

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
17 May 2016

Agenda Item	7.2
Report No	PLS/037/16

16/01089/FUL: Maximus Orkney Ltd
Former Church, High Street, Ardersier

Report by Head of Planning and Building Standards

SUMMARY

Description: Change of use from church to retail unit

Recommendation - GRANT

Ward: 18 – Culloden and Ardersier

Development category: Local

Pre-determination hearing: Not required

Reason referred to Committee: 5 or more objections

1. PROPOSED DEVELOPMENT

- 1.1 The development consists of the change of use of a former church to a retail unit. The church itself fronts onto the High Street and is located in the village centre. A number of mixed uses including commercial premises are located in the surrounding vicinity, typical of a settlement of this nature.
- 1.2 No informal pre-application consultation was carried out in connection with the proposal.
- 1.3 The main vehicular access is to be located immediately to the south of the existing church onto an area of hardstanding which will be used for customer parking with provision for approximately 8 cars. To the north of the church there is an existing access to the side of the building which could be used for private parking by the occupier.
- 1.4 A brief supporting statement has been submitted with the application.
- 1.5 **Variations:** Not applicable.

2. SITE DESCRIPTION

- 2.1 The site consists of a traditionally styled church of stone construction and slate roof. The entrance onto High Street features a typical arch doorway and the window openings are tall and narrow with a clear vertical emphasis. A low boundary wall fronts the site with existing openings to facilitate access. To the

south is the former post office building beyond which lies a detached modern bungalow. 1 ½ storey traditional terraced housing sits opposite the site.

3. PLANNING HISTORY

3.1 There is no recent planning history associated with the site.

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour. Expired 15/04/16
Representation deadline : 10/04/16

Timeous representations : 7 representations

Late representations : None

4.2 Material considerations raised are summarised as follows:

- Impact on amenity in terms of noise;
- Traffic generation, parking and congestion issues;
- Concerns over the proposed use;
- Concerns relating to potential external storage;
- Removal of existing trees.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 No consultations have been carried out in connection with this proposal. :

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28	Sustainable Design
40	Retail Development
42	Previously Used Land
51	Trees and Development
57	Natural, Built and Cultural Heritage

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable.

7.2 **Highland Council Supplementary Planning Policy Guidance**

Trees, Woodlands and Development, January 2013

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy, June 2014

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.

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.

8.3 Development Plan Policy Assessment

Policy 28 (Sustainable Design) of the Highland-wide Local Development Plan (HwLDP) sets out the criteria against which new development will be assessed. Relevant to this proposal is the extent to which the development is accessible by public transport, cycling and walking as well as the car; makes use of an existing building; and the impact on community and residential amenity.

Policy 40 (Retail Development) of the HwLDP supports retail development provided certain criteria can be met.

Policy 42 (Previously Used Land) of the HwLDP supports the use of vacant land provided it can be adequately demonstrated that the proposals accord with other relevant policies.

Policy 51 (Trees and Development) of the HwLDP supports proposals which promote the significant protection of existing hedges, trees and woodlands on and around development sites and that the Council will secure additional planting to compensate for any which are subsequently removed.

Policy 57 (Natural, Built and Cultural Heritage) of the HwLDP requires all development to be assessed against various features and settings. In this case it requires the development to be assessed in relation to its effect on the designated Ardersier Conservation Area.

Taking the above policies into account the determining issues are whether the proposed use of the former church for retail purposes complies with the above policies in relation to the site location, access, and parking; impact on trees; whether the proposed use helps to preserve or enhance the conservation area; and finally the potential impact on residential amenity for occupiers of nearby residential units.

8.4 Material Considerations

Site location, access and parking

This site is located within the historic village centre of Ardersier. It features a number of traditional vernacular buildings within a mixed use area. Many of the

properties abut the public footways and either adjoin, or are situated in close proximity to, neighbouring buildings. Dedicated off-street parking is limited.

The proposal as submitted indicates that parking will be provided for up to 8 cars. The parking area forms part of a large hardstanding which is unsurfaced and the car parking spaces not delineated. The provision of 8 spaces is perhaps ambitious especially when factoring in sufficient room to turn and exit the site in forward gear. A more realistic figure is likely to be around 4 or 5 spaces.

The building has a floorspace of approximately 260 sqm. Applying the Council's parking standards associated with new development, a retail unit of this size would be expected to provide a maximum of 13 parking spaces. Given the site's previous use as a church and its location within the village centre, the level of available off-street parking is not considered in itself to mitigate against the grant of planning permission, especially as the previous use would have had a more onerous requirement for parking.

Concerns have been expressed over the amount of potential deliveries to the site as well as the hours of operation. Ordinarily, retail uses operate in village and town centres without significant planning control. It is therefore not considered appropriate or necessary to control what are essentially operational matters for the future occupier. Clearly if the use was to take place during unsocial hours and deemed to be causing demonstrable harm there are other remedies available to the Council to take appropriate action. It is however anticipated that in this location, the hours of operation will be typical of those of a retail use and will in any event be restricted by condition.

The applicant has submitted a brief supporting statement indicating that the building is to be used by a company specialising in up-cycling goods and that the building would predominately be used for storage purposes to facilitate this use but with a clear retail element. In assessing this proposal consideration has to be given to the suitability of the premises as a Class 1 retail use in general as it is rarely appropriate to control a particular activity within an existing use class and there are no material considerations that would justify such a requirement in this case. The village centre location, coupled with the suitability of the building itself, is considered acceptable for retail use.

There is an area of woodland to the rear of the site and it has been alleged that a number of trees have been removed from the site itself. There is no indication of the condition, age, species or value in amenity terms that these trees may have had. Furthermore on the basis that the existing trees to the rear of the site will be unaffected by this proposal, it is not considered that there is any need for additional and/or replacement planting in lieu of any that may have been removed.

In terms of the site's location within the conservation area the Council has a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of this area. In this case the building makes a significant contribution to the streetscape and there is a clear desirability in ensuring the building is brought back into use to prevent deterioration in the fabric of the building and the resultant detrimental impact on the amenity and character of the area.

Concerns have been raised over the possibility of shipping containers being used for external storage purposes in connection with the use. It must be stressed that

there is no substance to these concerns and such an activity does not form part of the application proposals and would require planning permission and be assessed on consideration of any such future application.

8.5 **Other Considerations – not material**

Not applicable.

8.6 **Matters to be secured by Section 75 Agreement**

Not applicable.

9. **CONCLUSION**

- 9.1 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. **RECOMMENDATION**

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Environment Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant.

1. Prior to the first occupation of the development hereby approved, the off-street car park area shall be surfaced in bituminous macadam or a similar hard, cohesive material, details of which shall first be submitted to, and approved in writing by, the Planning Authority. Only the approved details shall be employed and thereafter the access and parking shall be maintained to the agreed standard

Reason: To ensure that the surfacing is of an adequate standard to prevent the discharge of loose material onto the public highway, in the interests of amenity and public safety.

2. The opening hours of the premises hereby granted planning permission shall be restricted to between 0700 and 2000 and at no other time to the satisfaction of the planning authority. For the avoidance of doubt, this includes delivery of goods to the premises.

Reason: in the interests of residential amenity.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

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

FOOTNOTE TO APPLICANT

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. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. 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.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS 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:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

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

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

Please note that it is 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.

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at BuildingStandards@highland.gov.uk or on 01349 886606.

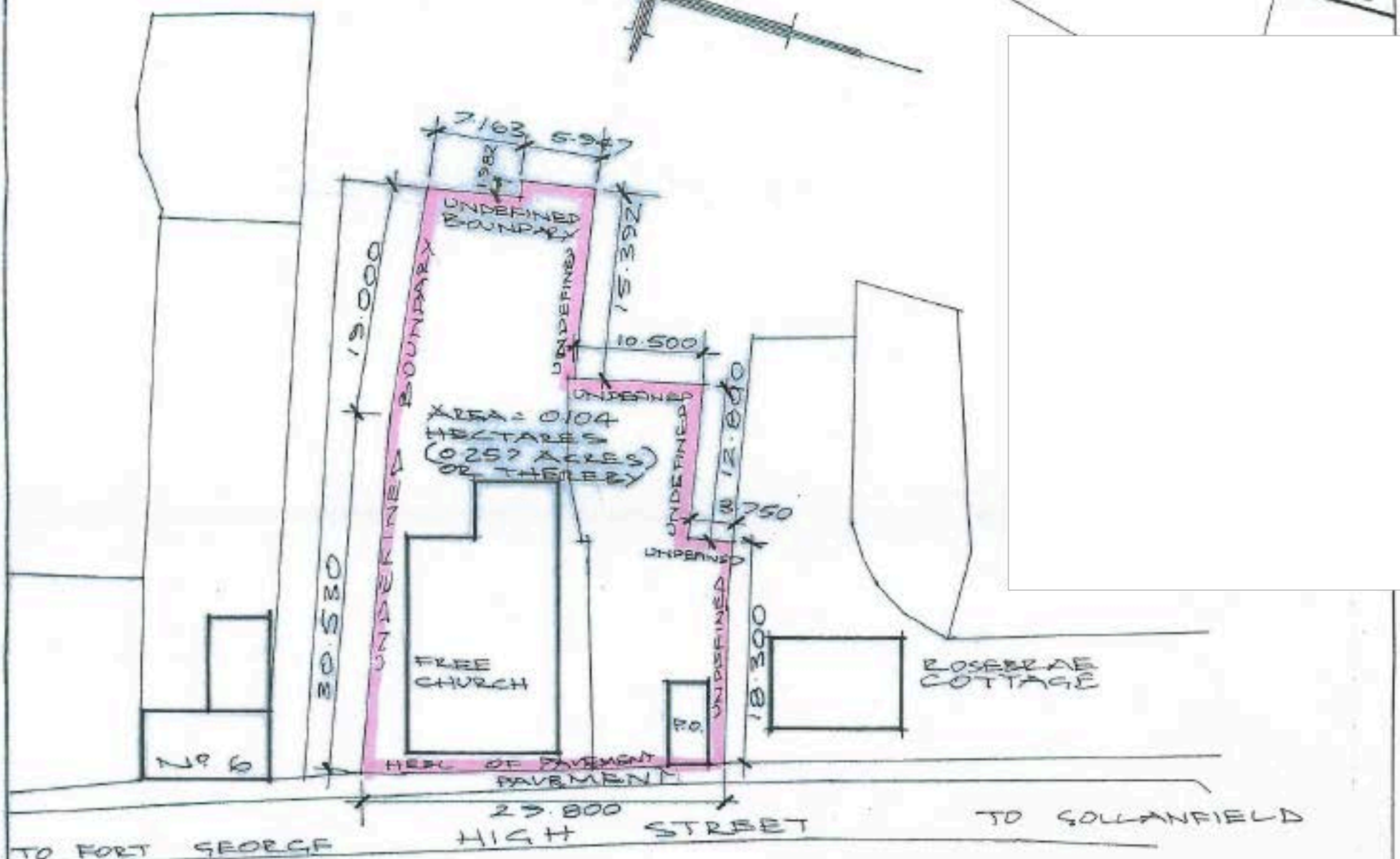
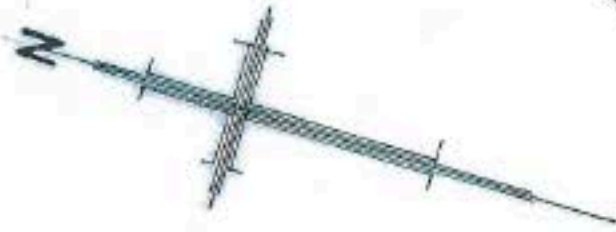
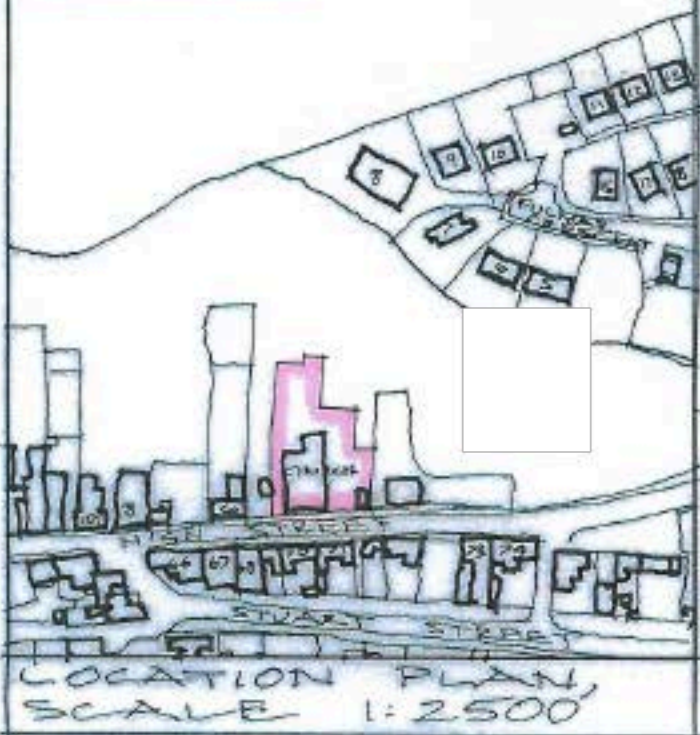
Signature: Malcolm MacLeod
Designation: Area Planning Manager – South
Author: John Kelly
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan

ARDERSIER

NAIRN

THIS IS THE PLAN REFERRED TO in the foregoing Disposition by Martin Sutherland Hughes in favour of Gordon Whitford dated 27th September 2012

Martin S. Hughes



FORMER FREE CHURCH AND POST OFFICE AND LAND AT HIGH STREET, ARDERSIER. SCALE 1p 5p 10p 20p 30p 40p 50p 60 METRES

SCALE 1:500

DATE 06.04.12