Agenda Item	7.2
Report No	PLN/031/23

## **HIGHLAND COUNCIL**

Committee:	North Planning Applications Committee
Date:	19.04.2023
Report Title:	22/06206/FUL: Mr C. Reid
	The Camps Bar
	128 High Street
	Wick

**Report By:** Area Planning Manager – North

#### **Purpose/Executive Summary**

- **Description:** Change of use of land to licensed outdoor seating area, installation of ramp and alteration to building (partly retrospective)
- Ward: 03 Wick and East Caithness

Development category: Local development

**Reason referred to Committee:** Objections have been received from five separate households.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

# 1. PROPOSED DEVELOPMENT

- 1.1 It is proposed to create an outdoor seating area associated with The Camps Bar, of approximately 110 square metres in area, able to accommodate up to 70 patrons. It would feature a raised seating area, finished with natural Caithness stone, at its western end. An accessible entrance would be created within the Bar's existing western elevation, with a ramped route between the building and outdoor seating area. Existing walls would be retained and repaired with new render, with a new wall constructed along the site's southern boundary. A wall marking the site's northern boundary would be heightened to mitigate any risk of falling from an adjacent pathway. This application is partly retrospective; as of a site visit undertaken in March 2023, development was observed to have commenced without authorisation, with delivery of a western raised seating area nearing completion.
- 1.2 Pre-Application Consultation: none.
- 1.3 Supporting Information: none.
- 1.4 Variations: 8 March 2023 plans 001 REV AB, 003 REV AB and 004 REV AA submitted to reflect a southern boundary wall of a lower height.

# 2. SITE DESCRIPTION

- 2.1 The application site measures 143 square metres in area and is located at the junction of High Street and Shore Lane. The application site's red-line site boundary includes The Camps Bar itself, with a seating area proposed on vacant land immediately to its west. It is located at the bottom of a steep incline extending north along Shore Lane, although the development site itself is relatively flat, largely consisting of a demolished building's footprint. An existing boundary wall defines its corner boundary. The Camps Bar contains toilet facilities for patrons' use.
- 2.2 The application site is located directly north of former Post Office premises, with a café/takeaway business adjoining its eastern side. A former chapel, currently in commercial use as a furniture store, is located across Shore Lane to the site's west. A substantial traditional building comprising several residential units occupies a prominent, elevated position to the site's north, separated from the site by a small private car parking area. The application site itself is located just over 10 metres outside Wick High Street's pedestrian zone.

# 3. PLANNING HISTORY

(N.B. the building to which the below applications relate was demolished in late 2021.)

3.123September15/02575/FUL;Replace existing roughcast,APPLICATION2015windows and roller shutter on ground floorPERMITTEDretail unit

3.223September15/02576/FUL; Replace existing roughcast and<br/>windows on first floor flatAPPLICATION<br/>PERMITTED

## 4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 Development; Unknown Neighbour
 Date Advertised: 10 February 2023
 Representation deadline: 1 March 2023
 Timeous representations: Five comments from five households

Late representations: None

- 4.2 Material considerations raised are summarised as follows:
  - 1. Inadequate existing toilet facilities (which have not been adapted for patrons with disabilities) to accommodate an expected increase in patron numbers;
  - 2. Potential amenity impact to surrounding residential properties through an increase of noise and potential overlooking issues;
  - 3. Aesthetic considerations existing and proposed walls would not visually enhance a prominent site within Wick town centre.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>.

### 5. CONSULTATIONS

#### 5.1 <u>Historic Environment Team – Conservation</u>: no objection.

We welcome the re-use of this derelict site, subject to the following suggested changes to the proposed designs:

a) The new frontage boundary wall (and gates) should be of the same height as the final section of existing boundary-wall, continued across to the pub gable, as the proposed 2m height would be oppressive and over-bearing to the streetscape. We accept that this is probably intended to conceal the activities and clientele within, but this is un-done by the much lower (existing) wall to the corner and side. The finish, and coping stone to match the existing are acceptable.

b) Further clarifications are required for any proposals to the rear boundary wall treatment; does this require a safety handrail on top?

## 5.2 <u>Contaminated Land Officer</u>: no objection.

Requested that applicant provides site history information concerning the past use of the site, including removal of asbestos containing material prior to demolition (if any). This was provided and the consultee later added that as the application site's original use is not considered to be contaminative, the only remaining concern is regarding the former building's demolition and any potential asbestos treatment/disposal. A contaminated land condition is no longer considered to be necessary.

Officer Comment: the applicant Agent has confirmed that the application site was to have been cleared and made safe as part of the former building's demolition contract. While any asbestos risk is now considered to be low, an Informative is nevertheless attached to address this issue.

#### 5.3 <u>Environmental Health Officer</u>: no objection.

There are potential noise issues due to the proximity of dwellings in the area. Noise could be emitted as voices/shouting etc or licensed entertainment (music).

'People' noise is difficult to regulate unlike amplified entertainment that has volume control and there may be practical difficulties if a number restriction is imposed.

There are no objections subject to the conditions detailed below being attached to any consent:

1. No unamplified or amplified entertainment shall be permitted in the beer garden.

2. The beer garden shall close except for access and egress to the premises or for the purposes of smoking no later than 22:00 on any day.

3. Any lighting provided to the beer garden shall be directed toward or with in the premises to avoid any nuisance to nearby dwellings. Fixed lighting can be fitted with shields for example, to prevent overspill.

### 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application:

### 6.1 Scotland's Fourth National Planning Framework (NPF4) (2023)

- 1 Tackling the climate and nature crises
- 2 Climate mitigation and adaptation
- 3 Biodiversity
- 7 Historic assets and places
- 9 Brownfield, vacant and derelict land and empty buildings
- 12 Zero waste
- 13 Sustainable transport
- 14 Design, quality and place
- 22 Flood risk and water management
- 23 Health and safety
- 25 Community wealth building
- 26 Business and industry
- 27 City, town, local and commercial centres

# 6.2 Highland-wide Local Development Plan (HwLDP) (2012)

- 28 Sustainable Design
- 29 Design Quality & Place-making
- 34 Settlement Development Areas
- 41 Business and Industrial Land
- 56 Travel
- 57 Natural, Built & Cultural Heritage
- 64 Flood Risk
- 72 Pollution
- 73 Air Quality
- 77 Public Access

# 6.3 **Caithness and Sutherland Local Development Plan (CaSPlan) (2018)**

Site is within Wick's defined Town Centre and Settlement Development Area. Policy 1, 'Town Centre First', therefore applies.

# 6.4 Highland Council Supplementary Planning Policy Guidance

Flood Risk and Drainage Impact Assessment (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Sustainable Design Guide (Jan 2013)

# 7. OTHER MATERIAL CONSIDERATIONS

7.1 None.

# 8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

### **Determining Issues**

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### **Planning Considerations**

- 8.3 The key considerations in this case are:
  - a) Compliance with the development plan and other planning policy;
  - b) Amenity impacts;
  - c) Siting and design;
  - d) Equal access;

e) any other material considerations.

### **Development plan/other planning policy**

- 8.4 NPF4 Policies 1-3 apply to all development proposals nationwide. When considering all development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. (Biodiversity enhancements will be secured via an attached condition.)
- 8.5 NPF4 Policy 9 supports proposals which would sustainably reuse brownfield, derelict and/or vacant land. The application site is relatively small in area and has already been cleared.
- 8.6 NPF4 Policy 14 supports proposals which are consistent with the six qualities of successful places this is discussed below in further detail.
- 8.7 NPF4 Policy 27 supports proposals that enhance and improve the vitality and viability of town centres, including proposals that increase the mix of uses. The proposed development would be likely to generate significant footfall and would therefore be consistent with NPF4's Town Centre First approach. This approach is consistent with that of CaSPlan Policy 1, 'Town Centre First'.
- 8.8 HwLDP Policy 28 supports developments which enhance social and economic wellbeing, and which make use of brownfield sites and existing buildings.
- 8.9 HwLDP Policy 34 offers general support for policy-compliant proposals within Settlement Development Areas.

#### Amenity impacts

- 8.10 Objection comments raise the issue of potential amenity impacts, both in terms of overlooking and noise. A block of residential properties at Mount Hooley Terrace, around 17 metres to the north of the site stands to be most affected by the proposed development. Some overlooking risk to these properties would be unavoidable, but the presence of a small private car park between these dwellings and the application provides some buffer by way of mitigation. It is furthermore noted that the application site is located at a significantly lower level than Mount Hooley Terrace, preventing some overlooking issues emanating from within the application site; as sight lines would be particularly steep, this would provide partial screening especially to ground-floor residential units.
- 8.11 As the proposed development would facilitate an outdoor social use, amenity impacts should also be considered in terms of noise levels. While the proposed development would introduce a new source of noise (i.e. people socialising), this represents an operational issue for the applicant to address, rather than a specific Planning consideration conditions are however attached to ensure that noise

does not rise to an unacceptable level, with loud music prohibited and the proposed seating area prevented from operating later than 10pm, to safeguard neighbouring amenity. The proposed seating area would also be surrounded by reasonably high walls, containing noise within the application site to some extent.

8.12 The concerns raised regarding potential impact on adjoining amenity can be mitigated as set out in the consultation response from the Environmental Health Officer, who has not objected subject to conditions. It is considered that while a development of this nature may pose an amenity risk to nearby residents, in this instance sufficient mitigation can be secured as detailed above for such a risk to be rendered acceptable within a defined town centre area, where a vibrant mix of various uses is encouraged.

#### Siting and design

- 8.13 The proposed development's siting within an area of vacant, brownfield land in a defined town centre is considered to comply with Planning policy in both letter and spirit, as outlined above; it is therefore supported in principle. In its current state, the vacant site is considered to be something of an eyesore which negatively detracts from its surrounding streetscape the proposed development would therefore provide a positive visual enhancement to Wick town centre.
- 8.14 The proposed development is considered to be consistent with the six qualities of successful places, as set out under NPF4 Policy 14:

<u>Healthy</u> – the proposed development would reactivate brownfield land to provide a locus for social connectivity, which would be accessible and would incorporate physical safety measures.

<u>Pleasant</u> – the proposed seating area would be enclosed to protect patrons from the elements, while encouraging people to spend and enjoy additional time outdoors.

<u>Connected</u> – the proposed development would be easily accessible by active travel, within easy walking distance of Wick town centre.

<u>Distinctive</u> – the raised seating area's use of natural Caithness stone would enhance the proposed development's sense of place.

<u>Sustainable</u> – reuse of a brownfield site (in addition to adapting an existing building to improve its accessibility for patrons of all abilities) is considered to represent prudent use of resources at a time of climate and ecological emergency, as well as facilitating the expansion of a familyowned establishment, thus supporting Wick's local economy.

<u>Adaptable</u> – the proposed development would be durable, expressing commitment to the longevity of an existing building, also recognising changing needs over time as the popularity of outdoor hospitality has recently increased greatly as a consequence of the Covid-19 pandemic.

- 8.15 Development has already commenced; the observed use of natural Caithness stone within the western raised seating area is supported this conveys the impression of a high-quality development and enhances the application site's sense of place. It also mirrors the material of existing retaining walls as well as The Camps Bar itself, which is a traditional building of significant visual interest and showcases local natural stonework.
- 8.16 Discussion has taken place with the application Agent on the subject of the existing western and proposed southern boundary walls to reflect the concerns of the Conservation Team, as per comments set out above. Firstly it was considered that the southern boundary wall which was originally proposed and would have reached between 2 2.4 metres in height would have been somewhat oppressive and overbearing in relation to its surrounding streetscape. It has been agreed to lower the overall height of the proposed wall to a range of between 1.44 1.96 metres, which is considered to be an improvement and would relate better to the existing west boundary wall. It is noted that the applicant would prefer a boundary wall to be of reasonable height for security reasons, so amended plans depicting a slightly lowered wall are considered to represent an acceptable compromise.
- 8.17 Several objection comments have taken issue with the visual quality of a proposed boundary wall. Regarding the surface materials of boundary walls, the existing western boundary wall is finished with a pink-brown coloured roughcast render, which is failing in places and requires repair. While the same surface treatment extends northward along Shore Lane's boundary walls well outside the application site, it is considered to be of a somewhat tired and dated appearance; some visual refreshment would be desirable. It has been agreed with the applicant to refinish the existing wall with a grey dry-dash render, continuing the same treatment to cover the proposed southern boundary wall. This would present a coherent uniform appearance. It is considered that a proposed grey rendered finish to boundary walls would introduce a cleaner, fresher appearance than existing and would also complement the grey colour of existing Caithness stone surfaces, which are extensively present within the application site.

### Equal access

8.18 All received objections address the number and quality of existing toilet facilities within The Camps Bar. It is however noted that this issue is addressed by separate Building Standards regulations and therefore falls outwith the remit of Planning. It is acknowledged that there is currently no provision of accessible toilet facilities for people with disabilities. While some additional provision would have been preferred, the proposed access ramp to facilitate improved access to The Camps Bar is supported; it is also noted that the outdoor seating area has been designed to allow disabled access. The proposed access ramp is considered to be a positive improvement and constitutes a "reasonable adjustment" as required by the Equality Act 2010.

### Other matters

8.19 <u>Access and parking</u>: no additional car parking is proposed; it is anticipated that the proposed development would be accessed by foot, as it is located within a defined

town centre. Public car parks are available within the immediate vicinity of the application site. This approach is supported both by NPF4 Policy 13(e) and by local adopted guidance.

8.20 <u>Flood risk and drainage</u>: SEPA's Flood Risk Management Map does not identify the application site to be at any risk of flooding. Foul drainage issues are not considered within this application, as arrangements would remain as existing. The proposed development is not considered to generate any surface water run-off given no new buildings are proposed. No additional drainage is therefore required.

### 8.21 Matters to be secured by Section 75 Agreement

None.

#### 9. CONCLUSION

- 9.1 The proposed development would reuse a vacant, brownfield site in order to create an outdoor seating area for an established public house, thereby engendering both social and economic benefits at a local level. The proposed development's design would be functional, but generally of good quality following amendment through discussion with the application Agent. The proposed development would potentially bring some amenity risk given its proximity to residential dwellings within a town centre, however this risk would be adequately mitigated through planning conditions. Incorporation of an accessible entrance is also a positive aspect which would create an inclusive development and is therefore supported.
- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable
- 11. **RECOMMENDATION**

## Action required before decision issued

Notification to Scottish MinistersNoConclusion of Section 75 ObligationNoRevocation of previous permissionNo

Subject to the above actions, it is recommended to

**GRANT** the application subject to the following conditions and reasons:

1 The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

**Reason**: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2 Within three months of the date of this decision notice, full details of appropriate measures to enhance biodiversity within the application site shall be submitted to the Planning Authority for approval. These may include, but are not limited to, installation of bird/bat boxes or inclusion of soft planting.

Any planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason**: In the interests of biodiversity net gain.

3 No unamplified or amplified entertainment shall be permitted at any time within the approved outdoor seating area.

**Reason**: In the interests of amenity.

4 The outdoor seating area hereby approved shall not be available for patrons' use, except for access, egress or smoking purposes, beyond 2200 hours on any day.

For the avoidance of doubt, tables and seating shall be cleared and covered so that they are incapable of being used outside these hours.

**Reason**: In order to safeguard the amenity and privacy of neighbouring

properties and occupants.

5 Any lights serving the outdoor seating area hereby approved shall be directed, positioned and controlled so as to prevent any direct illumination, glare or light spillage outwith the site boundary (e.g. through the use of light shields).

**Reason**: In order to ensure that any lighting installed within the application site does not spill beyond the intended target area and does not impact adversely upon the amenity of adjacent properties.

### **REASON FOR DECISION**

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### **INFORMATIVES**

#### Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

### Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. The granting of planning permission does not remove the liability position of developers or owners in relation to flood risk.

#### Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

## Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads\_and\_pavements/101/per mits\_for\_working\_on\_public\_roads/2

## Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

**Construction Hours and Noise-Generating Activities:** You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the

site's location and the proximity of noise sensitive premises. Please contact <u>env.health@highland.gov.uk</u> for more information.

## Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the Further information regarding protected species and time of discovery. NatureScot: developer responsibilities is available from https://www.nature.scot/professional-advice/protected-areas-andspecies/protected-species

### Asbestos

Should any asbestos material be discovered to remain within the application site, it should be removed by an approved contractor and disposed of at a licenced facility, in accordance with Schedule 2 of the Control of Asbestos Regulations 2012.

Signature:Dafydd JonesDesignation:Area Planning Manager – North

Author: Craig Simms

Background Papers: Documents referred to in report and in case file.

Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Location / site layout plan	001	REV AB	08/03/2023
Existing and proposed floor plans	002	REV AA	02/02/2023
Elevations - west	003	REV AB	08/03/2023
Elevations - south	004	REV AA	08/03/2023



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