

## PLANNING APPLICATION: 10/00239/APP

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

### **The Proposal**

- Application for change of use of car park to allow occasional outdoor market (to operate a maximum of 5 days a month and no more than 2 Saturdays a month) at Reidhaven Square, Keith.

### **The Site**

- The site comprises the western half of Reidhaven Square, which is currently utilised as a public car park and lies within the Town Centre as defined in the Moray Local Plan 2008 and the designated Conservation Area.

### **Policy / Objections-Representations / Consultations - See Appendix**

### **History**

None.

### **Advertisement**

The application has been advertised under Land Ownership Certificate procedures and for advertisement notification purposes, as development of a class specified in Schedule 3 (hot food shop) of the Development Management Regulations 2008.

### **Observations**

#### **Main determining issues:**

#### **Impact of proposal on locality**

**Moray Local Plan 2008 - Policies R1 Retail and Commercial Development in Town Centre, R2 Town Centre Development, Keith TC, IMP1 Development Requirements, T5 Parking Standards and T2 Provision of Road Access**

The above mentioned policies favour retail proposals in the Town Centre subject to adequate servicing and infrastructure being provided and sensitive siting in relation to the amenity of the surrounding area. The proposed use of the western half of Reidhaven Square (albeit as a public car park/public space) as an occasional outdoor market would not conflict with these retail objectives and as is the case with other markets throughout the district, would be regarded as making a positive contribution to the vitality of the town centre.

The temporary loss of the car park and access arrangements into the market areas have been considered by the Transportation Engineer and have been confirmed as satisfactory, subject to conditions covering access, safety barriers, signage and restrictions of any obstructions to the surrounding footways.

In relation to amenity, the market activities and associated pedestrian traffic will inevitably have an impact to an extent upon the residential properties, which face onto the Square. However, given the transitory nature of the proposal, being only for occasional use and the current public use of the land concerned, any impact would not be so significant as to warrant refusal on amenity grounds alone. In relation to potential odours, specific areas have been identified for hot food stalls within the corners of the site, which have been confirmed as acceptable by Environmental Health Officers.

### **Recommendation**

In light of the above the application is considered to represent an acceptable proposal which accords with development plan policies and accordingly is recommended for approval.

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## **APPENDIX**

### **POLICY**

#### **Moray Structure Plan 2007 and/or Moray Local Plan 2008**

##### **IMP1: Development Requirements**

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,
- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

## **R1: Retail and Commercial Development in Town Centres**

Retail and commercial development within town centres will be approved if:

- a. sensitive design solutions are applied on sites within or adjacent to designated conservation areas, or on high visibility landmark sites on main routes, and
- b. adequate servicing and infrastructure is available including road capacity, public transport, pedestrian links and car and cycling parking provision, where appropriate through the provision of a Transport Assessment; sewerage links; provision for water run-off and sustainable urban drainage systems (SUDS); and, provision to deal with any flood implications.

## **Policy R2: Town Centre Development**

Within town centres there will be a presumption to approve development where the following provisions are satisfied:

- a. Core retail commercial areas will be identified on settlement plans, and within these areas approval will not be given for non-retail uses at frontage on ground floor level unless it is for a financial, professional or other service (as defined by use Class 2 or 3 of the Use Classes Order) that can demonstrate a requirement to provide a frontage principally for visiting members of the public.
- b. Rear service access to existing shops and commercial activities will be preserved unless an adequate alternative can be provided.
- c. Lanes or closes off the main shopping streets will be preserved unless an adequate alternative can be provided.
- d. Improvements to the shopping and leisure environment, including pedestrianisation, will normally be permitted if there is no adverse impact on the overall commercial viability of the area. For the avoidance of doubt, proposals for new retail developments within defined town centres will not have to be accompanied by a retail impact statement in support of the application.
- e. The conversion of upper floors to residential use will be encouraged where there are no adverse impacts from surrounding uses, in terms of amenity or noise.

## **T5: Parking Standards**

Proposals for development must conform with the Council's policy on parking standards.

## **Policy T2: Provision of Road Access**

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

## **TC Town Centre**

In accordance with policy R1, proposals for retail use will be expected to locate within the areas defined as Town Centre in the Keith Town Map. Proposals for retail developments outwith this area, will have to comply with the sequential approach, and applicants may be asked to submit a retail impact assessment in support of off centre locations. Only where the impact is regarded as acceptable will a departure from this policy be supported.

Within the "core" section of Mid Street non retail use of ground floor premises is unlikely to be permitted in accordance with policy R2.

## **CA Conservation Areas**

The boundaries of the Conservation Areas in Keith and Fife Keith remain unchanged. New development proposals within these areas will have to respect the character and features of the surrounding townscape (Policy BE3 applies).

## **OBJECTIONS-REPRESENTATIONS**

- A letter of objection was received from Ms Dorothy Jack, Eldonsyde, 8 Reidhaven Square, Keith, Moray, AB55 5AB

### **Issue:**

The proposal will directly affect access to 8 Reidhaven Square and result in loss of public parking facilities during busy times. The proposal will not benefit the local economy and more efforts should be made to re-use existing vacant shop units.

### **Comments (PO):**

- The proposal would not affect pedestrian access to the objector's property as it extends solely to the car park areas and does not impinge upon any of the surrounding footways, which extend along the front of the dwellings facing onto Reidhaven Square. Some of the southernmost stalls as shown in the original plan r would have blocked access to the gated driveway of the objector's property. In order to address this issue, an amended layout plan has been submitted showing these stalls removed and a cleared access route to the gated entrance.
- The temporary loss of the car park and access arrangements into the market areas have been considered by the Transportation Engineer and have been confirmed as satisfactory, subject to conditions covering access, safety barriers, signage and the safeguarding of the surrounding footways.
- The proposal should benefit the local economy by attracting visitors to the town centre.

## **CONSULTATIONS**

**Environmental Protection Manager, Direct Services** - No comment received.

**Environmental Health Manager, Development Services** - No objection. Requests that informative advice be attached to planning decision regarding food hygiene and health and safety regs.

**Transportation Manager, Direct Services** - No objection subject to conditions covering access, safety barriers, signage and footways.

**Contaminated Land, Development Services** - No objection.

**Estates, Central Services** - No comment received.

**Legal and Committee Services** - No comment received.