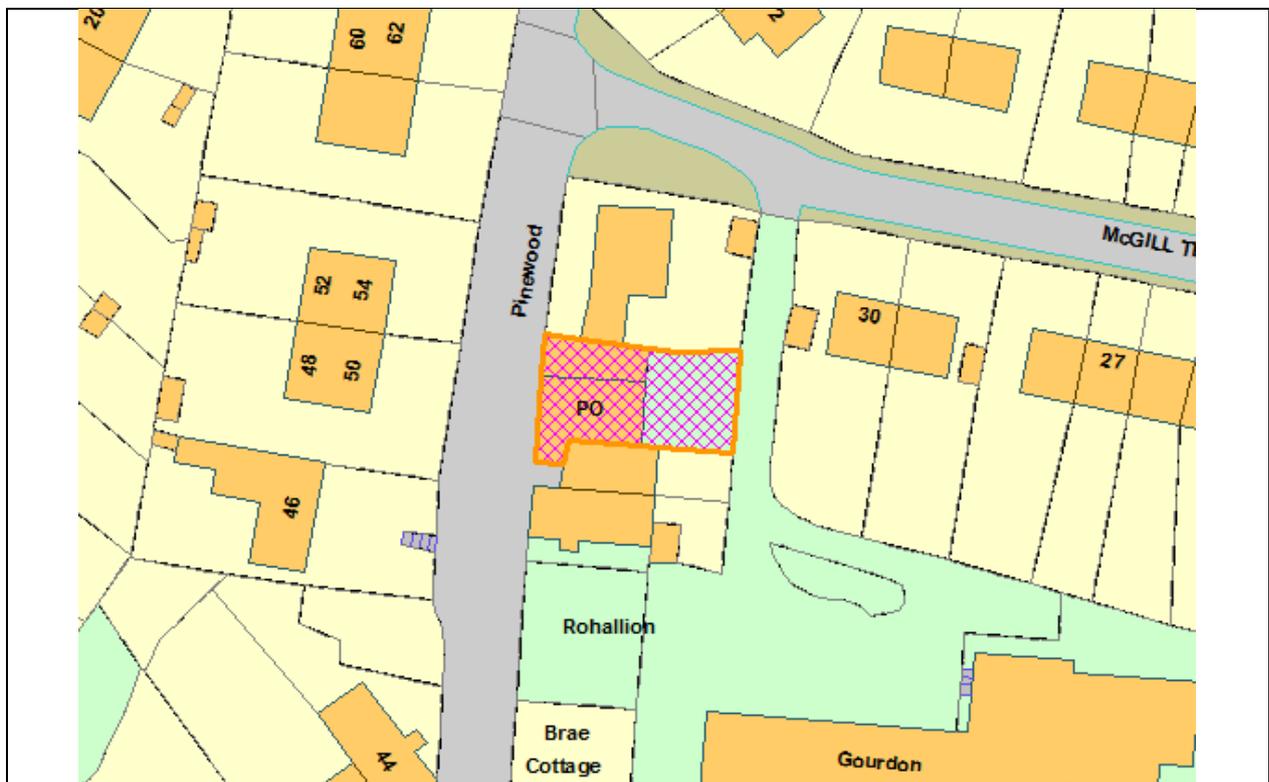
## Kincardine and Mearns Area Committee Report 8 February 2022

Reference No: APP/2021/2075

**Full Planning Permission for Change of Use of Shop (Class 1) to Hot Food Takeaway (Sui Generis) and Installation of Flue and Fan at The Gourdon Shop, Brae Road, Gourdon, DD10 0LX**

**Applicant:** Mr B Nibol, c/o Agent  
**Agent:** Neil Rothnie Architecture, 73 Huntly Street, Aberdeen, AB10 1TE

Grid Ref: E:382641 N:770966  
Ward No. and Name: W19 - Mearns  
Application Type: Full Planning Permission  
Representations: 8  
Consultations: 2  
Relevant Proposals Map: Aberdeenshire Local Development Plan 2017  
Designations: Within Settlement  
Complies with:  
Development Plans: Yes  
Main Recommendation: Grant



**NOT TO SCALE**

Reproduced from Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright and database rights. Ordnance Survey Licence Number 0100020767.

### 1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 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 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 the change of use of shop (Class 1) to Hot Food Takeaway (Sui Generis) and Installation of Flue and Fan, at the Gourdon Shop, Brae Road, Gourdon.
- 2.2 The application property is a detached single storey plus attic, double gable fronted building. It has a footprint of approximately 132sqm, within the wider feu of approximately 208 square metres, with the remaining undeveloped area to the rear forming an area of hardstanding covered with stone chippings. The rear area is enclosed by granite rubble walling of approximately 1.2 to 1.4 metres in height. The building has rendered walls, and a corrugated sheet roof.
- 2.3 The property is located directly onto the roadway of Brae Road, which runs through the centre of Gourdon before leading down to the harbour area. In respect of neighbouring property, the majority are residential properties of either 1½ or two storeys in height in all directions. To the southeast is Gourdon Primary School, which is accessed via the lane to the rear. The topography generally sees the land fall from north to south towards the coast, while to the west, the dwellings are elevated slightly in comparison to the road level.
- 2.4 Full Planning Permission is sought to change the current use of the building from class 1 (Shop) use to a sui generis hot food takeaway. The only proposed alteration to the exterior of the building is the installation of a flue and fan for the kitchen extraction system. This would be located on the south facing roof plane, at a point 0.5 back from the rear gable, and would terminate 1 metre above the ridge of the existing roof which is 5.5 metres high.
- 2.5 Internal alterations would see the subdivision of the largely open plan internal retail place in order to create the public waiting area, and the larger kitchen/preparation area. The bin store from the property is shown is being within the existing vestibule area beside the public road
- 2.6 The submitted documents indicate that the premises would serve Chinese food, and the proposed opening hours are 11.00 am to 11.00 pm, seven days a week.

- 2.7 Access to the premises is by the main entrance from Brae Road. The building is to be serviced as existing, with a public water supply and drainage discharging to the public sewer.

#### Relevant Planning History

- 2.8 In respect of planning history, a previous application for the conversion of the premises to form a dwelling (Ref: APP/2011/0534) was refused on 22 February 2011. On the parallel site to the north, an application (Ref: APP/2020/0599) for alterations and extension to dwellinghouse was approved 13 May 2020 and has been subsequently implemented.

#### Supporting Information

##### Supporting Statement by Neil Rothnie Architecture

- 2.9 Outlines that only minor internal alterations are required to accommodate the new use. The mechanical extract system is contained within the envelope of the premises with only the extract duct terminal appearing above the flat roofed extension and attached to the adjoining chimney breast. Refuse bins shall be held within the premises, with recollection externally on collection days. The proposed opening times are 11.00 am to 11.00pm seven days a week.

##### Odour Impact Assessment by Grosle Environmental Services dated 2 November 2021

- 2.10 Outlines the specification of the odour control measures, which shall include baffle filters, pre filters, and activated carbon filters. The conclusion is therefore that if implemented as designed, the kitchen extraction system would have a low impact for the residents living in the nearest residential house.
- 2.11 It further identifies that foods prepared and sold on the premises shall be a range of Chinese foods, with opening between 11:00 and 23:00, seven days a week.

##### Noise Impact Assessment by FEC Acoustics dated 3 November 2021

- 2.12 Identifies that the source of sound for this development would be the fan from the kitchen fume extraction system, which will extract air from the cooker hood, passing it through the odour control equipment, and then discharging it up the flue. The internal ductwork is to be 560mm square, with no cowl at the flue extract, which shall terminate 1 metre above the existing ridge line. The calculated table of sound pressure/octave band frequency illustrates that the intended equipment would be within the Noise Rating curve limitation of 25, and noise emissions would therefore be acceptable.

##### Supplementary comments by FEC Acoustics dated 26 November 2021

- 2.13 Revisited the potential noise impacts following confirmation of a window at closer proximity than that previously calculated. However, in light of the

window facing away from the flue, it greatly reduces the sound emissions from both the exhaust and intake fan. It remains to be concluded that silencers will not be required, and noise levels would be considered acceptable.

### Variations & Amendments

- 2.14 There have been no variations or amendments to the proposal other than some clarification over the extraction and filtration systems.

## **3. Representations**

- 3.1 A total of 8 valid representations (0 support/8 objection) have been received as defined in the Scheme of Governance. All issues raised have been considered.

- 3.2 The letters raise the following material issues:

- Loss of only retail shop in the village, which includes the essential service of a post office;
- Additional traffic and road safety;
- Lack of parking facilities, and conflict with residential requirements;
- Lack of footpaths and public safety;
- Litter and vermin;
- Impact on residential amenity through odour;
- Harmful to historic character and unique identify of the settlement.

- 3.3 Matters raised which are not material include:

- Potential anti-social behaviour by patrons;
- Presence of a hot food takeaways already in Gourdon and Inverbervie;
- The potential to negatively impact on hospitality business in the area;
- Increased fire risk;
- Reduction in value of surrounding properties.

## **4. Consultations**

- 4.1 **Environment and Infrastructure Services (Environmental Health)** initially requested additional information in respect of the submission of respective Noise and Odour Impact Assessments. Upon receipt of these documents, and supplementary information following further input from an adjacent resident, it was confirmed that they have no objection to the development subject to conditions relating to noise, odour, and the installation of a suitably designed grease trap.

- 4.2 **Environment and Infrastructure Services (Roads Development)** has no objection to the application. The change of use from shop (Class 1) to sui generis does not amend the parking requirement at the premises which currently relies on on-street parking, this is not uncommon in small fishing villages. They note whilst the parking requirements will remain as short stay on-street opportunity parking, the opening times and the parking pattern may differ.

## 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 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. 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.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

### 5.3 Aberdeenshire Local Development Plan 2017

Policy P1: Layout, siting and design

Policy P3: Infill and householder development within settlements

Policy P4: Hazardous and potentially polluting developments and contaminated land

Policy RD1: Providing suitable services

#### 5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the 'settled view of the Council' on what the final adopted content of the LDP 2021 should be. A period during which representations on the Proposed LDP 2020 could be made took place between 25 May and 31 July 2020.

The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Proposed LDP has been subject to public scrutiny and has now been submitted for Examination by an independent Reporter. Nevertheless, it is considered that the level of weight that should be applied to the Proposed LDP 2020 remains as not significant at this time. The Aberdeenshire LDP 2017 remains the up-to-date LDP for the area and the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted.

#### 5.5 Other Material Considerations

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

### 6. **Discussion**

- 6.1 The main issues in the determination of this application are whether the proposed change of use to a hot food takeaway is appropriate at this location within the settlement, whether the proposed use would have a detrimental impact on the existing amenity of neighbouring residential property. In addition, the appropriateness of the proposed external changes, and their impact on the character and appearance of the area requires consideration, as does the potential impacts on road safety.

#### Principle of Development

- 6.2 The existing property is located in a prime location on the main road leading down into the traditional heart of Gourdon. For some considerable time, the property has operated at the village's shop, however it is now proposed to convert the premise to a hot food takeaway. Policy P3 Infill and householder development within settlements outlines that development will be supported within settlements, as long as the development "*respects the scale, density and character of its surroundings, and will not erode the character or amenity of the surrounding area. Applicants will also need to demonstrate that there will be no significant interference with the existing or proposed use of neighbouring sites*".
- 6.3 In this instance, the general principle of the conversion of a shop to form a hot food take away is acceptable. Planning policy does not prevent the loss of retail premises (nor the post office element), and proposals must be considered on their own merits. While concerns have been raised through objections in respect of the potential for the development to impact on

residential amenity by noise and odour, the applicant has provided supporting information requested by Environmental Health. Following analysis of the information, and additional submissions, Environmental Health officers have confirmed that they have no objections to the proposals. This is however reliant upon conditions being utilised to require the installation and appropriate maintenance of the extraction equipment, with limitations on noise levels, and the provision of a suitable grease trap. On the basis that the noise and odour can be adequately controlled, it is considered that the impacts on adjoining amenity can be appropriately managed, as per the requirements of Policy P3, and Policy P4 Hazardous and potentially polluting developments and contaminated land, as it is considered that the proposals would not result in a significant nuisance to the public.

### External Changes

- 6.4 Turning to the proposed external changes, as outlined above, the only external change (other than the potential for new signage which would be assessed through a separate application for advertisement consent), is the installation of a stainless steel flue on the south facing roof plane, towards the rear of the property. While this would terminate 1 metre above the existing roof ridgeline, its location to the rear of the building would minimise its prominence on the streetscene, to an extent it would largely only be visible in the immediate vicinity of the site. Furthermore, with a diameter of approximately 0.45 metres, and a stainless steel finish, it would not be overly visible against the existing profiled metal sheet roof, which is a grey colour. While of a smaller diameter, flues projecting through roof planes are visible in the vicinity of the application, including the extension to the immediate neighbour to the north. As such, it is considered that the proposal respects the scale of the existing property and its surroundings, thereby being in accordance with Policy P3 infill and householder development within settlements and P1 Layout, siting and design.

### Road Safety

- 6.5 While some concern has been raised through representations in respect of the potential for additional traffic and the associated impacts on road safety, consultation with Roads Development has confirmed that they have no objection to the proposals. They further outlined that the proposed use does not amend the parking requirement at the premises which currently relies on on-street parking, which is not uncommon in small fishing villages. Furthermore, they note whilst the parking requirements will remain as short stay on-street opportunity parking, although the opening times and the parking pattern may differ. With the short stay nature of collection of food, and the potential for a percentage of pedestrian based clientele, it is considered that the existing parking arrangement are satisfactory in this instance, and therefore in accordance with Policy RD1 Providing suitable services.

### Other matters raised in representations

- 6.6 In respect of other matters raised in representations which have not already been addressed above, the application premises shows the provision of bin storage facilities within the property, which is quite sizeable for the proposed

use. No objection has been raised by Environmental Health in respect of these arrangements. Notwithstanding, commercial waste arrangements will be required to be made with the Council's Waste Management service. Concerns over litter would ultimately be a matter for Police Scotland.

- 6.7 Lastly, while one representation outlined that the proposal would be harmful to the historic character and unique identify of the settlement, Gourdon is not an identified conservation area, nor are any of the adjacent properties listed buildings. It is therefore considered that the impact of the proposals on the general character and visual quality of the area, has been assessed appropriately above.

### Conclusion

- 6.8 The proposed use of a hot food takeaway would replace an existing commercial use, in a prominent location, within the main road through Gourdon. Through the submission of supporting information the proposed development is not considered to result in any adverse amenity impact as noise and odour control measures proposed, and appropriate conditions would limit any amenity loss to that which is reasonably tolerable. The design of external alterations is of a scale and design appropriate to the building and surrounding properties. Furthermore, there is on street parking available in the vicinity of the site, and parking standards are not considered to be significantly different to the existing retail use. As such, the proposal complies with all relevant policies contained within the Aberdeenshire Local Development Plan 2017 and 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 integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 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.
- 8.4 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.

## 9. Departures, Notifications and Referrals

### 9.1 Strategic Development Plan Departures

None

### 9.2 Local Development Plan Departures

None

9.3 The application is not a Departure from the Local Development Plan or Strategic Development Plan and no departure procedures apply.

9.4 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.

9.5 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.

## 10. Recommendation

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

01. Noise from the premises shall not exceed Noise Rating Curve 25 when measured at a point outside any noise sensitive building at least 3.5m from any reflecting surface other than the ground or within a habitable room of any noise sensitive dwelling.

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

02. The premises shall not be brought into use unless the odour control system has been installed in accordance with the approved details as detailed in Appendix B of the Odour Impact Assessment dated 2/11/21 and its operation has been demonstrated to the Planning Authority. Once agreed, the approved odour control system shall be permanently retained and suitably maintained, as per Appendix C of the approved Odour Impact Assessment, thereafter.

Reason: To protect the amenity of neighbouring residential properties.

03. No works in connection with the development hereby approved shall take place unless details of a suitably sized and positioned grease trap have been submitted to and approved in writing by the Planning Authority. The development hereby approved shall not be brought into use unless the grease trap has been installed and maintained, in accordance with the approved details.

Reason: To prevent excessive amounts of grease, oils and food from the premises entering the public foul sewer and thereby ensuring there is no adverse impact on the public foul sewer from the development.

#### 10.2 Reason for Decision:

The Planning Authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Development Plan 2017. The proposed change of use respects the scale, density, character and amenity of the surrounding area. Furthermore, it would not have an unacceptable impact upon adjacent land uses and residential properties by means of noise or odour and there is safe and convenient access for parking, storage and collection of waste for this commercial venture. The proposal is therefore in accordance with Policy P1 Layout siting and design, Policy P3 Infill and householder developments within settlements (including work proposals), Policy P4: Hazardous and potentially polluting developments and contaminated land, and Policy RD1 Providing suitable services.

**Alan Wood**  
**Director of Environment and Infrastructure Services**

**Author of Report: Paul Williamson**  
**Report Date: 20 January 2022**