

Buchan Area Committee Report 19 March 2024

Reference No: [APP/2023/1866](#)

Full Planning Permission For Erection of 2 Drive-Thru Restaurants (Class 3/Sui Generis) with Associated Works at Site Adjacent to Burnside Business Centre, Burnside Road, Peterhead

Applicant: CP Properties Ltd, Wdm Oakfield House, 378 Brandon Street, Motherwell, ML1 1XA
Agent: G. D. Lodge Architects LLP, Crown House, 152 West Regent Street, Glasgow G2 2RQ

Grid Ref: E:411939 N:844182
Ward No. and Name: W06 - Peterhead South and Cruden
Application Type: Full Planning Permission
Representations: 1
Consultations: 10
Relevant Proposals Map: Aberdeenshire Local Development Plan 2023
Designations: Settlement Boundary Peterhead; P2 Protected Land
Complies with:
Development Plans: No
Main Recommendation: Grant



NOT TO SCALE

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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.8.1 of Part 2A List of Committee Powers and Section C.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Monitoring Officer within Business Services has been consulted in the preparation of this report and had no comments to make and is 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 formation of two drive through / class 3 / sui generis units with associated car parking and infrastructure on land to the north of Burnside Business Centre in Peterhead. The site is located to the south of Peterhead and is located within the settlement boundary and on land designated as P2 protected 'To provide strategic landscaping for site OP2 and BUS3' within the Aberdeenshire Local Development Plan 2023 (Appendix 2- Site plan).
- 2.2 The site measures around 5000 sq.m. The proposal seeks permission for two buildings, which sit along the western boundary, with car parking to the front of the buildings, and landscaping. Each building has a gross floor area of 200 sq.m. The site is triangular in shape, and to the west is the A982 road, to the south is Burnside Business Centre, and to the north east is a watercourse with an open field beyond.

Drive Through Restaurant

- 2.3 The drive-through restaurant unit measures around 10 metres by 20 metres (external) with height to ridge of 6.6 metres. The building is to be finished in a mix of cream/ mushroom colour composite panels that would sit on a red brick basecourse, interspersed with timber effect panels in a cedar finish. The restaurant area would feature floor to ceiling aluminium framed glazing. There is a red internally illuminated red box light along the parapet. Windows and doors are finished in aluminium grey.

Drive Through Restaurant / Café

- 2.4 The drive through restaurant/cafe building measures around 11 metres by 16 metres (external) with a hatchery protrusion of 3 metres by 4 metres. The roof is a mono-pitched slope, with the height to ridge point 5.5 metres and the lower ridge 4.6 metres. There is a chimney style feature on the west elevation (facing the A952) and the south elevation with a height of 6 metres. The building is to be finished in grey composite roof panels with grey soffit, walls in white render with red wall panels on the front elevation and detailing on the rear (west elevation), with red cedar timber detailing on the west and east

elevations. Doors and windows are grey aluminium coated (Appendix 3- Elevations and floor plans).

- 2.5 The site has extant planning permission for retail, storage and hot food take-away, with a total of 729 sq.m. floorspace, under planning reference APP/2021/1304 which was granted on 24 August 2021. This application is therefore effectively a change to the extant planning permission reference APP/2021/1304.
- 2.6 Access is to be taken from Burnside Road and would be shared with the two existing buildings on the wider business. There will be a provision of 44 car parking spaces, to be shared between the two proposed buildings. Services to the site include a connection to the Scottish Water public water supply and sewers, and SUDS for surface water drainage.
- 2.7 The site has the following planning history
- APP/2021/1304 for 2 buildings (building 1 for class 1, class 6 and sui generis and building 2 for class 3 hot food takeaway). Granted 24 August 2021
 - APP/2019/1789 for the erection of a building for hot food take away (sui generis) and retail (Class 1) and associated car parking. Granted 21 November 2019.
 - APP/2019/0323 Condition 2 (Siting, Design, Layout, External Appearance, Access, Landscaping, Levels, Drainage and Waste/Recycling) of Planning Permission Reference. Granted 9 April 2019
 - APP/2017/2160 Erection of 2 Units, Unit 1 (Class 3), Unit 2 (Class 1) and Associated Car Parking (planning permission in principle) . Granted 1 December 2017.
 - APP/2013/1351 Erection of Office Building (Class 4 Business Use with Associated Retail) with Car Parking and Landscaping. Granted 3 July 2013.
- 2.8 The application is supported with a Drainage Impact Assessment by DCF Design Consultants.
- 2.9 An updated site block plan was submitted to relocate the proposed pedestrian crossings and show electric vehicle charging points.

3. Representations

- 3.1 A total of 1 valid representation (1 objection) has been received as defined in the Scheme of Governance. All issues raised have been considered. The letter raises the following material issues:
- No electric vehicle charging spaces are shown

4. Consultations

Internal

- 4.1 **Environment and Infrastructure Services (Contaminated Land)** has no objection, and recommends the inclusion of an informative advising of history of a potentially contaminative use on the site.
- 4.2 **Environment and Infrastructure Services (Environmental Health)** has no objection, however notes that the design and layout of the premises should conform with general food hygiene requirements as outlined in 852/2004.
- 4.3 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** initially requested a surface water drainage statement. On receipt of a drainage assessment, it updated to advise it has no comments.
- 4.4 **Environment and Infrastructure Services (Roads Development)** do not object to the application. It advised that the provision of 44 parking spaces including 3 disabled spaces, and 2 service bays and cycle parking is acceptable. It notes that the pedestrian crossings shown should be straight crossings, and an updated plan was received showing straight crossings. Recommends that vehicle movements are checked with tracking software to ensure the layout can operate safely.
- 4.5 **Environment and Infrastructure Services (Waste Services)** do not object, however, advise the applicant to familiarise themselves with the Waste (Scotland) Regulations 2012. It notes that vehicle access is of paramount importance, and collection vehicles are usually 12 metres in length and require adequate space to manoeuvre.

External

- 4.6 **NEOS** provided a plan of its network apparatus and safe dig procedures.
- 4.7 **Scottish Gas** provide plans of its infrastructure and a guide to interpretation.
- 4.8 **Scottish Water** do not object but note it cannot guarantee capacity, and suggest a pre-development enquiry is submitted to them. It comments that there is currently capacity in Peterhead Waste Water Treatment works but that further investigations may be required.

Scottish Water's Trade Effluent Quality Adviser also advised that a grease filter would be required. The details of the grease filter have been provided and agreed and details of maintenance also need to be agreed. An informative will be added to any decision.

- 4.9 **SSEN Distribution** provide plans of its infrastructure and a guide to interpretation.

4.10 **Transport Scotland** do not object to the application.

5. Relevant Planning Policies

5.1 National Planning Framework 4 (NPF4)

Scotland's fourth National Planning Framework (NPF4) is a long term plan looking to 2045 that guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities. It is part of the development plan, and so influences planning decisions across Scotland.

On 13 February 2023 (0900am) Scottish Ministers adopted and published National Planning Framework 4 (NPF4), meaning that it is in force and National Planning Framework 3 and Scottish Planning Policy are superseded from that date and time. This will also have the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on that date. As such the Aberdeen City and Shire Strategic Development Plan 2020 has now ceased to have effect. The NPF4 now forms part of the development plan along with the Aberdeenshire Local Development Plan 2023.

Policy 13 Sustainable transport
Policy 14 Design, quality and place
Policy 15 Local Living and 20 minute neighbourhoods
Policy 23 Health and safety
Policy 27 City, town, local and commercial centres
Policy 28 Retail

5.2 Aberdeenshire Local Development Plan 2023

On 13 January 2023 the Aberdeenshire Local Development Plan 2023 was adopted.

Policy B1 Town Centre Development
Policy P1 Layout, Siting and Design
Policy P2 Open Space and Access in New Development
Policy P3 Infill Developments within Settlements and Householder Developments (including home and work proposals)
Policy C1 Using Resources in Buildings
Policy PR1 Protecting Important Resources
Policy RD1 Providing Suitable Services

5.3 Other Material Considerations

Chief Planner letter: transitional arrangements for National Planning Framework 4 - February 2023 (published 8th February 2023) which made specific reference to Policy 27(d) - Drive through developments.

6. Discussion

- 6.1 The main issues for consideration in determining this application are whether it is acceptable in principle, as well as the impact on the character and amenity of the site and surrounding area. Impact on the protected land designation is a consideration, and access and services to the site must also be viable and appropriate.

Principle

- 6.2 The site is located within the settlement boundary of Peterhead, and is designated as protected site P2 'To provide strategic landscaping for site OP2 and BUS3' in the Settlement Statement for Peterhead within the ALDP 2023. Protected land will be discussed further below.
- 6.3 The Planning Authority is required to determine planning applications against the Development Plan, unless material considerations indicate otherwise (Section 25 of the Town And Country Planning Act 1997). In this case, there is an extant permission on the site for 470 sq.m. of retail (class 1), and 260 sq.m. of restaurant (class 3) / sui generis which was granted on 24 August 2021 under permission APP/2021/1304. This permission is live and could be implemented and hence the principle of retail / class 3 / sui generis is established on the site and does not need to be re-established. The site does have an extensive planning history, as outlined in paragraph 2.7 above.
- 6.4 The proposed development seeks around 400 sq.m. of class 3 / sui generis floorspace which is a reduction in the previous permission, and a retail unit is no longer proposed. The site layout broadly follows that which was previously granted with the buildings sited to the west of the site, with the car parking area to the east of the buildings.
- 6.5 The proposed uses are restaurants and cafes (Class 3), hot food take away (sui generis), and drive through (sui generis). Both Policy 27 of NPF4 and Policy B1 of ALDP 2023 would normally expect uses 'frequently visited' to be located in defined town centres. However, in this case, as the principle of these uses has been established, a sequential assessment of alternative sites was not requested in this instance, extant until August 2024. Policy 27 criteria d) does state that drive-through development's will only be supported where they are specifically supported in the local development plan. However, a letter has subsequently been issued by the Chief Planner which clarified that the intention of the policy is to ensure this type of development is considered an integral part of the development plan, and is not a moratorium on such developments. Drive-through units are not generally able to be accommodated within town centre locations and are appropriate to this type of location, where there are already three drive-through restaurants in close proximity.

Protected Land

- 6.6 The land is designated as 'P2' 'Protected Land' in the ALDP 2023. It is noted that this designation was introduced by the ALDP 2023, and therefore was not a consideration under the previous application on the site. Whilst Policy PR1 'Protecting Important Resources' would presume against this type of development, which is protected in the settlement statement, the principle of development has been established. The site is protected to 'provide strategic landscaping for site OP2 and BUS3'. The site is not particularly well related to sites OP2 and BUS3 and is not a well used area of open space. It is therefore the view of the Planning Service that the proposed development can be supported as a departure from Policy PR1.
- 6.7 It is worth noting that the site is vacant, and is not used for recreational purposes. There is not a requirement to provide additional open space in this instance. The proposal includes soft landscape around the perimeter of the site, which will assist in providing screening for the commercial area.

Layout, Siting and Design

- 6.8 Policy P3 Infill and householder developments within settlements (including home and work proposals), supports small scale development within settlements, on land which is not allocated by the plan for any specific use. The proposed scale and character of the development must not erode the character or amenity of the site and surrounding area. The overall size of the site is appropriate to the scale of other similar neighbouring developments. As such it would not be out of character for the surrounding area. It is in keeping in design, mass, use and character with neighbouring buildings and is therefore unlikely to erode the amenity of the area.
- 6.9 The character of the proposed development is largely unchanged from that previously granted. The replacement of the retail unit with a drive-through restaurant reduces the buildings' massing. The proposed units will be compatible with neighbouring business units to the south and it is noted that there are also existing drive through restaurants within 200 metres of the site. The proposal does not visually erode the character of the site or wider area any more so than the design approved under the extant planning permission.
- 6.10 In relation to residential amenity, the proposal is in a commercial area. The closest residential property is 'Mlanje', which is approximately 85 metres from the north-west corner of the site. Environmental Health has raised no objection to the proposed development and is content that the development would not cause undue nuisance in term of noise or odour.
- 6.11 The Planning Service take the view that the likely impact on the character and amenity of the area is negligible. This is in line with Policy P1 Layout, Siting and Design, and Policy P3 'Infill Developments within Settlements and Householder Developments (including home and work proposals)'.

Access and Servicing

- 6.12 The site can be suitably accessed and neither Transport Scotland nor Roads Development has any objection to the proposed development. An informative will be added to any decision to note that internal road layouts are not adopted, and do not come under the control of the Council's Roads Service, and it is recommended that vehicle movements are checked with tracking software to ensure the layout can operate safely.
- 6.13 The applicant submitted updated plans to show electric vehicle charging on four spaces. This issue was raised by in a letter of representations, but given the proposal now includes electric vehicle charging, the Planning Service considered that the concerns have been addressed. The electric vehicle charging would also be secured via condition.
- 6.14 The site is accessible to a walking catchment and is within 100 metres of a bus stop so has good pedestrian accessibility.
- 6.15 Services to the site include a connection to Scottish Water public water supply and sewers, with private surface water SUDS. Flood Risk and Coast Protection had initially requested a drainage assessment, and on receipt updated its comments advising it has no objection to the proposal.
- 6.16 As such, the Planning Service is satisfied that the proposals are in accordance with Policy RD1 Providing Suitable Services.

Summary

- 6.17 The proposed development is acceptable in principle in that there is an extant permission for commercial and retail uses on the site. The proposal is a departure from Policy PR1 Protecting Important Resources, as the site is protected within the Peterhead Settlement Statement as site P2. However, as the principle of development is established for a not too dissimilar use, albeit no longer including a retail unit, there are no other reasons why the development could not be supported. The proposed siting and design is acceptable, and there is no significant impact on the character or amenity of the area.

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 has been carried out as part of the development of the proposals set out above. It is included as Appendix 1 and no negative impact has been identified.

- 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 Development Plan Departures

Policy PR1 Protecting Important Resources

- 9.2 The application is a Departure from the valid 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.
- 9.3 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. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. No individual building hereby approved shall be erected unless an Energy Statement applicable to that building has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:
- a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development;
 - b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising

from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2023.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required by Policy C1 of the Aberdeenshire Local Development Plan 2023.

03. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) Existing landscape features and vegetation to be retained;
- b) Protection measures for the landscape features to be retained;
- c) Existing and proposed finished levels;
- d) The location of new trees, shrubs, hedges, grassed areas and water features;
- e) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- f) Biodiversity enhancement measures to be undertaken (for advice see Nature Scot document "Developing with Nature")
- g) The location, design and materials of all hard landscaping works including walls, fences, gates, street furniture and play equipment;
- h) An indication of existing trees, shrubs and hedges to be removed;
- i) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

04. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

05. Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

06. The buildings hereby granted shall not be brought into use unless the proposed surface water drainage systems have been provided in accordance with the approved plans and the Drainage Impact Assessment, by DCF Design Consultants, received 6 February 2024. The surface water drainage systems shall be permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

07. The development shall be served in accordance with the approved drawings and the following details, which following implementation shall thereafter be retained in perpetuity:
- a) Prior to the first occupancy of the development hereby granted off-street parking for 44 cars, surfaced in hard standing materials must be provided within the site, unless otherwise agreed in writing by the Planning Authority in respect of phasing of the implementation of the parking as a non-material variation;
 - b) Prior to the first occupancy of the development hereby granted, unless otherwise agreed in writing by the Planning Authority in respect of phasing of the implementation of the loading bays as a non-material variation, 2 Loading / Servicing Bays (one outside each building), shall be provided within the site in accordance with the Council's Car Parking Standards, details of which shall be first submitted to and approved in writing by the Planning Service;
 - c) Prior to the first occupancy of the development hereby granted, unless otherwise agreed in writing by the Planning Authority in respect of phasing of the implementation of the following parking requirements, 3 disabled parking spaces, 8 cycle racks and 2 motorcycle/moped spaces shall be provided within the site, details of which shall be first submitted to and approved in writing by the Planning Service;
 - d) Electric Vehicle charging points, and ducting for future charging points, are to be provided in line with the Building (Scotland) Regulations, as per standard 7.2 (Electric vehicle charging) from the June 2023 Technical Handbooks, or the regulations applicable at that time, and for the avoidance of any doubt shall include a minimum of four electric vehicle charging points.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

08. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders, the buildings hereby granted shall be used only for the purpose hereby granted and shall not be used for any other purpose without the express grant of planning permission from the planning authority.

Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area, servicing, and on the town centre.

10.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan 2023 Policy PR1.

The proposed development is acceptable in principle in that there is an extant planning permission for commercial and retail uses on the site. The proposal is a departure from Policy PR1 Protecting Important Resources, as the site is protected within the Peterhead Settlement Statement as site P2. However, as the principle of development is established, there are no other overriding material considerations why the development could not be supported. The proposed siting and design is acceptable, and there is no significant impact on the character or amenity of the area.

In assessing the proposed development against the wider policies of National Planning Framework 4 and the Aberdeenshire Local Development Plan 2023 and any other material planning considerations, there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Sarah Graham
Report Date: 7 March 2024