

Public Document Pack



To: Councillor Boulton, Convener; Councillor Jennifer Stewart, Vice Convener; and Councillors Allan, Cooke, Copland, Cormie, Greig, Avril MacKenzie and Malik.

Town House,
ABERDEEN 15 January 2019

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 24 JANUARY 2019 at 10.00 am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

BUSINESS

MEMBERS PLEASE NOTE THAT ALL LETTERS OF REPRESENTATION ARE NOW AVAILABLE TO VIEW ONLINE. PLEASE CLICK ON THE LINK WITHIN THE RELEVANT COMMITTEE ITEM.

MOTION AGAINST OFFICER RECOMMENDATION

- 1.1 Motion Against Officer Recommendation - Procedural Note (Pages 5 - 6)

DETERMINATION OF URGENT BUSINESS

- 2.1 Determination of Urgent Business

DECLARATION OF INTERESTS

- 3.1 Members are requested to intimate any declarations of interest (Pages 7 - 8)

MINUTES OF PREVIOUS MEETINGS

- 4.1 Minute of Meeting of the Planning Development Management Committee of 6 December 2018 - for approval (Pages 9 - 14)
- 4.2 Minute of the Meeting of Planning Development Management Committee Public Hearing of 28 November 2018 - for approval (Pages 15 - 32)

COMMITTEE PLANNER

- 5.1 Committee Planner (Pages 33 - 34)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1 Proposed Shared use Pedestrian and Cycle Path - Land to the North Of Sparrows Offshore - Denmore Road Aberdeen (Pages 35 - 44)

Planning Reference – 181677

All documents associated with this application can be found at the following link and enter reference number 181677:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/>

Planning Officer: Roy Brown

- 6.2 Change of use of Pavement to Provide an External Seating Area Outside the Premises and Installation of Over Window Awnings - 245 Union Grove Aberdeen (Pages 45 - 54)

Planning Reference – 181473

All documents associated with this application can be found at the following link and inserting the reference number 181473:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/>

Planning Officer: Sepi Hajisoltani

DATE OF NEXT MEETING

- 7.1 21 February 2019

To access the Service Updates for this Committee please click [here](#)

Website Address: www.aberdeencity.gov.uk

Please note that Daniel Lewis, Development Management Manager, will be in Committee Room 2 from 9.30am for Members to view plans and ask any questions.

Should you require any further information about this agenda, please contact Lynsey McBain, Committee Officer, on 01224 522123 or email lymcbain@aberdeencity.gov.uk

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MOTIONS AGAINST RECOMMENDATION

Members will recall from the planning training sessions held, that there is a statutory requirement through Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 for all planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. All Committee reports to Planning Development Management Committee are evaluated on this basis.

It is important that the reasons for approval or refusal of all applications are clear and based on valid planning grounds. This will ensure that applications are defensible at appeal and the Council is not exposed to an award of expenses.

Under Standing Order 28.10 the Convener can determine whether a motion or amendment is competent, and may seek advice from officers in this regard.

With the foregoing in mind the Convener has agreed to the formalisation of a procedure whereby any Member wishing to move against the officer recommendation on an application in a Committee report will be required to state clearly the relevant development plan policy(ies) and/or other material planning consideration(s) that form the basis of the motion against the recommendation and also explain why it is believed the application should be approved or refused on that basis. Officers will be given the opportunity to address the Committee on the competency of the motion. The Convener has the option to call a short recess for discussion between officers and Members putting forward a motion if deemed necessary.

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DECLARATIONS OF INTEREST

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether reports for meetings raise any issue of declaration of interest. Your declaration of interest must be made under the standing item on the agenda, however if you do identify the need for a declaration of interest only when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary. The following wording may be helpful for you in making your declaration.

I declare an interest in item (x) for the following reasons

For example, I know the applicant / I am a member of the Board of X / I am employed by... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

OR

I have considered whether I require to declare an interest in item (x) for the following reasons however, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.

OR

I declare an interest in item (x) for the following reasons however I consider that a specific exclusion applies as my interest is as a member of xxxx, which is

- (a) a devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise; or
- (d) a body being a company:-
 - i. established wholly or mainly for the purpose of providing services to the Councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

OR

I declare an interest in item (x) for the following reasons.....and although the body is covered by a specific exclusion, the matter before the Committee is one that is quasi-judicial / regulatory in nature where the body I am a member of:

- is applying for a licence, a consent or an approval
- is making an objection or representation
- has a material interest concerning a licence consent or approval
- is the subject of a statutory order of a regulatory nature made or proposed to be made by the local authority.... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 6 December 2018. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Jennifer Stewart, Vice Convener; Councillor Donnelly, the Depute Provost (as substitute for Councillor Malike), and Councillors Allan, Cooke, Copland and Avril MacKenzie, Sandy Stuart (as substitute for Councillor Cormie) and Yuill (as substitute for Councillor Greig).

The agenda and reports associated with this minute can be found at:-
<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=6265&Ver=4>

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 1 NOVEMBER 2018

1. The Committee had before it the minute of the previous meeting of 1 November 2018 for approval.

The Committee resolved:-

to approve the minute as a correct record.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS) OF 8 NOVEMBER 2018

2. The Committee had before it the minute of the Planning Development Management Committee visits of 8 November 2018, for approval.

The Committee resolved:-

to approve the minute as a correct record.

MINUTE OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PUBLIC HEARING OF 11 OCTOBER 2018

3. The Committee had before it the minute of the Planning Development Management Committee Public Hearing of 11 October 2018, for approval.

The Committee resolved:-

to approve the minute as a correct record.

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COMMITTEE PLANNER

4. The Committee had before it a planner of future Committee business.

The Committee resolved:-

to note the information contained in the Committee report planner.

MODIFICATION OF PLANNING OBLIGATION OF PLANNING PERMISSION IN PRINCIPLE - DAVIDSON MILL, MUGIEMOSS ROAD, ABERDEEN - 181688

5. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the modification of planning obligation of planning permission in principle for 110786, for a sustainable mixed-use community, for approximately 900 residents, business and community facilities, with associated infrastructure including footpath and cycle links to the river as well as a new spine road with access from the A947, at Mugiemoos Road, Aberdeen, be approved.

The Committee heard from Dineke Brasier, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

The Committee resolved:-

to approve the modification.

MODIFICATION OF PLANNING OBLIGATIONS ASSOCIATED WITH P140272 - FRIARFIELD ROAD/KIRK BRAE, LAND TO THE NORTH, CULTS - 181749

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the modification of planning obligations associated with P140272, to modify the definition of “application” to include additional application to the obligations, at Friarsfield Road/Kirk Brae, Cults, be approved.

The Committee heard from Nicholas Lawrence, Senior Planner, who spoke in furtherance of the application.

The Committee resolved:-

to approve the modification.

CHANGE OF USE - ABERDEEN PET RESORT - CULTER HOUSE ROAD, ABERDEEN - 181460

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7. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the change of use of an existing stable building as dog hotel with associated alterations including the installation of windows, doors and cladding with mesh panels, security fence and other associated works, at Aberdeen Pet Resort, Culter House Road Aberdeen, be approved subject to the following conditions:-

Conditions

1) Prior to the dog hotel coming into operation, all noise mitigations measures contained within Section 5.1 of the submitted Noise Impact Assessment (prepared by Grosle Environmental Services, 09/10/2018) shall be implemented in full and remain in-situ for the lifetime of the development.

Reason: In the interests of mitigating the noise impact of the development to ensure compliance with Policy T5 (Noise) in the Aberdeen Local Development Plan 2017 and PAN 1/2011 guidance.

2) That all dogs residing in the ‘dog hotel’ facility shall remain within the confines of the built structure between the hours of 18.00hrs and 08.30hrs daily, as per the recommendations set out in the submitted Noise Impact Assessment.

Reasons: In the interests of minimising noise disturbance from the dog hotel during hours of the day local residents shall expect to enjoy their highest levels of general residential amenity, to ensure compliance with Policy T5 (Noise) in the Aberdeen Local Development Plan 2017 and to adhere to PAN 1/2011 guidance.

3) That the “dog hotel” facility hereby approved shall house no more than 11 dogs at any one time, unless otherwise approved in writing by the Planning Authority following the submission a separate planning application.

Reason: In order to ensure the dog hotel is operated in accordance with the noise mitigation measures detailed in the submitted Noise Impact Assessment, in the interests of the amenity of the surrounding area to comply with Policy T5 (Noise) in the ALDP and to adhere to PAN 1/2011 guidance.

The Committee heard from Jamie Leadbeater, Planner, who spoke in furtherance of the application and answered various questions from members. In regard to questions from the Convener, Mr Leadbeater advised that policy H1 – residential areas, was not applicable as the site did not fall in a designated residential area in the Local Development Plan. Mr Leadbeater also explained that as the houses had not been built on the opportunity site 109, within the Local Development Plan, that this was not a material consideration in the determination of the application.

The Convener, seconded by the Vice Convener moved:-

That the application be refused. In relation to Policy T5, Noise, the Committee had concerns about the noise impact of the development. In relation to Policy

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H1, the Committee had concerns relating to the detrimental impact upon residential amenity in connection with noise emanating from the development particularly in relation to the noise impact on OP site 109 designated on the Aberdeen Local Development Plan Proposals Map.

Councillor Copland, seconded by Councillor Allan, moved as amendment:-

That the application be approved in line with the recommendation contained within the report.

On a division, there voted:- for the motion (5) – the Convener, the Vice Convener and Councillors Donnelly, McKenzie and Yuill; for the amendment (4) – Councillors Allan, Cooke, Copland and Sandy Stuart.

The Committee resolved:-

to approve the motion and therefore refuse the application.

CHANGE OF USE FROM CLASS 4 (OFFICES) TO CLASS 7 (HOTEL) COMPRISING 106 BEDS AND ASSOCIATED EXTERNAL WORKS - CUSTOM HOUSE, 28 GUILD STREET, ABERDEEN - 181532

8. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

That the application for the change of use from class 4 (offices) to class 7 (hotel) comprising 106 beds and external works to reconfigure and install two windows to the front roof, add mirrored panels and reconfigure existing access, at Custom House, Guild Street Aberdeen, be approved subject to the following conditions:-

Conditions

(1) BUILDING ACCESS

The building shall not be occupied unless a detailed scheme showing the altered main entrance arrangement has been submitted to and approved in writing by the planning authority. Thereafter the building shall not be occupied unless the revised access has been provided and is available for use.

Reason – in order to maintain the character of the conservation area.

(2) LOCAL EXTRACT VENTILATION (LEV) SCHEME

No hot food cooking and reheating activities shall be undertaken (including but not limited to; oven cooking, boiling, stewing grilling/broiling, deep fat frying or shallow frying – except for re-heating and hot-holding of pre-cooked soups) unless a scheme of LEV - (including a suitable extract ventilation assessment by a competent person) has been submitted to and approved in writing by the planning authority.

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Thereafter no cooking or reheating activities shall take place unless the LEV system has been installed and is available for use.

Reason – to ensure that food odours and fumes do not adversely affect the amenity of the surrounding area.

(3) NOISE IMPACT ASSESSMENT

No development shall take place unless a detailed assessment of the likely sources and levels of noise arising from any mechanical plant, and those audible out-with the premises has been submitted to and approved in writing by the planning authority. The noise assessment shall be carried out by a suitably qualified independent noise consultant. All noise attenuation measures identified by the noise assessment which are required in order to prevent any adverse impacts on the amenity of residents in the surrounding area shall be installed prior to commencement of the use hereby approved, unless the planning authority has given prior written approval for a variation

Reason – to ensure that existing uses in the surrounding area are protected from any noise arising from the development.

(4) BASEMENT PARKING LAYOUT

The building shall not be occupied unless a scheme showing the layout of the basement car park (including at least three accessible spaces) has been submitted to and approved in writing by the planning authority. Thereafter the building shall not be occupied unless the car park has been laid out in accordance with the approved scheme and is available for use.

Reason – to ensure that there is adequate parking provision for disabled staff and customers.

The Committee heard from Matthew Easton, Senior Planner, who spoke in furtherance of the application and answered various questions from members. It was noted that conditions 1 and 4 from the committee report would be amended due to errors contained within the report and the revised conditions were detailed above.

The Committee resolved:-

to approve the application conditionally as contained above.

- **Councillor Marie Boulton, Convener**

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 28 November 2018. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; and Councillors Cooke, Copland, Greig, Mackenzie, Malik and Stuart (as substitute for Councillor Cormie).

Also present as local members: Councillors Delaney and Wheeler.

The agenda and reports associated with this minute can be found at:-
[here.](#)

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DECLARATIONS OF INTEREST

1. There were no declarations of interest intimated.

ERECTION OF THREE CLASS 3 (FOOD AND DRINK) UNITS INCLUDING TWO DRIVE-THRU FACILITIES AT LAND ADJACENT TO VETERINARY HOSPITAL, KINGSWELLS ABERDEEN - 181336

2. The Committee conducted a site visit prior to the Hearing. The Committee was addressed by Mr Matthew Easton, Senior Planner, who summarised the proposal for the overall site.

The Convener explained that the Committee would return to the Town House to commence the Hearing.

With reference to article 4 of the meeting of the Planning Development Management Committee of 20 September 2018, the Committee had before it a report by the Chief Officer – Strategic Place Planning, which (1) advised that the Council's adopted guidelines required that where a planning application had been the subject of more than 20 objections and was a development in which the Council has a financial interest, a report to Committee was triggered to seek a decision on whether or not a public hearing should be held; (2) indicated that the Committee resolved to hold a discretionary public hearing in respect of the application for the erection of three class 3 (food and drink) units including two with drive-thru facilities at land adjacent to Veterinary Hospital Kingswells; and (3) provided background information on the proposal for the purposes of the hearing and explained that at this stage no assessment of the merits or failings of the proposal was made in the report.

The Committee heard from the Convener who opened the hearing by welcoming those present and providing information on the running order of the hearing. She explained that the first person to address the hearing would be Mr Matthew Easton and asked that

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speakers adhere to their allocated time in order for the hearing to run smoothly and in a timely manner.

The Committee then heard from Matthew Easton, Senior Planner, Strategic Place Planning who addressed the Committee in the following terms:-

Mr Easton explained that the application related to a site comprising approximately 1.5 hectares, located to the south of the Prime Four Business Park, to the east of Westhill, west of Kingswells and west of Aberdeen city centre. It comprised a grass field, a timber stable block, paddock and car park which at present forms part of the 'Ardene House Vets Practice', which along with the site were enclosed by mature woodland belts to the north, east and south-west. Beyond the site to the north and east are: Kingswells House which was a B-listed building; and Prime Four Business Park, which comprised large modern office buildings and a hotel.

The site was accessed from the A944 dual carriageway and there was shared foot and cycle way which formed part of Core Path 91 along the same route. On the opposite side of the road to the south were three residential properties.

The AWPR South Kingswells Junction was around 460m to the west and when open will join the A944 at this point.

In regard to the proposal, detailed planning permission was sought for the construction of three separate class 3 (food and drink) outlets, two of which would have drive-thru facilities. Ardene House Veterinary Hospital would remain in its current location.

The first unit which is the largest would have 154 covers and 49 parking spaces along with a drive thru. The second unit would also have a drive thru and accommodate 66 covers and 18 parking spaces. The third unit would have 48 covers and 20 parking spaces. Access would be taken from a revised junction onto the A944 and the central reservation would be closed off to prevent right-turn manoeuvres into the site.

In regard to policies, Mr Easton summarised the main policy considerations which would need to be taken into account when assessing the application.

Mr Easton explained that Scottish Ministers, through Scottish Planning Policies (SPP), expect the planning system, amongst other things, to focus on outcomes, maximising benefits and balancing competing interests; play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities; and be plan-led, with plans being up-to-date and relevant.

Mr Easton indicated that SPP stated that it was important that planning supports the role of town centres (which includes city centres), to thrive and meet the needs of their residents, businesses and visitors for the 21st century. The 'town centre first' principle, stemming from the Scottish Government's Town Centre Action Plan, promoted an

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approach to wider decision-making that considers the health and vibrancy of town centres.

Mr Easton went on to explain that the section on Promoting Town Centres stated that out-of-centre locations should only be considered for uses which generate significant footfall where:

- all town centre (including city centre), edge of town centre and other commercial centre options had been assessed and discounted as unsuitable or unavailable;
- the scale of development proposed was appropriate, and it had been shown that the proposal could not reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- the proposal would help to meet qualitative or quantitative deficiencies; and
- there would be no significant adverse effect on the vitality and viability of existing town/city centres.

Mr Easton highlighted that planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses were developed in the most appropriate locations.

Mr Easton also explained that planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where:

- direct links to local facilities via walking and cycling networks were not available or cannot be made available;
- access to local facilities via public transport networks would involve walking more than 400m; or
- the transport assessment does not identify satisfactory ways of meeting sustainable transport requirements.

Mr Easton advised that at a regional level, the Aberdeen City and Shire Strategic Development Plan highlighted the importance of the city centre and that a sequential approach would be taken when identifying sites for new retail development across the strategic development plan area. The proposed Strategic Development Plan (2018), published in August 2018 required that development proposals outwith the City Centre that would undermine its regional role should be strongly resisted. It also stated that the Town Centre First Principle should be applied when considering significant proposals for retail, commercial leisure, offices and for community and cultural facilities.

Mr Easton also explained that there was a target of making sure there was at least 60 hectares of marketable land available to businesses at all times in a range of locations within Aberdeen City. At least 20 hectares of marketable land in the Strategic Growth Areas should be of a standard which would attract high-quality businesses or be suitable for company headquarters. The latest employment land audit indicated that there was

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223 hectares of marketable land available and in excess of 20 hectares of land available for high quality business use.

In regard to the Aberdeen Local Development Plan (2018) LDP, Mr Easton highlighted that the site was zoned as a Specialist Employment Areas where Policy B2 applied. In such areas, only Class 4 (Business) uses should be permitted in order to maintain a high-quality environment. Notwithstanding, facilities that directly support business uses may be permitted where they enhance the attraction and sustainability of the specialist employment area and be aimed primarily at meeting the needs of businesses and employees located there.

In relation to Policy NC5, Mr Easton explained that Out of Centre Proposals indicated that where significant footfall generating development appropriate to designated centres, were proposed on a site that was out-of-centre, they would be refused planning permission if it did not satisfy all of the following requirements.

1. That no other suitable site in a location that was acceptable in terms of sequential site selection was available or likely to become available in a reasonable time;
2. That there would be no adverse effect on the vitality or viability of any centre;
3. That there was a proven deficiency in provision of the kind of development that was proposed;
4. That the proposed development would be easily and safely accessible by a choice of means of transport using a network of walking, cycling and public transport routes which would link with the catchment population. In particular, the proposed development would be easily accessible by regular, frequent and convenient public transport services and would not be dependent solely on access by private car; and
5. That the proposed development would have no significant adverse effect on travel patterns and air pollution.

Mr Easton also advised that the woodland around the site was part of the Green Space Network where the Council would protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the network. Proposals for development that were likely to destroy or erode the character and/or function of the Green Space Network would not be permitted.

For Policy T2 on Managing the Transport Impact of Development, Mr Easton intimated that the policy required that new developments need to demonstrate that sufficient measures had been taken to minimise the traffic generated.

For Policy D3 on Sustainable and Active Travel, it stated that new development should be designed to minimise travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel.

For Policy NE8 on Natural Heritage, it stated that development should seek to avoid any detrimental impact on protected species through the carrying out of surveys and submission of protection plans describing appropriate mitigation where necessary.

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In terms of trees, Mr Easton advised that there was a presumption against all activities and development that would result in the loss of, or damage to, trees and woodland. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees and appropriate measures should be taken for the protection and long-term management of existing trees and new planting both during and after construction.

For Policy NE9 (Access and Informal Recreation) it required that new development should not compromise the integrity of core paths. Mr Easton explained that in this case any redesign of the junction onto the A944 would need to take into account the core path.

In regard to consultations, Mr Easton advised that Kingswells Community Council raised concerns with access arrangements, traffic and pedestrian safety on the A944 and the suitability of the site for food and drink use. The Community Council also indicated that there were some merits in providing food outlets for those working and visiting the Kingsford Stadium and Prime Four Business Park.

In regard to representations, Mr Easton explained that 488 representations were received. 237 of those objected to the proposal and 251 were in support.

The main matters raised in objections included (a) it was contrary to the land use zoning in the Local Development Plan, (b) the sequential approach to site selection had not been followed, (c) there would be an adverse impact on traffic flows and road network, (d) the site was not readily accessible by sustainable means of transport, (e) the development would result in litter and cooking odours and (f) Kingsford Stadium development should not be seen as a reason to support this application.

The main matters raised by those in support were (a) there would be an increase in the choice of food outlets in the area for residents, workers and road users, (b) it would have a positive impact on the area economically, socially and in terms of jobs, (c) the impact on traffic flows and road network would be minimal and (d) the location and design of buildings was good.

The Committee then heard from Mr Scott Lynch, Senior Engineer, who addressed the Committee in the following terms:-

Mr Lynch explained that discussions with the applicant were ongoing and a transport assessment (TA) was required given the gross floor area of the application site (GFA), which was currently being scoped with the applicant. Mr Lynch also indicated that they were awaiting updated swept path drawings, confirmation of parking, and internal site layout drawings. Mr Lynch advised that at present, there were no major roads concerns in regard to the application.

Mr Lynch advised that there was a previous application for offices on the site which also encapsulated the vets, which expired on 23/12/17.

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In regard to parking requirements, Mr Lynch noted that they were:

- 102 spaces maximum allowable provision;
- 17 long stay cycle spaces;
- 10 motorcycle bays;
- 3 disabled bays or 6% of total, whichever is greater;
- 2 active & 2 passive electric bays.

Mr Lynch explained that the applicant was proposing 87 spaces which would equate to 85% of the maximum allowable allocation. Cycle, motorcycle & disabled parking were shown on the provided plan but were not quantified, which was required. Additionally, Mr Lynch advised that the requirement for electric charging bays had been highlighted to the applicant who had intimated that they would incorporate this in their submission.

Mr Lynch highlighted that there were no bus facilities in the immediate vicinity of the site and the park and ride was 800m away. The site access to pedestrians and cyclists was via a path on the southern boundary of the site, which had links to Kingswells and Westhill. Mr Lynch explained that the applicant had intimated that the revised design for the site access junction would include a shared pedestrian and cycling path on both sides of the access road to tie into the infrastructure on the A944.

Mr Lynch advised that the existing junction was a left and right-in and left-out. Under the proposal the right turn would be banned by extending the central reservation, leaving this as a left-in, left-out. Finally, Mr Lynch highlighted that vehicles wishing to enter from the east or exit to the west would need to carry out turning manoeuvres utilising the carriageway infrastructure. This would require using the A944 Kingswells roundabout to the east and AWPR roundabout to the west.

Members then asked a number of questions of Mr Easton and Mr Lynch and the following information was noted:-

- The site was zoned for Specialist Employment and the proposed development was for Class 4 business use;
- Officers were still to establish where the proposed development sat in regard to the City Centre 1st Policy;
- Flooding did not object to the proposed application;
- Roads were awaiting information on the revised openings for the turn off, which should typically be 3 metres; and
- Officers were looking at the possibility of bus stop infrastructure on the A944, once the Transport Assessment was received.

The Committee then heard from the applicant and the speakers consisted of Mrs Maggie Bochel, Aurora Planning, Charlie Ferrari, applicant; Alex Robb, Surveyor and Allan Spence, Transport Engineer. They addressed the Committee in the following terms:-

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Mr Ferrari advised that the proposal was to construct a development of three Class 3 food and drink units, two of which would have a drive thru facility should it be required by the operator.

The site formed the western half of the Ardene House Veterinary Hospital and to the East and North was Prime Four Business Park. The units would have a capacity for 268 seats where the sale of food and drink for consumption on the premises would be available to the Prime Four Business Park/local residents/people visiting by car by way of the A944 Aberdeen to Westhill main road, and the potential customers from the new football club stadium, once constructed. Mr Ferrari stressed that the development did not rely on any football related trade.

Mr Ferrari explained that for all of the possible uses, they were within easy walking distance of the site and highlighted that they had allowed for a direct road and pavement access to the edge of the site with Prime Four.

Mr Ferrari advised that all units had been designed to meet the standards of the Council's policy on quality place making by design and to fit within the landscape setting, which was well screened by the existing tree belts to the North and East. In this regard there would be a minimal visual impact.

Mr Ferrai explained that in late 2014, they received full planning permission for a 150,000 square foot office development with approximately 540 car parking spaces, however advised that the approval had since lapsed at the end of 2017, however they had retained the exact same entry and exist road geometry as approved by planning previously, however the car parking spaces would be reduced from 540 to 250 to include the Veterinary Hospital traffic. Therefore, Mr Ferrari noted that access and egress to the development would be directly from the A944 with the current cross over being closed off, thus increasing road safety along this stretch of road.

Mr Ferrari explained that the proposal related well with the backdrop of mature trees and the one and half storey Veterinary Hospital.

Mr Ferrari noted that following discussions, the layout of the proposed development as submitted had been altered, and planning officers agreed that this would be a non-material variation to the application. Mr Ferrari advised that this would allow the two-storey unit to sit against the backdrop of the existing tree belt. Importantly, it would also address the concerns raised by Kingswells Community Council relating to any potential stacking of vehicles accessing a drive thru and spilling back onto the A944.

Mr Ferrari concluded by advising that if approved, the development would create a substantial number of jobs opening up the opportunity of employment for young people in the area.

The Committee then heard from Alexander Robb MRICS, Managing Director of AB Robb Limited Chartered Surveyors.

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Mr Robb explained that it was recognised that the site was zoned as part of the specialist employment area - identified in the Aberdeen Local Development Plan as OP29 covering Prime Four, however highlighted that the Aberdeen office market had radically changed since the planning permission was granted in 2014 for office use.

Mr Robb advised that he was instructed on behalf of the developers, Kingswells Development Company Limited to market the project with the benefit of planning permission for 150,00 square foot net internal area (262,000 square foot gross internal area) of offices, together with car parking for 541 cars. Mr Robb noted that due to the downturn in the oil and gas industry in the second half of 2014 the market for offices changed dramatically, with no demand for new build offices. Mr Robb highlighted that this was demonstrated by the most recent statistics which show that, as at quarter 3 2018, there was approximately 2.67million square feet of offices available in Aberdeen with an annual take up of 301,054 square feet.

Mr Robb noted that the information compared with figures when they originally marketed the site in quarter 3 of 2014 when take up was in the region of 678,962 square feet per annum with a supply of around 930,318 square feet.

Mr Robb explained that in this regard, his client had been forced to consider alternative uses for the site which would complement and enhance the existing land uses in the area and would continue to contribute to economic development, as envisaged by the original zoning. They identified that the most likely demand would be from restaurants and drive-thrus, in accordance with the plan lodged.

Mr Robb stated that the approach taken was to look for an alternative productive use of the allocated site which was consistent with the requirement of Scottish Planning Policy (SPP) for planning authorities to be flexible in responding to changing economic circumstances and allow the realisation of new business and employment opportunities.

Mr Robb indicated that a detailed assessment of the application against all relevant development plan policies and other material considerations was set out in the Planning Statement submitted with the application.

Mr Robb highlighted that the site was allocated for development in the Local Development Plan and that, together with the previous office consent, established the principle of development at the site. The site was not in the green belt, nor did it form part of the green space network, as maintained by a large number of objectors.

Mr Robb advised that according to Policy B2 – Specialist Employment Areas, the site's current allocation was a specialist employment area and did not preclude alternative uses if those uses are for facilities, which include food and drink provision, that directly support business uses and enhance the attraction and sustainability of the specialist employment area for investment.

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Mr Robb indicated that in this regard the application site was 1.3 hectares within a total allocation of 50 hectares; which comprised less than 3% of the total area. Therefore it should be seen as being ancillary to the employment use of the allocated site with the proposed uses which would provide an enhancement.

Mr Robb also advised that because no specific development was identified within the Development Framework and Phased Masterplans for Prime Four for this site, its development for an alternative use would not jeopardise the delivery of the wider allocation, as required by Policy LR1 – Land Release Policy. It was also highlighted that Policy LR2 – Delivery of Mixed Use Communities, explicitly supports small scale complementary uses within allocated employment sites, provided there was no conflict with the spatial strategy or the achievement of employment provision overall.

Mr Robb indicated that Policy NC4 – Sequential Approach and Impact and Policy NC5 – Out of Centre Proposals were not applicable to this application, since:

- the proposed uses did not fall within the categories of use which “*generate significant footfall*” as identified in Scottish Planning Policy, which included retail, commercial leisure, offices and cultural facilities;
- it was not of a scale which would be significant in any event, being less than half of the 2,500m² gross floorspace which was the trigger for the requirement for a retail impact assessment; and
- comprised two drive thrus, it was not a form of development that would be appropriate within a regional, town, district or local centre.

Mr Robb advised that the analysis was presented in full in the Sequential Assessment Statement submitted with the application.

Mr Robb indicated that the proposals had also been designed to ensure that they comply with all other relevant development plan policies relating to, for example, waste management, and there were no concerns raised from Environmental Health officers in terms of potential noise, odour or pollution impacts. Also he advised that the development complied with policies on developer contributions and low and zero-carbon buildings and managing the transport impact of development.

In regard to representations submitted, Mr Robb indicated that the No Kingsford Stadium group launched a campaign which urged people to object to the application on three grounds, those being that the development would:

- Have a negative impact on the green space between the communities of Westhill and Kingswells
- Would set a precedent for development on the A944 corridor
- Would place even more stress on the road infrastructure around Westhill and Kingswells.

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Mr Robb highlighted that more than half of the 488 representations made were in support of the application, and the number of objections would reduce to 203 as they are based on indicating that the site was in the green belt and/or would impact on the green space between Kingswells and Westhill, but this was not the case.

Also Mr Robb spoke about the misconception that the development was associated with Kingsford Stadium and noted that there was no relationship between the two developments and one was not contingent on the other. The proposed development could be successfully implemented in isolation from the stadium.

There was also a belief that the application should be refused because of concerns about it contributing to obesity, in terms of which it should be stressed that the nature of food to be served was not a material planning consideration.

Mr Robb highlighted the various reasons for individuals supporting the application and included

- it provided an additional service for the community, both for people living and working in the area, and for passers-by;
- addressed the acute lack of - and demand for - shops/restaurants/facilities of this type in the area;
- created additional employment opportunities, particularly for young people;
- made a contribution to the local economy;
- was an appropriate location relative to existing development with no residential development negatively affected;
- demonstrated a good quality of design.

The Committee then heard from Allan Spence, WYG Transport Engineer, who explained that the scoping for the Transport Assessment had been agreed with Aberdeen City Council and Transport Scotland, and parking was within the Council's maximum standards, which was 102 allowed and 87 proposed. This would also include electric vehicle charging points and six disabled spaces, along with cycle parking.

Mr Spence also highlighted that a number of neighbouring developments with planning consent had been considered in the Transport Assessment, which included the following:

- Countesswells (3,000 houses)
- Maidencraig (850 houses)
- AWPR

This proposed development would provide a service to these consented schemes, particularly the housing.

Mr Spence indicated that a significant proportion of the car trips attracted to this type of land use, typically 30%, would already be on the network. This was in contrast to land uses such housing or business which induce a high proportion of new car trips into an

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area, typically 100%. The technical assessments showed the development's impact was negligible, less than 3%.

Furthermore, Mr Spence advised that there was no uplift in traffic when compared with the previously consented office development, for which the impact on the road network was deemed acceptable. The site also had connections for walking, cycling and public transport trips, thus providing a choice of travel modes for staff and customers.

In conclusion, the following was noted from the applicant:-

- They held a strong track record of delivering major new developments;
- They were very much committed to ensuring that this was a high-quality development, consistent with Prime Four; and
- The application complied with the Development Plan and other material considerations, and as such the site should be brought into active use.

In doing that they noted that:-

- It would make a positive contribution to the land use mix in the Kingswells area, with the provision of new facilities and the creation of new employment opportunities;
- It would meet a quantitative and qualitative deficiency of this type of facility within the local area;
- It would not have an adverse impact on the vitality and viability of existing centres;
- It would complement neighbouring development at the Prime Four Business Park and Kingswells village;
- It would not have an adverse impact on the availability of employment land in the City nor jeopardise the future development of Prime Four;
- There would be a road and pavement access to the edge of the application site with Prime Four;
- It takes account of changing circumstances in the North East's economy; and
- Supported the achievement of the main aims of the Aberdeen City and Shire Strategic Development Plan in terms of growing the economy (by creating around 200 new jobs) and making efficient use of resources.

The Committee then asked various questions of the applicant/agent.

The Committee then heard from Heather Cook, a local resident, and she addressed the Committee in the following terms:-

Mrs Cook explained that through the media, the message over the last few years had been that Aberdeen City Centre had been in decline and there was a need to rejuvenate the City Centre. Mrs Cook also advised that the Scottish Government had targets to (a) reduce obesity, (b) encourage people to walk/cycle/use public transport as alternatives to cars, (c) put a levy on fizzy drinks and fast foods and (d) encourage children and adults

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to adopt a healthier lifestyle by walking/cycling to school/work. Mrs Cook then went on to highlight that following these targets, an application is then brought forward 6 miles out of the city centre, where people would have to drive through, or get in their car to pick up the fast food.

Mrs Cook advised that the site was isolated in that there was only one public footpath to Kingswells and Prime Four and questioned who would use these drive-thru facilities. Mrs Cook also explained that many cyclists use the Core cycle path daily on the commute to Aberdeen. She indicated that with the AWPR and the access roads to and from this, many cyclists could be tempted to use the main A944 road as opposed to the designated cycle path. Mrs Cook noted this would be dangerous as the A944 was a very busy road.

Mrs Cook also questioned how traffic would access and exit the proposed site, and noted that cars would be required to go round the Kingswells roundabout or the new AWPR roundabout near to Kingsford site. At peak times traffic along the A944 backs up to the junction with the Brodiach Road. Mrs Cook questioned whether people would drive out of work at lunchtime to collect their lunch, which would add more traffic to the A944.

Mrs Cook concluded by stating that as an individual who was concerned with diet, healthy lifestyle, walking and cycling, she urged Councillors to refuse this application.

There were no questions for Mrs Cook from members.

The Committee then heard from Chris Miller, GVA, who was speaking on behalf of Bon Accord Centre Aberdeen and addressed the Committee in the following terms:-

Mr Miller explained that as a chartered town planner, they work within a plan led system that had been designed to provide clarity and certainty in decision making for both communities and investors alike and to protect the vitality and viability of centres.

Mr Miller highlighted that the site was principally allocated within the adopted Local Development Plan as part of an 'employment opportunity site' and as a 'Specialist Employment Area' whereby uses were restricted to Class 4 business. Mr Miller felt that the proposals were clearly contrary to policy.

Mr Miller also advised that whilst policy provided a degree of flexibility for the provision of supporting facilities, the scale of the application was significantly in excess of what could reasonably be considered to be supporting or complementary to the surrounding businesses. Mr Miller stated that the proposals were of such a scale that they would provide for a restaurant destination in its own right and could be comparable to and in competition with other identified centres, which should mean that the application should be refused.

Mr Miller further explained that the proposals appeared to contradict the established parameters of the Development Framework which had been developed for the delivery

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of the overall Prime Four site and if approved would compromise the integrity of such planned development.

Mr Miller also questioned the impact that an additional vehicular access link would have in terms of users of Prime Four business park visiting the restaurant development and subsequently utilising access from the A944 and vice versa. Mr Miller noted that this matter had not addressed in the supporting transport statement.

Mr Miller highlighted their concerns which related to the sustainability of the proposals, in particular with regards to site accessibility by any mode of transport other than the private car, therefore putting the application further at odds with sustainability focussed planning policy.

Mr Miller explained that whilst it was accepted that a drive-thru restaurant operation may not always be suited to a town centre location, the development proposals do not physically, visually or otherwise support the needs of employees within the 'Specialist Employment Area' and would constitute a significant new out-of-town destination in its own right.

Mr Miller advised that as well as having a negative impact upon existing centres within the area, approval could result in the longer term erosion to the wider Development Framework and associated masterplans and lead to increased pressure to accommodate additional non-business uses that would be more appropriate within an existing town/city or commercial centre location. Mr Miller noted that on this basis they had strong reasons to suggest that this speculative application should be refused.

Mr Miller concluded by intimating that if there was a desire to increase the range and scale of uses considered appropriate within the business park, then this should be considered at the appropriate time in the preparation of the next Aberdeen City Local Development Plan, and respectfully asked that the speculative development proposal be refused.

There were no questions for Mr Miller from members.

The Committee then heard from Diane Reid, West Aberdeen Environmental Association (Ltd) (WAEPAL), who addressed the Committee in the following terms:-

Mrs Reid explained that WAEPAL was set up to raise awareness of local planning applications, to ensure people in the area were more likely to contribute their views within the planning process that shaped the local communities.

Mrs Reid advised that WAEPAL felt that the application should be refused as it failed to comply with multiple planning policies within the Aberdeen Local Development Plan. Firstly, Mrs Reid highlighted that the site was currently in the adopted LDP for employment and not for eating establishments. Mrs Reid indicated the City Centre first principle and noted that Policy N1 stated that the City Centre was the preferred location

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for development which generated a significant footfall. Mrs Reid also advised that Policy NC5 stated that all significant footfall generating developments which were not being sited in the City Centre, would be refused unless they met the specific five requirements. Mrs Reid indicated that the applicant discounted other sites which could accommodate a disaggregated development and therefore does not meet requirement one of Policy NC5.

Mrs Reid also indicated that there was no proven deficiency of facilities which related to food and drink in the area, with 20 take away establishments and 19 eateries available for sitting in, in the neighbouring communities. Mrs Reid highlighted that these establishments were easily accessible on foot, negating the need to drive or use unsustainable means.

Mrs Reid stated that the site was on a busy dual carriageway which would be busier due to the imminent opening of the AWPR and its junction at South Kingswells. There were no frequent or convenient public transport stops in close proximity to the development and it was some considerable walking distance from both Westhill and Kingswells.

Mrs Reid indicated that the development would be entirely reliant on the use of private cars, with a significant increase of traffic flow to the area and adding to the already heavily congested area, which did not meet requirements 4 or 5 of Policy NC5.

Mrs Reid explained that the strategic plan made it clear that developments should not be associated with junctions on the AWPR and the route was not to be used as a ribbon development corridor.

Mrs Reid advised that the 2017 Aberdeen City and Aberdeen Cumulative Transport Appraisal highlighted the A944 as a road that would not benefit from the opening of the AWPR unlike other arterial routes. The applicant's transport statement predicted adding 5000 additional car trips on any given weekend day and 1700 on a weekday. Mrs Reid outlined that the A944 was already at capacity and felt that this was unacceptable.

Mrs Reid also highlighted that the applicant made reference to the Kingsford Stadium application four times, however indicated that approval of the stadium should not be a green light for further development in the area.

In conclusion, Mrs Reid noted that 92% of objections came from those in the communities of Kingswells and Westhill, with 22% in support coming from local people. Mrs Reid asked the Committee to listen to local people who would be mostly affected by this development and asked that the application be refused.

In regard to questions for Mrs Reid, Councillor Cooke sought confirmation of the number of local eateries in the area.

The Committee then heard from Karen Bayliss, a resident in Counteswells and she addressed the Committee in the following terms:-

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Mrs Bayliss explained that she was in support of the application and noted that the Kingswells Park and Ride was very close to the proposed development. Mr Bayliss noted that from Counteswells the proposed development was walkable. She indicated that for all the new houses in Counteswells, there were few amenities for local people to use and this would be a welcomed development. Mrs Bayliss indicated that the potential for 200 jobs was great to hear and would have walking and cycling access to the park and ride facility. She also highlighted that plenty other places in the city do not have a public transport link and did not see the issue for this site as it was walkable from Counteswells. Mrs Bayliss also explained that it was ideally suited for people with learning difficulties and was impressed to see electronic car points within the development.

In conclusion, Mrs Bayliss advised that the development would be a welcomed improvement to the Kingswells and Counteswells residents and urged Councillors to approve the application.

There were no questions for Mrs Bayliss.

The Committee then heard from Diane Priestly, local resident, who addressed the Committee in the following terms:-

Mrs Priestly explained that in her opinion it was inevitable once the football stadium at Kingsford had planning permission that it would be seen as the green light by developers for further development along both sides of the A944 between Kingswells and Westhill. Mrs Priestly felt that the A944 would become a development corridor.

Mrs Priestly advised that there were no additional statements from the applicant to explain why this provision was needed on the A944, however noted that it did state that the purpose of the drive thru was to serve the Prime Four business park, Kingswells residents and people working or visiting the new Kingsford stadium. However, Mrs Priestly advised that these facilities were available as Prime Four had a hotel with a café and Westhill and Kingswells had a variety of fast food outlets, and the stadium would have a planned fan zone where food and drink would be available.

Mrs Priestly also explained that the drive thru would be accessed from the A944 which was already a busy commuter road and there was a high volume of traffic travelling in and out of Aberdeen, not just at rush hour but throughout the day and additional traffic along the route would undoubtedly increase. Mrs Priestly intimated that without a Transport Assessment it would be impossible to determine how this would affect the traffic flow along the dual carriageway.

Mrs Priestly advised that the Westhill Public Transport and Access Strategy Briefing Paper 2017 recognised that Westhill was dependent on the A944 link for both cars and buses and that there was significant queuing of traffic at peak times at the Kingswells roundabout, Prime Four and the Westhill roundabout. The report also stated that further development along the A944 could affect Westhill, its viability and vitality as a town.

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Mrs Priestly also indicated that the only way into the proposed drive thru was a left turn off the A944 so that the traffic coming from Aberdeen would have to travel to the Kingswells roundabout, drive along the A944 to the AWPR roundabout and drive back along the A944.

Mrs Priestly concluded that the proposed development should be refused as (a) there was already a number of fast food outlets and restaurants in the area, (b) the concept behind the application was to capture the passing trade from the users of the A944, the AWPR and the football traffic and this would increase the traffic flow on the A944, (d) it was not easily accessible by car, (e) it had no acceleration lane onto the A944, therefore presented a danger to fast moving traffic, (f) it was unclear the effects that the traffic flow from the AWPR would have along the A944, (g) there was an increased danger to joggers and cyclists who use the core path at the side of the dual carriageway and (h) development along the A944 would increase the likelihood of coalescence between Westhill and Kingswells by the erosion of green space.

There were no questions from members for Mrs Priestly.

The Committee then heard from Ian Cox, Kingswells Community Council, who addressed the Committee in the following terms:-

Mr Cox advised that the Community Council's main concerns were (a) this was a detailed planning application, however there was no control over what the development would be, (b) the final configuration of the development cannot be determined until the tenants are identified, (c) the development was isolated from one of its main customers, Prime Four, (d) connection with Prime Four was not in the control of the developer, (e) the development would encourage people to walk along the A944 and (f) the stacking of drive-thru traffic was an issue.

Mr Cox explained that they had been in discussions with the developer in regard to an improved layout, however were disappointed to see that they decided to take no action with their suggested layout. Mr Cox also advised that whilst working with the agent for Prime Four, they were given assurances that development would be to a higher standard than normal and no fast food facilities.

Mr Cox advised that the developer claimed to be looking for high class tenants for the three units and cannot finalise any agreements or initiate any detailed discussions with potential tenants until planning permission is approved, which caused grave concern to the Community Council. He intimated that there was no control over who the tenants may be, and the layout would be dependent on the tenants who may be interested.

Mr Cox explained that the proposed development was based on existing designs used by three fast food providers and stated that if the successful tenants were different from those assumed, then significant change would be required to the planning application.

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Mr Cox also highlighted the lack of connectivity with Prime Four and noted that the developer claimed that people would access the fast food facility from Prime Four by foot. However, Mr Cox noted that there was no footpath linking the two sites and due to time constraints upon employees at lunchtime, it was considered that most customers from Prime Four would drive to the facilities. Mr Cox highlighted that access to Prime Four was not in the control of the developer.

Mr Cox advised that the Community Council felt that detailed planning permission for this site was premature and the development should be at the same time as the adjacent Prime Four development so that the whole development could be well considered as a unit, and would utilise a new access with the A944, and would provide connectivity with the main Prime Four development.

In regard to the existing junction, Mr Cox explained that if the development of this site were to be delayed, then it was the understanding of the Community Council that the Council would have concerns in regard to the safety of the existing junction with the A944. Most of these concerns could be resolved by closing the central reservation and having a left in left out access to the Vets.

Mr Cox went on to advise that the development would attract additional pedestrian traffic along the A944 and under normal circumstances this would be a desirable feature but not in this location.

Mr Cox also explained that the proposed road layout was the same as the previous approved planning application. He stated that in the previous application, the office block employees would have a parking space and any queuing would occur within the carpark. However, with this development, it would mean customers were trying to access the carparks and queuing for the drive thru at the same time would result in queues on the A944.

In conclusion, Mr Cox advised that the proposed development was common around the area but was not considered appropriate for the site. Alternative sites could be available within the nearby Westhill Industrial Park and for a detailed planning application there was too much uncertainty. Mr Cox asked that members refuse the application when it is determined.

There were no questions from members for Mr Cox.

The Convener thanked all those who attended the hearing, specifically those who had presented their case, submitted representations and provided information. She advised that the Chief Officer – Strategic Place Planning would prepare a report for submission to the Planning Development Management Committee for subsequent consideration and determination.

- **COUNCILLOR MARIE BOULTON, Convener.**

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
11 October 2018

	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			24 January 2019						
4	245 Union Grove	To approve or refuse the application.		Sepi Hajjoltani	Strategic Place Planning	Place	1	D	Delayed from November.
5	Land to the North of Sparrows Offshore	To approve or refuse the application.		Roy Brown	Strategic Place Planning	Place	1		
6			21 February 2019						
7	1 Western Road	At the PDMC meeting of 16 August 2018, it was agreed "to defer the application to allow additional time for negotiation on the legal agreement. Application to be reported to the Planning Development Management Committee of 21st February 2019 for determination."		Robert Forbes	Strategic Place Planning	Place	1		
8	Grandhome Estate	To approve or refuse the application.		Lucy Greene	Strategic Place Planning	Place	1		
9	Shielhill Road Mundurno	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1	D	Delayed from November.
10	The Woodies, Broomhill Road	To approve or refuse the application.		Alex Ferguson	Strategic Place Planning	Place	1		
11	Rocklands - Craighton Road	To approve or refuse the application.		Gavin Clark	Strategic Place Planning	Place	1		
12	Wellheads Dyce	To approve or refuse the application.		Matthew Easton	Strategic Place Planning	Place	1		
13	Planning Performance Framework	To report on the Annual Planning Performance Framework and the commentary from the Scottish Government.							
14			21 March 2019						
15	Land at Arden Vets Kingswells	To approve or refuse the application.		Matthew Easton	Strategic Place Planning	Place	1		
16	TPO 255 - 2018 - Malcolm Road	There was a previous committee instruction to bring back a report on TPO 248 and 249. These have been combined and will now be TPO 255.		Kevin Wright	Strategic Place Planning	Place	1	D	Delayed from November.
17			18 April 2019						

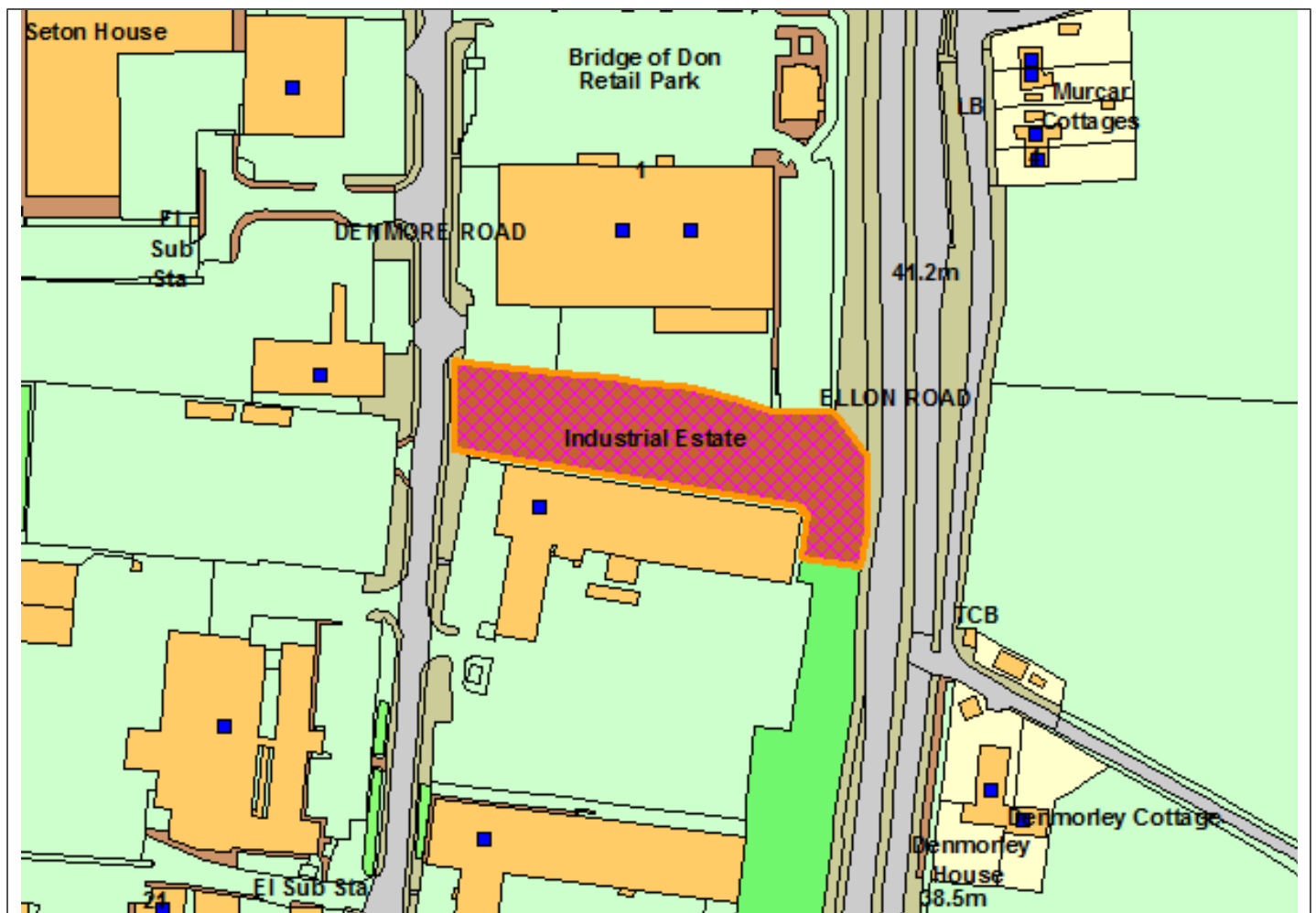


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 24 January 2019

Site Address:	Land To The North Of Sparrows Offshore, Denmore Road, Aberdeen, AB23 8JW
Application Description:	Proposed shared use pedestrian and cycle path
Application Ref:	181677/DPP
Application Type	Detailed Planning Permission
Application Date:	27 September 2018
Applicant:	Aberdeen City Council
Ward:	Bridge Of Don
Community Council:	Bridge Of Don - Pre Boundary Review 2018
Case Officer:	Roy Brown



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

An approximate 4200sqm area of semi-natural green space in the Murcar and Denmore Industrial Estate. The site is part of the Green Space Network connecting into a wider area of open space to the west of Ellon Road and is covered with semi-mature semi-natural woodland and shrubbery and contains an informal desire-line path between Ellon Road and Denmore Road. The application site is bounded by a warehouse unit (Sparrows Offshore) and open space to the south; Denmore Road to the west; the rear of B&Q and the Bridge of Don Retail Park to the north and open space; and Ellon Road to the east.

Relevant Planning History

Planning permission was granted conditionally in 2013 (Ref: P130776) for the change of use and development of the site into a private car park associated with Sparrows Offshore to the immediate south of the site, associated landscaping and the formation of a new public footpath between Ellon Road and Denmore Road on the basis that the economic and employment benefits of Sparrows Offshore's presence in the Bridge of Don area were considered to outweigh the relevant provisions of the Aberdeen Local Development Plan. It was not implemented and has since expired.

APPLICATION DESCRIPTION

Description of Proposal

The formation of a 153m long 3m wide shared use pedestrian and cycle path, which would create an east-west link between Denmore Road and Ellon Road. No details of materials have been provided.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at: <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PFEV1GBZHK700>.

Transportation Supporting Statement

Explains the background of the proposal in the context of the wider context of the Local Transport Strategy, the Active Travel Action Plan and the Regional Transport Strategy Action Plan to build a strategic travel network and an associated feasibility study to create routes along the Ellon Road Corridor; provides justification for this proposal; and notes that the scheme was proposed in the External Funding for Transport Projection Report approved by the Aberdeen City Council City Growth and Resources Committee 24th April 2018 (PLA/18/003) and Strategic Commissioning Committee 30th April 2018 (PLA/18/019) in Appendix 3 (A90 Trunk Road connections cycle routes).

Tree Survey Report

Describes the trees on the site, their health and proposed tree protection measures.

Tree Survey Drawing

Plan of the trees to be removed and the proposed tree protection fencing (read in conjunction with the Tree Survey Report).

Ground Based Potential Roost Feature Assessment of Trees

The results of a bat roost potential survey that describes the methodology of the assessment and the results stating that there was no evidence of bat roosts or bats on the site. It notes that the trees have moderate suitability for foraging and commuting bats. Further recommendations were made with respect to avoiding bird breeding season and reducing lighting measures when bats are active, between March and August.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application is being recommended for approval and has been the subject of formal timeous objection by the local Community Council within whose area the application site falls, Bridge of Don Community Council.

CONSULTATIONS

Bridge of Don Community Council – Objection – With reference to Scottish Planning Policy and Policy NE1 of the Aberdeen Local Development Plan (ALDP), the proposal would result in the loss of trees/natural habitat and the Green Space Network and therefore should not be developed. The likely infrequency of use of the proposed path is of concern. There is no cycle path on Denmore Road to connect the cycle path on Ellon Road, and there are access/egress points nearby on Ellon Road to both the Parkway and Denmore Road. There are areas in Bridge of Don where members of the community have expressed desire for similar facilities in a different location. The Transportation Supporting Statement does not address these concerns. The Community Council ask if the application can be deferred so that the Community Council can discuss the best possible locations for shared use paths within the Bridge of Don community.

Police Scotland – No objection – Bridge of Don generally has a low level of crime and this cycle path causes no extra concern from a crime and a policing perspective. General recommendations for constructing new public paths are provided, notably in relation to natural surveillance and visibility being ensured, opportunities for defensive planting along the boundaries and with respect to the width of the path.

Transport Scotland – No objection – Advise that the application is subject to a condition requiring that prior to any works commencing, the applicants contacts the operating company and obtains approval of details of the tie-in to the trunk road footway and all other consents required, to ensure the integrity of the trunk road footway is not impaired. Further informatives are recommended.

Aberdeen City Council Roads Development Management – No objection – No roads concerns.

Aberdeen City Council Flooding And Coastal Protection – No objection - No comments as it does not pose a flood risk.

REPRESENTATIONS

One letter of representation (a letter of objection) has been received in relation to this application. The matters raised can be summarised as:

- The proposal would not offer practical benefit to connectivity with the area, and there would not be any benefit to connecting the cycleway on Ellon Road to Denmore Road as there is no cycle route on Denmore Road.

- There is 'demand' for a pedestrian link between the Dubford residential development (to the northwest of the Bridge of Don Retail Park) and the Bridge of Don Retail Park. It is noted that it 'has not been possible to reach an agreement over the formation of such a link'. The noted alternative link would outweigh any connectivity benefits offered by this proposal.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

National Planning Policy

Scottish Planning Policy

Aberdeen Local Development Plan (ALDP) (2017)

Policy B1 - Business and Industrial Land

Policy NE1 - Green Space Network

Policy NE3 - Urban Green Space

Policy NE5 - Trees and Woodland

Policy NE8 - Natural Heritage

Policy NE9 - Access and Informal Recreation

Policy T2 - Managing the Transport Impact of Development

Policy T3 - Sustainable and Active Travel

Policy D1 - Quality Placemaking by Design

Policy D2 - Landscape

Supplementary Guidance (SG)

Natural Heritage

Trees and Woodlands

Green Space Network and Open Space

EVALUATION

Principle of Development

The application site is zoned as Policy B1 in the ALDP. Policy B1 states that within existing business and industrial areas, there shall be a presumption in favour of retaining existing open space and the site would remain as open space. Given Policy B1 and the Green Space Network and Open Space SG seek new business and industrial land proposals to make provision for footpaths and the existing Murcar and Denmore Industrial Estate has an absence of footpaths, the formation of a footpath through open space would conform with the principles of Policy B1 and this guidance.

The application site is zoned as Policy NE1 - Green Space Network in the ALDP. Policy NE1 states that the Council will protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the Green Space Network, which is identified on the Proposals Map. Proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted. These issues are assessed in the following evaluation under *Green Space Network*.

Transportation

By forming a shared use cycle and pedestrian path which would link Ellon road (and a bus stop approximately 20m from the eastern end of the path), the proposal would accord with the objectives of Policy T2 in that it would be maximising opportunities for sustainable and active travel and Policy T3 in that the development would prioritise walking and cycling and it would be improving links between employment facilities and the bus stop and Ellon Road. Given the presence of an existing informal desire-line footpath, a formal hard surfaced path would make it quick, convenient and safe for existing users walking and cycling, and encourage further usage. The proposal would comply with SPP in that it would be an enhancement of a cycle route.

To the immediate east of Ellon Road a 27Ha opportunity site for land release has been allocated for employment land (OP1 – Murcar) in the ALDP as part of Phase 2 (2027-2035). In the longer term, this link would provide a beneficial sustainable and active travel link between business/industrial estates to the west and this future employment land to the east. This path would connect to future path links set out in the Dubford Development Framework to the Dubford residential development to the northwest of the Bridge of Don Retail Park.

The submitted Supporting Transportation Statement highlights that this proposal forms part of the wider Local Transport Strategy, the Active Travel Action Plan and the Regional Transport Strategy Action Plan and that it would provide an east to west link between Ellon Road and Denmore Road.

Landscape and Design

The path, at 3m wide to facilitate both cycle and pedestrian users, would retain a significant area of open space in the site to the north and south. With the exception of the area to be developed for this path, which would develop 11% of the site, its function as a soft landscape buffer between Sparrows and B&Q would be retained. The majority of the site would remain tree covered and thus the landscaped green space buffer between B&Q and Sparrows would remain. Given the semi-natural landscape character of the site surrounded by industrial units and major roads, a formal hard surface would be acceptable in the context. Details of the finishing material of the path have however not been submitted. These finalised details can be clarified and approved through an appropriately worded condition. Subject to these details, the design of the proposal in its local landscape context would comply with Policies D1 and D2 of the ALDP.

Green Space Network

The proposal would promote the access and recreation value of this area of Green Space Network, in accordance with Policy NE1. The development would conform with the objectives of Policy NE9 – Access and Informal Recreation by forming a new/improved link to green space and on this basis, the ecosystem services associated with the formation of a such a path. Given the majority of the site would remain undeveloped, its function in terms of connecting natural habitats to the north and south of the site and other open spaces in the wider area would be retained.

Trees

Policy NE5 states that there is a presumption against all activities and development that will result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. SPP states that Scottish Government's Control of Woodland Removal Policy includes a presumption in favour of protecting woodland.

In this instance, the proposal would result in the removal of 60 semi-mature trees (16 with a diameter greater than 250mm at 1.5m above ground level; and 44 which are less than that). The species present include alder, whitebeam, rowan, wild cherry, willow, cotoneaster, laurel and elder. Whilst a significant number, there is limited spacing between these trees and because of the lack of woodland management on the site, thinning works would be required in the future irrespective of this development. The tree survey report identifies many of the trees to be in decline and dieback and there is evidence of disease in the alder trees.

Whilst these trees together contribute to nature conservation, landscape character, local amenity and climate change adaptation and mitigation and form a semi-mature semi-natural woodland, and therefore their removal would conflict with Policy NE5, individually they are of insignificant value and not worthy of protection, particularly with respect to local landscape character and amenity. If this proposal is granted, the majority of the site would still remain tree covered. The impact to the health and greater value of the retained trees as they reach maturity would be positive. This would accord with the principles of Policy NE5 in the longer term.

To ensure that the trees to be retained are protected during construction, it is recommended that the planning permission be granted subject to a condition requiring the implementation of the recommended tree protection measures prior to and during construction.

SPP states that where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. Police Scotland recommends the provision of 'defensive planting' along the boundaries of the site. It is therefore recommended that planning permission be granted subject to a condition requiring appropriate compensatory planting of native species.

Whilst not fully compliant with SPP and Policy NE5, subject to appropriately worded conditions, the longer-term positive impact of the proposal to the trees to be retained and proposed replanting would outweigh the short term impact in terms of trees to be removed.

Natural Heritage

The proposal would remove several trees and the site is highly likely to contain nesting sites for wild birds, notably species such as robins, blackbirds, house sparrows and dunnocks. The Natural Heritage SG states that to comply with the Wildlife and Countryside Act 1998 developers should delay works that may affect breeding birds and their young to safeguard existing nesting sites. It must be noted that even if a bird survey was submitted establishing that there were no birds nesting at any given time during the breeding season, given they are a mobile species, it is entirely possible that birds could nest in the site during construction after the survey is undertaken. To ensure there is no disturbance, it is recommended that planning permission be granted subject to a condition requiring the works to be undertaken outside the nesting season for these birds (between the 15th March and the 31st of August).

There is evidence of badgers being sighted in the wider area. Badgers are a protected species under the *Protection of Badgers Act 1992* and due to the sensitivities surrounding the species, further details of this cannot be disclosed publicly as to do so would be potentially harmful to the badgers' safety and wellbeing. However, as there was no evidence of this protected species on the site, the proposal would not adversely impact badgers or their habitats and no mitigation measures would be required, in compliance with Policy NE8 and the associated Supplementary Guidance.

A bat roost potential assessment report was submitted with the application. There was no evidence of bats or bat roosts on the site and the given the absence of mature trees on the site, the trees were not considered to have bat roost potential. Whilst the proposal would remove trees which would have a moderate suitability for foraging and commuting bats, a significant number of trees would remain and therefore such a habitat would remain. The proposal would therefore not negatively affect bats or bat roosts, in compliance with Policy NE8 and the associated Supplementary Guidance.

Green Space Network Summary

Whilst the loss of trees would have a short term negative impact to the function and character of the Green Space Network, the proposal would improve the access and recreation value of the

space, and in the longer term would retain and enhance the wildlife landscape value of the space. Subject to appropriately worded conditions, the proposal would have negligible impact to natural heritage. On balance, the proposal would therefore be considered to comply with Policy NE1 – Green Space Network, its associated SG and SPP.

Matters Raised by Bridge of Don Community Council

The matters raised relating to the impact on the Green Space Network, trees and natural heritage have been addressed in the above evaluation and through appropriately worded conditions. This planning application accords with Policies T2 and T3 of the Aberdeen Local Development Plan with respect to improving transportation links and encouraging sustainable and active travel, as detailed in the above evaluation. Whilst no survey or model has been submitted with the application which projects the potential usage of the development by pedestrians/cyclists, an informal desire line path through the site demonstrates that this route is already being used.

The benefits of alternative cycle and pedestrian paths in the Bridge of Don community is noted. However, the Planning Authority is obliged to consider and determine the application which has been submitted based on the relevant national policies and the Aberdeen Local Development Plan.

Matters Raised by Transport Scotland

The Planning Authority has addressed matters raised by Transport Scotland in the appropriately worded condition.

Matters Raised by Police Scotland

The proposal accords with the majority of recommendations for new public paths raised by Police Scotland with respect to maximising passive and natural surveillance of the site. There will be the opportunity for 'defensive planting' through compensatory replanting and this would be satisfied through the condition.

It can be noted that the shared use path is only 3m in width, which is less than the minimum 5m width Police Scotland recommend. Given the significant the loss of open space and trees which would result from a path of such a width and a 3m wide path would be able support cycle and pedestrian use (with no concerns from Roads Development Management from a public safety perspective), the width is considered acceptable in this particular instance.

Matters Raised in the Letter of Representation

The Planning Authority must assess the merits of the proposal which has been submitted. This planning application accords with Policies T2 and T3 of the Aberdeen Local Development Plan with respect with respect to improving transportation links and encouraging sustainable and active travel, as detailed in the above evaluation.

The benefits of and 'demand' for other path links in the area, or moreover the requirement for developers of other sites to create new paths through developer obligations (as described in the Dubford Development Framework) is irrelevant to this planning application, and would be required to develop these other sites irrespective of the outcome of this planning application.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed shared use cycle and pedestrian path would create and improve a sustainable and active travel link and would enhance the access and recreation value of this open space and part of the Green Space Network, in compliance with Policies NE1 – Green Space Network T2 – Managing the Transport Impact of Development, NE9 – Access and Informal Recreation and Policy T3 – Sustainable and Active Travel of the Aberdeen Local Development Plan.

The proposed design would be acceptable in the context of the local landscape character, the majority of the site would remain as open space and its function as a soft landscape buffer between B&Q and Sparrows would be retained, in compliance with Policies D1 – Quality Placemaking by Design and Policies D2 – Landscape of the Aberdeen Local Development Plan. The formation of a footpath in an area of open space in an industrial estate would conform with the principles of Policy B1 – Business and Industrial Land of the Aberdeen Local Development Plan; and the ‘Green Space Network and Open Space’ Supplementary Guidance’.

The proposal would have a short term negative impact to the wildlife function and character of the Green Space Network because of the loss of trees. However, because of their limited individual value, the ill health of some of the trees and their lack of spacing, the removal of these trees would in the longer term allow those to be retained to grow to maturity which would enhance the contribution to nature conservation, landscape character, local amenity or climate change adaptation and mitigation of the trees to be retained and the character and function of this area of the Green Space Network. Subject to an appropriate replanting scheme, tree protection measures and ensuring no construction is undertaken during the bird nesting season, the proposal would not adversely affect the function and character of the Green Space Network. The longer term positive impacts would outweigh the short term negative impacts and therefore on balance the proposal is considered to comply with the principles of Scottish Planning Policy; Policies NE1 – Green Space Network, NE8 – Natural Heritage and NE5 – Trees and Woodlands of the Aberdeen Local Development Plan; and the Supplementary Guidance: ‘Trees and Woodlands’, ‘Green Space Network and Open Space’ and ‘Natural Heritage’.

CONDITIONS

Breeding Season

- 1) That no construction works associated with this development shall be carried out on site between the 15th March and the 31st August. Reason: To ensure the adequate protection of birds and their young, the wildlife and natural heritage of the Green Space Network.

Tree Protection

- 1) That no construction shall take place unless the tree protection measures in the tree protection plan and the tree survey report have been implemented in its entirety and that they shall remain in place until the development is completed. Reason: in order to ensure adequate protection for the trees on site during the construction of the development.

Replanting

- 2) That no construction shall take place unless a plan illustrating the new areas of native tree planting and ‘defensive planting’ on the site has been submitted to and approved in writing by the Planning Authority. All planting, seeding and turfing comprised in the approved scheme of replanting shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority. Reason:- in the interests of the green space network and the natural heritage of the area.

Materials

- 3) That no development shall take place unless a scheme detailing all external finishing materials to be used on the surface of the path hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed. Reason:- in the interests of visual amenity.

Transport Scotland

- 4) That no construction shall take place on site unless the details of the tie-in to the trunk road footway are approved by the Operating Company. Reason:- To ensure the integrity of the trunk road footway is not impaired.

ADVISORY NOTES FOR APPLICANT

Badgers

During construction work the applicant and/or the developer should remain vigilant for any signs of badgers. Should badgers or any sign of badgers be discovered, all work in that area should cease immediately and Scottish Natural Heritage (SNH) contacted for further advice (licensing@snh.gov.uk / 01463 725364).

For the purposes of development as defined under the Town and Country Planning (Scotland) Act 1997, licences are available from SNH for certain purposes to permit actions that might otherwise constitute an offence in relation to badgers or their setts. A licence must be obtained from SNH for work that may cause disturbance to a badger or involves the damage or destruction of a sett.

Licenses will not normally be issued during the breeding season (from the 30th November to the 1st of July). Developers should consider activities that may cause disturbance, damage or destruction to occur outside this period.

Transport Scotland

Transport Scotland advise that the applicant should contact the operating company and obtains approval of details of the tie-in to the trunk road footway and all other consents required, to ensure the integrity of the trunk road footway is not impaired.

The grant of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. The Route Manager can be contacted via: 01738 448600.

Police Scotland

They recommend that the developer liaise with the Police Scotland Architectural Liaison Officer service at each stage of the development, for the purpose of designing out crime using the principles of Crime Prevention through Environmental Design (CEPTED).

Tree Felling

It is recommended that tree felling avoids bird nesting season between the middle of March and the end of August.

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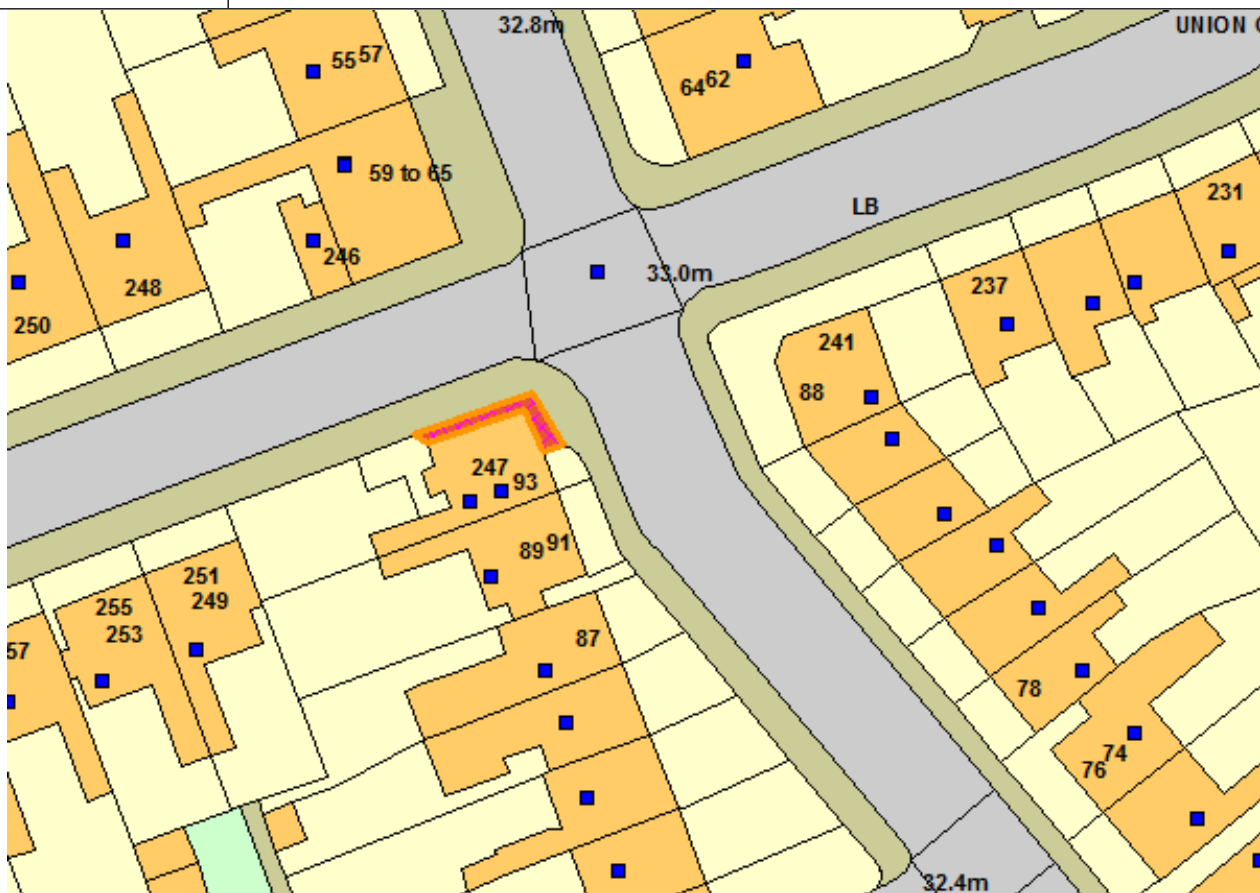


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 24 January 2019

Site Address:	245 Union Grove, Aberdeen, AB10 6SX.
Application Description:	Change of use of pavement to provide an external seating area outside the premises and installation of over window awnings
Application Ref:	181473/DPP
Application Type	Detailed Planning Permission
Application Date:	4 September 2018
Applicant:	Cafe Cognito
Ward:	Hazlehead/Ashley/Queens Cross
Community Council:	Ashley And Broomhill
Case Officer:	Sepideh Hajisoltani



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The proposal relates to the pavement area outside a 2 storey semi-detached property of traditional design and build located on a corner plot to the south west of the junction of Ashley Road and Union Grove. The unit is currently occupied by 'Cognito Deli' featuring a delicatessen, gin bar and multiple tables for brunch, dinner and light bites. At the time of writing, the business is currently closed. The application site is located within the Albyn Place/ Rubislaw Conservation Area. The pavement concerned is approximately 4.6m wide along Union Grove and 5.8m on Ashley Road.

Relevant Planning History

16272/DPP - planning permission for alterations to the shopfront was approved unconditionally in May 2017.

161368/ADV - Advertisement consent for installation of 4 no. fascia boards with 3D lettering, 5 no. spotlights and vinyl to windows and doors (retrospective) was approved unconditionally in April 2017.

170093/DPP - Detailed planning permission for change of use from Class 1 (Shops) to Class 3 (Food and Drink) (Retrospective) was approved conditionally in March 2017. A number of conditions were attached to the planning consent. These include a condition stating that the change of use permitted shall be solely for the internal space of the application unit and shall not cover any external space whatsoever.

170844/DPP- Detailed planning permission for change of use of garden to form outdoor seating area was refused in May 2018.

APPLICATION DESCRIPTION

Description of Proposal

Change of use of pavement to form outdoor seating area. The initial submission proposed a total of 18 chairs occupying the full extent of the pavement outside the premises to the north and east. However, following concerns raised by Roads Development Management on the proximity of the proposed seating area to the tactile paving on the public pavement next to the signalised junction crossing, the proposals were revised to reduce the area for outdoor seating (total of 6 tables and 12 chairs) so that the north east corner of the pavement would be kept free of seating at all times in the interest of pedestrian safety.

It is worth noting that this application is for the proposed change of use of the area to allow for outdoor seating and that any tables and chairs required to facilitate the outdoor seating would not be permanent fixtures and therefore do not constitute development and do not require consent. It is therefore the use of the area for seating, rather than the seating itself that requires to be assessed.

The proposal also includes installation of awnings over the windows on the Union Grove frontage and over the door on the Ashley Road frontage. Details of the awnings were also revised and traditional style manually operated drop-arm awnings are now proposed instead of the initial non-traditional proposal.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PDJQDPBZGMM00>

Reason for Referral to Committee

A total of 16 representations expressing objection to the proposal have been received and the application is being recommended for approval. Therefore, in accordance with the Council's Scheme of Delegation, the application has been referred to the Planning Committee for determination.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. A minimum of 2.3m clearance should be between the awnings and the pavements for Council Street Cleaning Vehicles. The development does not interfere with the visibility splay of Ashley Road/ Union Grove and would not pose any concerns in relation to road safety. The proposed outdoor seating would leave 3.5m of usable footway on the Union Grove side and 2.3m on Ashley Road. The amended proposal does not encroach the tactile paving on the junction and is acceptable.

ACC - Environmental Health – Comments received in relation to restriction of outdoor seating numbers to those indicated in the relevant proposal drawing and prohibition on amplified and non-amplified music in the outdoor area and that the outdoor area is not used after 22:00 hours – No objection.

Ashley and Broomhill Community Council – No comments received.

REPRESENTATIONS

A total of 36 letters of representation have been received (20 letters of support and 16 letters of objection). It should be noted that the details of the proposals has been amended (reduction in the number of tables and chairs and changes to the design of the awnings) since the application was originally submitted, advertised and neighbours notified. The matters raised can be summarised as follows:

1. Outdoor seating is a great opportunity for Aberdeen; more outdoor options are needed similar to what is offered in Glasgow or Edinburgh;
2. The proposal would boost the local economy and would attract investment in the area;
3. The café has enhanced the neighbourhood since opening;
4. There has been a precedent set by other nearby businesses (e.g. the bakers across the road);
5. Unlike national chains, local businesses offer good local produce and should be supported;
6. The busiest period for the café would likely to be evenings when traffic is reduced;
7. The owner should be allowed to use the back garden during the day;

In additions to the letters of support, 16 letters objecting to the application were also received. The objectors to the proposal noted that:

1. The seating would have a detrimental impact on pedestrian and road safety;
2. There has been multiple occasions of vehicular accidents at the junction and the area of seating has little protection;
3. The change of use would increase the amount of illegal parking (delivery vans and taxis serving the premises) in the area;
4. The proposals would exacerbate an existing lack of parking in the area;
5. Outdoor seating would increase litter and food spillage and would attract seagulls and vermin. The bins are constantly overflowing;
6. The proposal would increase noise pollution in the area; no noise impact assessment has been provided in support of the application;

7. Loss of privacy;
8. The seating area would be used as a smoking area. Given the proximity to local schools, young children would have to pass this area;
9. Outdoor consumption of alcohol is against all medical and government advice to curb consumption of alcohol and would set a bad example;
10. Café culture is not appropriate in residential areas. The area is well served by cafes and takeaways. The proposal is unnecessary for this location and should be reserved for city centre;
11. The proposal would increase activity by 40% with 18 new seats and would be an overdevelopment of the site;
12. The proposal would have detrimental impact on the character of the conservation area;
13. The proposal would set an undesirable precedent in the area;
14. Limited provision of toilet and kitchen facilities within the premises would be further stretched;
15. The owner of the café has previously had tables outside when their planning permission has expressly forbidden this;
16. The number of planning applications for this premises is worrying;
17. The owner recently failed to meet her statutory legal requirement for food hygiene at her nearby café.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

National Planning Policy and Guidance

- Scottish Planning Policy (SPP)
- Historic Environment Scotland Policy Statement (HESPS)

Aberdeen Local Development Plan (2017)

- Policy H1: Residential Areas
- Policy D1: Quality Placemaking by Design
- Policy D4: Historic Environment
- Policy NC6: Town District Neighbourhood & Commercial Centre
- Policy T2: Managing the Transport Impact of Development
- Policy T5: Noise

Supplementary Guidance and Technical Advice Notes

- Noise
- Shops and Signs
- Harmony of Uses

EVALUATION

Policy H1 Residential Areas

The application site lies within a residential area, as zoned in the Aberdeen Local Development Plan (ALDP). Policy H1 (Residential Areas) states “*Within existing residential areas, proposals for non-residential uses will be refused unless: 1. they are considered complementary to residential use; or 2. it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.*” Accordingly, a main factor in assessing the appropriateness of the proposed outdoor seating area is whether the proposed development would

have a detrimental impact on the character or amenity of the residential area. For the reasons set out below, the outdoor seating area is considered to be complementary to residential use and would not cause and significant nuisance to the enjoyment of the existing amenity and thus complies with the requirements of Policy H1.

Harmony of Uses Supplementary Guidance (SG)

The Harmony of Uses SG states the Council supports and encourages the provision of street cafés in areas where pavements are wide enough to accommodate them. The SG states further *“It is important that street cafes are properly designed, administered and managed to ensure that they meet the high standards expected in Aberdeen. They should not obstruct public space or create a hazard for pedestrians”*. In this case, sufficient width of pavement on both Ashley Road and Union Grove would remain and thus the principle of outdoor seating is acceptable.

The number of cafés already in the area and that such uses should be located in the city centre has been raised in the written representations. The number of cafés is not a relevant consideration unless an over-concentration leads to a significant adverse impact on amenity or undermines the primary residential function of the area. On St. Swithin Street, in addition to the application premises, there is Café Cognito, Coppa Coffee and The Hub. The next nearest café is The Long Dog Café on Claremont Street. It is not considered that these businesses represent an over-concentration in this locality; rather they contribute positively to the overall amenity of the area. Whilst the SG acknowledges the potential adverse impacts where a significant over-concentration occurs, it states that permission will be refused only where there would significant adverse impacts on residential amenity. As noted below, the proposal does not give rise to significant adverse impacts on amenity.

Policy NC6: Town District Neighbourhood & Commercial Centre

The Supplementary Guidance on Hierarchy of Centres identifies the application site as being located within the St. Swithin Street Neighbourhood Centre - a linear row of 10 units spread predominantly along the western side of St. Swithin Street/ Ashley Road with retail premises on the ground floor and residential accommodation above. Neighbourhood centres are preferred location for local retail, commercial leisure, community and cultural provision only. Policy NC6 states that the proposals for change of use will only be allowed only if:

1. The proposed alternative use makes a positive contribution to the vitality and viability of the centre;
2. The proposed alternative use will not undermine the principal function of the centre in which it is located;
3. The applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use);
4. The proposed use caters for a local need;
5. The proposed use retains or creates a live and attractive shop frontage;
6. The new use does not create clustering of a particular use in the immediate vicinity which would undermine the character and amenity of the centre or the well-being of communities; and
7. The alternative use does not conflict with the amenity of the neighbouring area.

In this instance the use of the ground floor unit as a café (Class 3 - Food and Drink) was approved under planning permission 170093/DPP. That permission limited the extent of the use to the indoor space only. It is noted that the approved Class 3 use has contributed to the vitality of the area.

The use of the pavement for this purpose would not have significant impact on the principal function of the Neighbourhood Centre. In this instance, the criteria within policy are not particularly relevant to the use of the pavement, as the unit is already in use. It is also noted that the existing small scale Class 3 use already caters for a local need and is also capable of attracting some customers from other parts of the city. It is also noted that determination of this application does not prejudice the continued operation of the Class 3 use.

In terms of impact on the amenity of the neighbouring area, it is noted that the Council's Environmental Health Team do not object to the proposal. Furthermore, it is likely that the seating area would predominantly be used during daylight hours and in good weather, so despite the opening hours, it may be that a certain times of the year, the area is not used at all. In terms of impact on privacy it is considered that the location and extent of the proposed seating area would not create an opportunity for overlooking into the neighbouring properties.

Policy D1: Quality Placemaking by Design

This policy states that all development must ensure high standards of design and will be expected to contribute towards creating successful places. The criteria used on assessing an application will be relevant to the scale, character and nature of the proposal. In this instance the proposal is for installation of awnings over the existing windows facing Union Grove and over the entrance door on Ashley Road. The proposal has been amended and the non-traditional awnings have been replaced with awnings of traditional design and manual operating method. The proposed awnings housing would be attached to the outside of the existing shopfront, immediately below the timber fascia, but due to its small size would not protrude beyond the granite pilasters or the fascia board and thus would not adversely affect the appearance of the building. They would be fully retractable in accordance with the guidance provided in the Supplementary Guidance on Shops and Signs.

Other elements of the proposal, the tables, chairs and planters, are ancillary to the use of the premises as a café and do not, in themselves, require consent as they would not be permanent structures. It is therefore the use of the area for seating, rather than the seating itself that requires consent. In this instance the identified area would provide seating for up to 12 customers, which is not considered to be excessive in this location and would not represent an over-development of the site. It is considered that the proposal accords with policy D1.

Policy D4: Historic Environment and Impact on the Character of the Conservation Area

This policy states that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, HESPS and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. The site is located within Albyn Place/ Rubislaw Conservation Area and the proposed awnings would be highly visible from both Union Grove and Ashley Road. However, it is considered that the proposed traditional awnings and the ancillary non-permanent outdoor seating would not result in a detrimental impact on the overall character of the conservation area and would not obscure any features of architectural or historic interest or importance.

The proposed area of outdoor seating would contain a relatively small number of tables and chairs which would not encroach on what could be considered to be the traditional pavement area of the street used for pedestrian access. The tables and chairs would not be permanent fixtures and a condition has been recommended to ensure that they would only be in situ during the operational hours of the outdoor seating area. It is considered that the use of the pavement area for outdoor seating for the existing café would be complementary to the existing character of the conservation area and the non-permanent street furniture would, by virtue of the small area proposed, have minimal physical impact on the appearance of the area. Therefore, the proposed would preserve the character and appearance of the conservation area, in accordance with Scottish Planning Policy and Policy D4 (Built Heritage).

Policy T2: Managing the Transport Impact of Development

The Road Development Management Team has not raised any objection to the proposal. The use of the café is already established and the outdoor seating area would provide space for a maximum of 12 customers, during peak times. That is not to say that these would be additional customers, or persons arriving by car. It is considered that the relatively small increase in custom that the seating area might bring is unlikely to have a significant impact on the existing on-street car parking situation,

where on-street parking controls are in place. If related to the Council's parking standards, the size of area for the seating (approximately 14-15sqm) would equate to only one additional parking space.

Policy T5: Noise

There will be presumption against noise generating developments. The Council's Environmental Health Team has been consulted to investigate whether or not the impact of the proposed seating area would pose a significant threat to the amenity of neighbouring residential properties. They have not objected but suggested that the hours of operation be restricted to ensure the seating area would not be in use beyond 2200 hours daily and that amplified music is not played. The first proposed restriction is considered a competent control measure to implement through use of planning condition. Furthermore, Environmental Health officers have requested that a condition should be added to ensure no amplified music is played outdoor. It is appropriate to limit the hours of operation by applying a condition to this planning application. However, it is considered to be appropriate to restrict the hours of operation for the outdoor seating area to 8.00pm on any given day, given the close proximity of the proposed seating to residential properties, in particular the residential flat on the upper floor of the building. It would not be appropriate to apply a condition preventing the playing of amplified music. This is due to the fact that such a condition would not appear to pass the tests as set out in Circular 4/1998 – The Use of Planning Conditions in Planning Permissions. In brief these are: Need; Relevance to Planning; Relevance to the Development to be Permitted; Ability to Enforce; Precision; and Reasonableness. In this case it is not considered that such a condition would be necessary, relevant to the planning permission sought, could not reasonably be monitored or enforced, or reasonable in other respects. As such it has been attached as an informative note.

Given the extent of the seating area and its location next to a busy and heavily trafficked thoroughfare and road junction, it is not considered the proposal would have a significant impact on the amenity of the nearest residential properties in terms of noise impact.

Other material planning considerations:

Pedestrian and Road Safety

The proposed area for outdoor seating area has been amended following officer's concern on the proximity of proposed furniture to the tactile paving at the junction. Accordingly, the total number of seats has been reduced from 18 to 12. A planning condition is recommended restricting the extent of the seating to the specific area identified on the drawings, to prevent it from extending beyond that area and thus ensuring that pedestrians are not impeded in using the pavement. A sufficiently wide area of pavement on both Ashley Road and Union Grove would remain and thus the proposal would not impact on pedestrian safety.

Roads Development Management has not raised any concerns with regard to road safety. The extent and location of the seating area are such that it would have no impact on vehicles (or their drivers) using the adjacent roads or the signalised junction.

Objections Raised in Representations

The majority of the concerns raised in the letters of objection are in relation to the impact of the outdoor seating area on road/pedestrian safety, parking provision and impact of the proposal on the character of the conservation area and residential amenity. Issues in this regard have been addressed in the foregoing evaluation. The remainder of the concerns raised can be addressed as follows:

- Item 3 relating to existing problems with unauthorised parking in the area is not a relevant material planning consideration for assessment of this application. Further, there is no evidence to indicate that the provision of outdoor seating would cause indiscriminate or illegal parking in the locality.

- Item 5 relating to the impact of the proposal on litter and food spillage is not a material planning consideration. Notwithstanding, it could reasonably be expected that the operator of the café would keep the area clean and tidy.
- Item 8 relates to the potential use of the outdoor seating area for smoking which is not a material planning consideration. Further, whether or not children would pass the seating area and observe people smoking is not a material planning consideration.
- Item 9 relates to the consumption of alcohol which is covered by separate legislation outwith the control of the planning system and therefore does not constitute material planning consideration in the determination of application.
- Item 13 relates to setting a precedent. All applications require to be assessed on their individual merits against the relevant policies of the development plan and other material considerations.
- Item 14 relating to the kitchen and toilet facility is not a material planning consideration.
- Item 15 relating to the previous unauthorised use of the pavement as outdoor seating area. This matter was been raised previously with the applicant. It is not relevant to the assessment and determination of this planning application.
- Item 16 - the number of planning applications for this site is not relevant to the assessment and determination of this planning application. All applications that are submitted for any property are assessed on their individual merits.
- Item 17 relating to the food hygiene in a nearby café owned by the applicant is not relevant to this application and is not a material planning consideration.

Full regard has been given to all concerns raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify further amendments to the plans or refusal of the application.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

Subject to conditions, the proposed use of the pavement for outdoor seating associated with the existing Class 3 (Food and Drink) establishment would not have a detrimental impact on either the amenity or character of the residential area, nor upon the character or appearance of the conservation area, in accordance with Scottish Planning Policy, Historic Environment Scotland Policy Statement and Policies H1 (Residential Areas), D1 (Quality Placemaking by Design), D4 (Historic Environment), NC6 (Town, District, Neighbourhood & Commercial Centre), T2 (Managing the Transport Impact of Development) and T5 (Noise) of the Aberdeen Local Development Plan (ALDP), as well as its associated Supplementary Guidance. There are no material planning considerations that would warrant refusal of consent in this instance.

CONDITIONS

- 1) That the area of the pavement to be used for outdoor seating shall be restricted solely to that as shown on approved drawing (011B) and that no tables or chairs shall be sited out with this area at any time. Reason- In the interest of pedestrian safety.
- 2) That the outdoors seating area hereby approved shall only be used between the hours of 8.00am and 8.00pm on any given day and that any tables, chairs and other street furniture for the purpose of, or associated with, facilitating outdoor seating shall be removed from the pavement out with the hours of operation for the outdoor seating area. Reason – In order to

protect the amenity of the neighbouring residential properties and the character and appearance of the conservation area.

INFORMATIVE

That no amplified music shall be played in the outdoor seating at any time.

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