

Garioch Area Committee Report – 11 November 2008

Reference No: G/APP/2008/0932

Full Planning Permission for Change of Use of Building (Part Public House and Part Private Residence) to Residential and Extension to Dwellinghouse at Midmar Inn Midmar, Inverurie

Applicant: Mr D Cooper & Miss D Begg, Per Agent

Agent: Mr Matthew W Merchant, Silverbank, North Deeside Road, Banchory

Grid Ref:	370562.5 805672.9	
Ward No. and Name:	EWV13 Westhill and District	
Application Type:	Full Planning Permission	
Representations:	155 from 111 different households or organisations	
Consultations:	5	
Relevant Proposals Map	Local Plan	
Designations:	Countryside	
Complies with Development Plan:	Structure Plan	Yes
	Local Plan	No
Main Recommendation:	Refuse	

1. Reason for Report

1.1 This report relates to a planning application against which material objections have been lodged is recommended for refusal and therefore requires to be determined by the Area Committee.

2. Background and Proposal

2.1 This planning application entails the change of use of the building known as the 'Midmar Inn' (which is partly a public house that is currently closed and partly a private dwelling) to residential use, and extensions to the dwelling. The application site is located in the Countryside as defined in the Aberdeenshire Local Plan, on the B9119 approximately 3km to the west of Echt. The nearest settlement is Midmar, which is approximately 3km away to the northwest.

2.2 No additional dwelling would be created; the application proposes to create additional residential accommodation for the existing dwelling by converting the public house element of the building into residential and by extending the dwelling.

2.3 The existing building comprises three main elements: the original building is two storeys with a hipped roof. A two storey extension projects forward from the eastern third of the front building line and has a hipped roof closest to the original building and a gable end fronting on to the road. A further front extension stretches along the remainder of the front elevation of the existing building, and has a mainly flat roof. In addition, the building has several other more small monopitch roof/lean-to extensions.

2.4 The application proposes two main extensions/alterations to the existing building. The proposed plans and elevations are attached as Appendix 1.

- 2.5 The first extension would be a long two storey continuation of the existing two storey extension described above. It would join with the existing hipped end of this extension, and would project approximately 27m towards the rear of the site. It would terminate with a largely glazed gable end and a projecting balcony which would be supported by granite walls matching the existing building. The east elevation of this extension would contain 3 small ground floor windows, 3 small upper floor windows and 3 velux windows in the roof. The west elevation of this extension (visible behind the original building) would be almost entirely glazed on both floors.
- 2.6 The second alteration would involve the replacement of the existing flat roof of the front extension, with two hipped roofs of natural slate. The front elevation would have a new double door entrance with narrow vertical windows on either side. In addition, the front and side (west) elevations would contain clerestorey windows at the top of the walls. A utility door and small window, framed in vertical timber lining, is proposed on the west elevation.
- 2.7 The roofs of the extension are proposed to be natural slate (to match existing) with fireclay ridge tiles; the doors would be stained timber-lined, and the walls would be finished mainly in white wet dash and elsewhere would be stained timber-lined. The walls supporting the proposed balcony would be granite.
- 2.8 The front porch and two monopitch roof lean-to extensions are proposed to be demolished.
- 2.9 The applicant and applicant's agent have submitted various letters in support of the application and these are attached as Appendix 2. These letters discuss various problems and requirements for refurbishment and repair of the building and state that the public house suffered from a lack of custom from local residents. The letters argue that the Midmar Inn cannot as a business justify or support the expenditure needed for the necessary repairs and refurbishment. The letters also discuss the limited employment supported by the public house, argue that the service provided by the Midmar Inn was not adequately supported by the community and that the area is already well served by facilities in the form of the Millers, which has more services and facilities than the Midmar Inn could hope to offer. The letters also provide further evidence and justification for the claim that the public house is not viable, and discussions that have taken place with interested parties/potential buyers.

3. Representations

- 3.1 Given the volume of representees to this application, the letters of representation have not been circulated but are available for inspection in the Garioch Area Office.
- 3.2 155 letters of representation (objecting or in support) have been received, from 111 different households or organisations. All figures in this section exclude anonymous representations.
- 3.3 148 letters of representation objecting to the application have been received, from 105 different households or organisations including the 'Friends of the Midmar Inn'

and the 'Friends of the Midmar Inn Community Company'. These include the following points:

Friends of Midmar Inn Action Group/Community Company

- *Friends of Midmar Inn is the name given to a large group of people who signed a petition in Autumn 2007 after Midmar Inn closed. Petition objected to any change of use at Midmar Inn;*
- *Friends of Midmar Inn Action Group set up to represent views of community and customers of Inn, with overall objective to ensure that Midmar Inn continues as a public house and restaurant and focal point for community of Midmar;*
- *Refer to web site <http://savethemidmarinn.co.uk>;*
- *Owners have made no effort to market the Inn;*
- *Group submitted an offer to buy the Midmar Inn at valuation – received no reply.*
- *Friends of Midmar Inn Community Company (FoMICC) formed in February 2008.*
- *FoMICC awarded Right to Buy the Midmar Inn by Scottish Ministers (under the Land Reform (Scotland) Act 2003. (Provides details of the Right to Buy application process and the Scottish Ministers' decision.) Being awarded the Right to Buy does not enable the Community Company to buy the property until such time as the owners choose to sell it;*
- *Current owners have made no attempt to market the premises and establish if there is a market for business. Own investigations indicate pub would easily sell to enthusiastic new owners, especially given major development at Westhill;*
- *Landowners' representative advised member of Community Body that owners wished to maximise their return at a price that could be attained if sold as development site (£395,000 instead of £165,000 the property was purchased at 4 years ago. Significant contrast to property expert's estimate of £160,000 - £200,000);*
- *Several interested parties have expressed an interest in purchasing the Inn but owners have largely ignored all enquiries;*
- *Current owners appear to have driven down business value of premises by talking down state of fabric and condition;*
- *When current owners bought property in 2004, paid £165,000 which traditionally suggests that annual takings at that time were in region of £165,000;*
- *Argument that Midmar Inn has changed hands regularly due to poor trading history is incorrect. Midmar Inn has always been sold as a going concern;*
- *Closure of Midmar Inn has already had detrimental effect on community;*
- *Provided evidence in form of extracts/quotes from TV and newspapers that owner does not intend to sell the pub;*

Marketing

- *No attempt has been made to put pub in the market;*
- *Suggest that before committee discusses the application it should insist the Inn has been freely and fairly marketed at a realistic asking price by a specialist estate agent for minimum of 6 months;*
- *People wish to buy Midmar Inn and run it as a pub, but their approaches have been denied. Owners prepared to sell it as a pub but only for inflated value which would be achieved if change of use to residential permitted;*
- *Consortium is prepared to buy it and run it as a pub and restaurant. Efforts should be supported by the Planning Authority;*

Community facility, amenity and character of area

- *Community facility has served community for over 100 years;*
- *Nearby police station, petrol station, shop, hairdressers, Cowdray Arms (now a restaurant) and bank etc already closed (some of these were in Echt). Significant lack of amenities in the area. Only pub in the village;*
- *National Planning and Policy Guidelines indicate planning authority should be supportive of local facilities which provide valuable service to the local community, and that it is reasonable to consider social and economic impacts of loss of facilities such as village shops and pubs;*
- *Loss of public house has adverse impact on character and vitality of area;*
- *Pub is important part of the community; invaluable resource and meeting place for individuals, local groups, young people, newcomers etc;*
- *Pub is only place in Midmar where people can drop into without having to go to pre-arranged function;*
- *Good place for meals, nice atmosphere and ambience;*
- *Next nearest Inn is a long way away;*
- *Businesses in rural communities deserve to be encouraged;*
- *Walking to/from a pub from Midmar is no longer an option as other pubs further away and not within safe walking distance;*
- *Decision to allow change of use would be irreversible and would lead to loss of amenity in the countryside;*

Viability

- *Highlight CAMRA's Public House Viability Test. In the right hands any pub can be successful;*
- *Dispute claim that the pub is not a viable business. Previous owners ran the inn as a very successful concern;*
- *Pub only bought 3 years ago; unlikely that lack of viability can be used as credible argument in such a short space of time;*
- *Plenty of examples of pubs in remote or unlikely locations that are very popular. Defunct and run-down pubs can be made viable again – e.g. Garlogie and Jaffs;*
- *Fact that a pub is not doing well at the moment may reflect capability and entrepreneurship of current/recent licensees;*
- *Pub has been well-supported by the local community;*
- *'The Pub is the Hub' makes it clear that the pub can provide many additional resources for its community. If previous owners were really trying to maintain business viability they would have at least promoted some of following: additional retail uses, outlets for farm produce etc, online delivery point, pharmacy collection point, ATM machine, crèche facility, betting shop, hairdressers' salon etc.*
- *Strength of feeling in this area shows that Midmar Inn could thrive;*
- *Trade and success is likely to increase due to development around Westhill and the Aberdeen bypass;*
- *Many local people alienated by present owners;*
- *Many people not aware of courtesy bus provided by the pub - would have used it if advertised;*
- *Current owners would have had surveys done when they purchased the pub 3 years ago, which should have revealed the alleged state of the building;*
- *Bar had hallmarks of being deliberately run down;*
- *Owners have continued to run down value of business by publicly stating all of its problems and removing fixtures and fittings;*

Sustainability and road safety

- *Local authorities have discretionary power under Local Government Act of 2003 – ‘Power to Advance Well-Being’;*
- *Closure of the Midmar Inn will cause people to drink and drive;*
- *Without Midmar Inn, driving distances to pubs would increase, and air pollution/potential for road accidents will also increase;*

Technical

- *Potential shortage of water if more houses are added to the supply;*
- *More houses drawing from the same small private supply would result in water shortages, especially during summer months;*

Profit

- *Profiteering;*
- *Pubs valued on business turnover, not on location and physical fabric and value of building would be much higher if change of use to dwelling permitted;*

History, heritage and other

- *Midmar Inn has existed for more than 100 years and is historic landmark in Midmar area;*
- *Midmar Inn surrounded by history e.g. buildings such as ‘Sunhoney’ and ‘Mill o’ Hole’ mentioned by Grassic Gibbon in ‘Sunset Song’ and local standing stones and The Millers visitor centre are tourist attractions;*
- *Change of use to house would be ribbon development which should not be allowed.*
- *Approval of application would encourage others to do the same;*
- *Planning department has moral obligation not to let planning application go through if it thinks that rural communities and villages are important.*

3.4 Although a number of letters of representation refer to a petition objecting to the change of use of the Midmar Inn, the Planning Service has not to date received any petition in relation to the application.

3.5 7 letters of representation in support of the application have been received, from 6 different households or organisations. These include the following points:

- *Letter from owner/proprietor of Cowdray Restaurant – in support of the application. Company traded as Cowdray Restaurant until August 2008 when poor trading circumstances forced closure of business. Failure of attempts to promote Cowdray Restaurant shows that a large number of people in the area do not support local country businesses like the pubs and restaurants. Midmar Inn had previously attempted even more initiatives to promote their business e.g. party nights, charity fun runs etc. Lack of profitable business makes trading impossible. Plans submitted for former Midmar Inn will sadden some including applicants. Decision to close pub is far from easy or inexpensive decision;*
- *Letter from previous owners of Midmar Inn – in support of the application. During their ownership encountered experience of trying to ‘make ends meet’ and working 80-90 hours per week and still having to depend on private income. Could not depend on trade from ‘local community’. Throwing hard work and hard-earned cash into bottomless pit is not a viable business option. Lists various points which would need to be rectified before the business would be fit*

for purpose or licence, including contaminated water supply; electrical wiring faults, plumbing problems, breakdown of central heating, staffing problems; economic climate and low spend per customer. Midmar Inn is not a Council-run amenity, Post Office etc. It is privately-run Public House that should be run at a profit for the owners or not at all. Would be nonsensical for the business to reopen;

- *Would be good if 'pro Midmar Inn brigade' would raise money and make a go for it as a going concern. Can see how much local support they would need to maintain to keep such a place going as amenity;*
- *Everybody has right to do what they wish with their own property, provided it does not interfere with rights of others and building proposals are sensitive to area.*

4. Consultations

- 4.1 The Transportation & Infrastructure Service (Economic Development) initially commented that it was generally opposed to the change of use proposed, and highlighted that one objective listed in the approved Economic Development priorities of the Council is to 'Be nationally recognised for the self-sufficient and inclusive communities in its area'. The initial consultation response also sought information on how actively and for how long the site had been marketed for commercial purposes and on the economic justification for the proposal.
- 4.2 Following this initial consultation response, the applicant's agent submitted information regarding employment supported by the public house, its viability, marketing, an estimate of the costs of required repairs and improvements and a copy of the annual accounts for the Midmar Inn for the year ending 30 September 2007. The Transportation & Infrastructure Service (Economic Development) subsequently advised that the premises has not been proactively marketed and that there are specialist selling agents for this type of property, and suggested that often external marketing is required.
- 4.3 The Transportation & Infrastructure Service (Economic Development) has also suggested that the fact that a number of other interested parties have decided not to pursue the purchase of the property may indicate that the asking price was set too high. The team stated that from the accounts provided the viability of the business appeared to be marginal, and that while a one off, 1 year loss should not be terminable for 'a going concern', the balance sheet was very weak with little assets and no capital. The fact that the accounts show the business had no stock appears to indicate that it was a planned closure and therefore the 2007 figures may not be indicative of a normal year's trading figures.
- 4.4 The consultation response from the Transportation & Infrastructure Service (Economic Development) also highlighted several legislative and regulation changes, e.g. recent changes to the Licensing laws and the smoking ban, which have had negative impacts on the profitability and turnover of licensed premises. The response finally states that the accounts show the business has had very little capital investment, which may indicate why so much refurbishment is now required and why interested parties have been reluctant to buy the property. There appears to have been a lack of ongoing investment in the business and this could be one reason for the downturn in trade. The response highlights The Millers as an example of the level of investment required by this type of business and states that

it is essential for any business to compete to offer clientele a good quality of service.

- 4.5 The Planning & Environmental Service (Planning Policy) highlights Local Plan Policies Hou\7 and Gen\1 as relevant to the application. It advises that the principle of housing on this site complies with policy but the loss of the public house would cause substantial harm to the sustainability of the surrounding area and does not comply with Policy Gen\1.
- 4.6 The Transportation & Infrastructure Service (Local Roads) has advised that the current application provides the required visibility at the access of 150m by 2.4m and that the shown parking provision of 3 spaces is acceptable.
- 4.7 The Planning & Environmental Service (Environmental Health) has no adverse comments in relation to the proposal following the submission of additional information regarding water demand and supply for the site.
- 4.8 Cluny Midmar and Monymusk Community Council advised that several local groups and individual residents have approached the Community Council over concerns that a public amenity was to be lost, and that “the Community Council is disappointed at the loss of a facility which has been a feature for many years”. Its letter is attached as Appendix 3 to the report.

5. Relevant Planning Policies

5.1 Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST)

No Structure Plan policies are directly relevant to this planning application.

5.2 Aberdeenshire Local Plan

Policy Hou\7: House Extensions

Policy Emp\1: Allocated and Existing Employment Land

Policy Inf\2: Parking, Servicing and Accessibility

Policy Inf\4A: Foul Drainage Standards

Policy Inf\4B: Surface Water Drainage Standards: Sustainable Urban Drainage Systems (SUDS)

Policy Inf\5: Water Supply

Policy Gen\1: Sustainability Principles

Policy Gen\2: The Layout, Siting & Design of New Development

- 5.2.1 Policy Hou\7 states that house extensions will be approved in principle if they meet certain criteria. These criteria are that the extension should reflect the character of the surrounding area and the design and scale of the existing house; should not significantly reduce the amenity of neighbouring residents and should conform to Appendix 1.
- 5.2.2 Policy Emp\1 sets out a presumption in favour of retaining existing sites for industry and business use. It states that development for non-employment uses on employment land will be refused unless certain criteria are met.

- 5.2.3 Policy Inf\2 sets out parking, servicing and accessibility requirements for new development. These include requirements for development to be well-related to existing settlements and avoid dispersed patterns of development, comply with the Council's maximum parking standards and be safe and resource efficient with minimal impact on the character of the site and surrounding area. Its other criteria are of little relevance to this small-scale application.
- 5.2.4 Policies Inf\4A, Inf\4B and Inf\5 require that development should be drained in a satisfactory and sustainable manner and that the developer should demonstrate that an adequate and potable water supply will be provided.
- 5.2.5 Policy Gen\1 states that development will be assessed against sustainability indicators that relate to the local environment, community and economy. It lists criteria including whether the proposal:
- (b) is well related to existing settlements and avoids dispersed patterns of development;
 - (c) reduces the need to travel using private cars;
 - (e) does not damage built or cultural heritage resources;
 - (f) does not impact negatively on the character, including landscape character, environment or amenity of the surrounding area;
 - (m) helps support existing community services and facilities.
- 5.2.6 Policy Gen\2 relates to the layout, siting and design of new development. It requires (amongst other things) that the development be of appropriate scale, massing, height and density and display a high standard of design and materials sensitive to the surrounding area. It also requires development to conform to Appendix 1 of the Local Plan.
- 5.3 In relation to SPP15, the Infrastructure Services Committee on 12th May 2005 agreed that the provisions of SPP15 do not alter the status of the Structure Plan or the Local Plan as the most up to date and relevant statements of Council policy, which will remain as the primary considerations in the determining of planning applications.
- 5.4 For the avoidance of doubt, Policy Hou\4 of the Local Plan relates to new housing in the Countryside and is not relevant to this application. Part 1 of the policy is relevant to the erection of new housing, and Part 2 is relevant to the conversion of non-residential vernacular buildings for residential use. This application does not entail the erection or creation of any additional housing. It instead involves the change of use, to further residential accommodation, of part of the existing building which is already partly residential is *not* considered to be a vernacular building particularly given that it has largely lost its traditional character through the addition of several unsympathetic extensions.

6. Discussion

- 6.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006) requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Scottish Planning Policy 1 *The Planning System* (SPP1) states that if a planning application accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted.

Conversely, if the application does not accord with the plan, it should be refused unless there are material considerations indicating that it should be granted. SPP1 also states that although priority must initially be given to the development plan in determining a planning application, there is a built in flexibility depending on the facts and circumstances of each case.

- 6.2 The Planning etc. (Scotland) Act 2006 also requires that the planning authority must exercise their planning function with the objective of contributing to sustainable development.
- 6.3 SPP1 highlights a House of Lords' judgement which set out the following approach to deciding an application:
- identify any provisions of the development plan which are relevant to the decision;
 - interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - consider whether or not the proposal accords with the development plan;
 - identify and consider relevant material considerations, for and against the proposal; and
 - assess whether these considerations warrant a departure from the development plan.
- 6.4 The weight to be attached to any relevant material consideration is for the judgement of the decision-maker.
- 6.5 Following consideration of the consultation responses, representations received relevant development plan policies and other material considerations, the main planning issues that require to be considered in relation to this application are as follows:
- Loss of employment use
 - Sustainability and impact on amenity and character
 - Layout and design
 - Technical issues including water supply

Loss of employment use

- 6.6 Policy Emp\1 of the Local Plan is related to allocated and existing employment land, and states that development for non-employment uses on employment land will be refused unless certain criteria are met. The aim of the policy is partly to protect existing employment sites from non-employment development. An operating public house would inevitably provide local employment, and there are few other local employment opportunities in the Midmar area. It is reasonable to regard a public house in the Countryside as an employment site.
- 6.7 Policy Emp\1 states that development for non-employment uses on employment land will be refused unless one of three alternative criteria ((a), (b) or (c)) is met, *and* provided that the development respects the character and amenity of the surrounding area and is landscaped accordingly and is compatible with neighbouring employment uses.

6.8 Criterion (a) is that the non-employment use should not prejudice the strategic employment land requirement. The development plan has an emphasis on the provision of employment land in settlements to fulfil the strategic employment land requirement. However, an operating public house in the Midmar area would inevitably provide *local* employment in an area with few other local employment opportunities. The justification for Policy Emp\1 states that the Local Plan maintains a marketable supply of land for employment uses and that this is one of the key factors in sustaining a vibrant, effective and sustainable economy for Aberdeenshire. Scottish Planning Policy 15 *Planning for Rural Development* similarly states that planning authorities should support a wide range of economic activity in rural areas and that long established uses are essential and form an important part of the local economy.

6.9 In this context, Criterion (a) of Policy Emp\1 regarding *strategic* employment land is not relevant to this application which instead relates to a potentially important source of *local* employment. The application should therefore not be assessed against this criterion and should instead be assessed against Criteria (b) to (e) of the policy.

Policy Emp\1 (b)

6.10 To meet Criterion (b) of Policy Emp\1, there would need to be a constraint on the site whereby there is no reasonable prospect of it ever becoming marketable for employment development.

6.11 The applicant has provided information to support their claim that the public house is no longer viable, including financial accounts for the year ending 30 September 2007. The consultation response from the Transportation & Infrastructure Service (Economic Development) advised that although the viability of the business appears to be marginal, a one off 1 year loss as shown in the submitted accounts should not be terminable for a 'going concern'.

6.12 The applicants consider that the business is not viable and this assertion appears to be supported by letters of representation received from a previous owner of the Midmar Inn and current proprietor of the now closed Cowdray Restaurant. However, a different operator may not share this opinion, and diversification of the functions and services provided at the property may increase its viability. The Midmar Inn could benefit from the significant growth in population and employment in Westhill which is approximately 10km away.

6.13 It is therefore considered necessary for the marketability and viability (or otherwise) of the business to be fully tested and demonstrated by the proper and adequate marketing of the public house as a going concern.

6.14 The applicants' agent has stated that when it became known that the premises was to stop operating, the applicants were approached by 3 experienced bar owners who expressed an interest in acquiring the property. All were shown approved alteration and refurbishment proposals and inspected the property. The agent states that only one followed up the initial interest, to establish anticipated costs of bringing the property in line with 'current day expectations'. Following analysis of requirements and costs, the party indicated they no longer had an interest, due to the level of expenditure required to bring the property up to an acceptable standard.

The applicant's agent also states that the applicants approached two larger public house/hotel operators. Both apparently replied that there were not sufficient houses in the area to justify investment in the location.

- 6.15 In response to the Planning Service's request for details of any marketing of the property, the agent states that "Public Houses and hotels sell very well without official marketing. Word of mouth advertising is common place within the industry and the majority of successful transactions are done in this manner." The agent argues that given the publicity associated with the public house and planning application, it does not require a formal advertisement to advise interested parties of its availability and that the previously interested parties have provided genuine commercial comment on the viability of the business.
- 6.16 Notwithstanding the above points, the Transportation & Infrastructure Service (Economic Development) has commented that the premises have not been actively marketed, that there are specialist selling agents for this type of property, and that often external marketing is required. The Friends of the Midmar Inn Community Company has indicated an interest in buying the property.
- 6.17 The asking price has not been confirmed by the applicant, and may have been higher than the realistic value of the property as a public house and associated residence. The Transportation & Infrastructure Service (Economic Development) also indicates that the business appears to have had little capital investment, which may explain why so much refurbishment is now apparently required and may be another reason for interested parties' reluctance to buy the property.
- 6.18 The applicants have subsequently submitted a letter in support of the application, which includes the statement that "We have no intentions of selling the former Midmar Inn, this is our home and all we want to do is make the changes and improvements to make it a really nice home."
- 6.19 It is consequently the view of the Planning Service that on the basis of the evidence submitted to date, the public house has not been adequately and properly marketed as a going concern. It has therefore not been demonstrated that there is a constraint on the site which results in there being no reasonable prospect of the site being marketable for employment development.

Policy Emp\1 (c)

- 6.20 To meet the requirements of Criterion (c), the site would need to be poorly located for employment purposes and an alternative land use would need to benefit the surrounding area and community.
- 6.21 A public house has existed on the site for a considerable time (letters of representation indicate that the facility has served the community for over 100 years). It is therefore a well-established employment use and although it is not located within a settlement and is not in a particularly accessible location, it has an acceptable location given its scale and function. The employment use of the site benefits the community, whereas the proposed alternative use solely as a private dwellinghouse would not bring any substantial benefit for the surrounding area and community. The proposal therefore fails to comply with this criterion.

Policy Emp\1 (d) and (e)

- 6.22 Development for non-employment uses on employment land is also required to meet criteria (d) and (e) of Policy Emp\1. As discussed below, the change of use from the public house would not respect the character and amenity of the surrounding area and as such, would not meet the first of these criteria. The site has no neighbouring employment uses and therefore (e) is not relevant.

Overall assessment against Policy Emp\1 and point (l) of Policy Gen\1

- 6.23 The change of use and permanent loss of this authorised employment use is therefore not currently justified and would be contrary to Policy Emp\1 insofar as the policy is relevant to this site.
- 6.24 The change of use to solely residential use would not support local employment (indeed it would do the opposite) and therefore the proposal performs poorly when assessed against point (l) of Policy Gen\1.

Sustainability and impact on amenity and character

- 6.25 In addition, the proposal should be assessed against the sustainability criteria set out in Policy Gen\1. These include (f) 'does not impact negatively on the character, including landscape character, environment or amenity of the surrounding area', (l) provides new, or helps support existing, local employment, and (m) helps support existing community services and facilities.
- 6.26 It is also necessary to consider the likely impact on the amenity of the surrounding area caused by the change of use of the public house to residential use. Paragraph 52 of SPP1 states that "...the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest..."
- 6.27 It is also apparent from the letters of representation received that the public house is regarded as an important facility and meeting place for the local community and therefore contributed to the amenity of the area. The applicants' agent argues that although a public house can provide a valuable service to the local community, the Midmar Inn did not support the social wellbeing of many in the community as very few local people visited the inn on a regular basis.
- 6.28 There are no policies which *specifically* resist or promote the loss of, or change of use to residential from, a public house or other community facility in the Countryside. Although Policy Inf\10 supports new community facilities in settlements, it does not seek to protect or retain community facilities in the Countryside.
- 6.29 However, Policy Gen\1 requires proposed development to be assessed against sustainability indicators including whether it (f) does not impact negatively on the character, environment or amenity of the surrounding area and (m) helps support existing community services and facilities. More generally, SPP1 states that strong, vibrant and healthy communities in rural and urban areas are an essential part of the vision for a socially just Scotland. Representations received express concern that the Midmar area has already lost most of its community facilities and that

before it closed the Midmar Inn was one of the few remaining facilities and services in the area.

- 6.30 On balance, particularly given the level of representations received regarding the application, it is considered that the public house has a beneficial effect on the amenity of the surrounding area and community. Its permanent loss and change of use to residential would therefore cause a loss of amenity and would not support existing community services and facilities.
- 6.31 Notwithstanding the above comments, there is no planning mechanism available to ensure that the public house reopens and remains open as a 'community facility'. It is also not the role of the Planning Authority to insist that businesses continue to operate at a loss, and it is clear from the letter of support from the applicant that the public house would not reopen as long as they retain ownership. However, if planning permission was to be granted for the proposed change of use to residential accommodation, the loss of this community facility and employment use would likely be permanent. If the change of use is not approved, the possibility would remain that the facility could re-open in the future under new management.
- 6.32 As the public house has not been sufficiently demonstrated to be unviable and not marketable, by the proper and adequate marketing of the property as an ongoing concern, the change of use to residential and thus the permanent loss of the community facility is not justified. This is because it would cause a potentially avoidable permanent loss of amenity and would not support existing local employment and community facilities. As such the proposal would be contrary to the aims and principles of SPP1 and unsustainable when assessed against Criteria (f), (l) and (m) of Policy Gen\1.

Layout and design

- 6.33 Local Plan Policies Hou\7 and Gen\2 require house extensions to be laid out to fit successfully into the site, respect the character and amenity of the surrounding area and existing house and not significantly reduce the amenity of neighbouring residents. Policy Gen\2 also requires development to respect existing natural and built features on or about the site worthy of retention, and be of appropriate scale, massing, height and density and display a high standard of design and materials. Both policies require development to accord with the design and layout advice contained in Appendix 1 of the Local Plan. These policies and Appendix 1 are relevant to the operational development aspect of the application (i.e. the extensions and alterations to the building), rather than the change of use element.
- 6.34 Whilst the proposed extensions are of a relatively substantial scale, they would not overdominate or exceed the height of the existing building, and the large site can easily accommodate the scale and massing of development proposed.
- 6.35 Existing flat roofed and monopitch extensions to the building have eroded the traditional character of the original building. The current proposals would arguably improve the appearance and physical character of the building. Notably, the replacement of the existing flat roof of the front extension with two hipped roofs of natural slate would be an improvement to the appearance of this front elevation. The front two-storey element of the existing building has an irregular appearance with a gable end at the front and a hipped roof at its rear, leaving an incongruous

'gap' between its roofline and that of the rear two storey element. The proposed addition of a two storey extension connecting this roofline to the existing rear two storey element would 'fill in' this gap, making the roofline more regular.

- 6.36 Whilst the extensions and alterations are of rather contemporary design, incorporating clerestorey windows at the front and balcony and extensive glazing for the rear extension, the proposed materials and finishes are high quality and traditional – including natural slate, timber linings and wet dash harling.
- 6.37 Given the position of the proposed extensions and existing screening on the east boundary, the proposal will not lead to significant adverse overlooking or overshadowing for neighbouring properties.
- 6.38 In summary, the design and layout of the proposed extensions and alterations are considered to accord with Policies Hou\7, Gen\2 and associated guidance in Appendix 1 of the Local Plan.

Technical matters

- 6.39 The proposed development would use an existing access and there would be ample parking space in the driveway for 3 cars. The Transportation & Infrastructure Service (Local Roads) has no objection to the application, which complies with Policy Inf\2.
- 6.40 The application proposes to dispose of foul sewage via the existing septic tank to a soakaway, and surface water to a separate soakaway. These arrangements are acceptable and comply with Policies Inf\4A and Inf\4B.
- 6.41 The proposed development would be served by an existing private water supply which already serves the existing property. Several letters of representation have expressed concern that the proposal would result in water shortages. The agent has submitted further information regarding the water supply, which he states is shared by five other properties and stated that the applicants have never experienced the water supply drying up. It appears that instead, the adjacent Briar Cottage experienced a low water supply on one occasion. However, this is not relevant to the current application as it is a separate supply which does not serve the application site. In any case, the use proposed in this application (a single extended dwelling) would inevitably have a lower potential demand for water than the current authorised use of the building as a public house and associated dwelling. The Environmental Health Service has no objection to the application. Consequently, the application raises no legitimate concerns regarding water supply.

Conclusions

- 6.42 The proposed extensions and alterations to the building are acceptable in terms of their design and layout, and the application raises no legitimate concerns in relation to the technical matters of road safety, drainage and water supply.
- 6.43 The public house is considered to be an important source of local employment in a rural area with few other employment opportunities. It has not been sufficiently demonstrated that the public house has been properly and adequately marketed as

a business. Indeed, the applicants have submitted a letter in which they state that they have no intentions of selling the property.

- 6.44 The permanent loss of this employment use and community facility would result in loss of amenity and employment opportunities for the local community, could potentially be avoided and has not been justified. The proposal is unsustainable and contrary to Local Plan Policies Emp\1 and Gen\1 and the principles of *Scottish Planning Policy 1: The Planning System*. It is therefore recommended for refusal.

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 Garioch Area Plan.

8. Financial Implications

- 8.1 There are no financial implications arising from this report.

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 Structure Plan Departures

None

10.2 Local Plan Departures

Policy Emp\1: Allocated and Existing Employment Land
Policy Gen\1: Sustainability Principles

- 10.3 The application is a Departure from the Local 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 is not considered to be a significant departure from the Development Plan and could be granted planning permission without the Planning Authority first notifying Scottish Ministers together with their comments on any representations.
- 10.5 The application would not have to be referred to the Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

- 11.1 REFUSE Full Planning Permission for the following reasons:-**

1. It has not been demonstrated that the public house has been sufficiently and properly marketed as a business or as a site for employment use. The permanent loss of this employment use and community facility and associated loss of amenity that would be caused by the proposed change of use has not been sufficiently justified. The application is therefore unsustainable and contrary to Scottish Planning Policy 1 – The Planning System and Policy Emp\1 – Allocated and Existing Employment Land and Policy Gen\1 – Sustainability Principles of the Aberdeenshire Local Plan 2006.

p.p Head of Development Management & Building Standards
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