

Public Document Pack



To: Councillor Boulton, Convener; Councillor Stewart, the Depute Provost, Vice-Convener; and Councillors Allan, Cooke, Copland, Cormie, Greig, MacKenzie and Malik.

Town House,
ABERDEEN 09 March 2022

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in **Council Chamber - Town House on THURSDAY, 17 MARCH 2022 at 10.00 am**. This is a hybrid meeting and Members may also attend remotely.

Members of the press and public are not permitted to enter the Town House at this time. The meeting will be webcast and a live stream can be viewed on the Council's website. <https://aberdeen.public-i.tv/core/portal/home>

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 AND TRANSPARENCY STATEMENTS

- 3.1. Members are requested to intimate any declarations of interest or connections

MINUTES OF PREVIOUS MEETINGS

- 4.1. Minute of Meeting of the Planning Development Management Committee of 17 February 2022- for approval (Pages 7 - 20)

COMMITTEE PLANNER

- 5.1. Committee Planner (Pages 21 - 22)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1. Detailed Planning Permission for the erection of a single storey extension with canopy to the rear at 105 Waterton Road Aberdeen (Pages 23 - 38)

Planning Reference – 211813

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

[Link.](#)

Planning Officer: Jemma Tasker

- 6.2. Detailed Planning Permission for the change of use from public house (sui generis) to 2no. hot food takeaways (sui generis); Installation of extract flues; formation of entrance door and alterations to a shop front with associated works - 690 - 692 King Street Aberdeen (Pages 39 - 62)

Planning Reference – 220097

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

[Link.](#)

Planning Officer: Jemma Tasker

- 6.3. Detailed Planning Permission for the change of use from pavement and installation of raised decking to form an outdoor seating area with access ramp (retrospective) - 106 -108 Forrest Avenue Aberdeen (Pages 63 - 82)

Planning Reference – 220015

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

[Link.](#)

Planning Officer: Gavin Evans

DATE OF NEXT MEETING

- 7.1. Thursday 21 April 2022 at 10am

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

Website Address: aberdeencity.gov.uk

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 29.11 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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ABERDEEN, 17 February 2022. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Stewart, the Depute Provost, Vice Convener; and Councillors Allan, Cooke, Copland, Cormie, Greig, MacKenzie and Malik.

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

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 20 JANUARY 2022

1. The Committee had before it the minute of the previous meeting of 20 January 2022, for approval.

The Committee resolved:-

to approve the minute as a correct record.

COMMITTEE PLANNER

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

The Convener advised that in relation to the Pre Determination Hearing for the proposed development at Tillyoch, that it would now be held after the Local Government election and a determination would be made at a subsequent meeting of Planning Development Management Committee.

The Committee resolved:-

to note the update provided in regard to the Pre Determination Hearing and the information contained in the Committee business planner.

LAND AT FORMER CULTS RAILWAY STATION ABERDEEN - 211587

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

That the application for detailed planning permission for the installation of a takeaway food kiosk and outdoor seating area with decking, including change of use (partly retrospective) (Temporary for 18 months) at land at former Cults Railway Station Aberdeen, be approved subject to the following conditions:-

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Conditions

1. Planning permission is hereby granted for a temporary period only and shall cease to have effect and lapse (excepting the effect of condition 2) on 31st July 2024 (the 'cessation date'). Prior to the cessation date, the use hereby permitted shall cease, the application site shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992) and the application site shall be reinstated in accordance with the agreed restoration scheme submitted to and approved in writing by the planning authority under the terms of condition 2 of this permission.

Reason: To ensure the building is used for a temporary period in terms of the Supplementary Guidance: Temporary Buildings and minimise the impact on the amenity of the surrounding area and to ensure the appropriate restoration of the site.

2. Within two months prior to the cessation date of 31st July 2024, full details of a scheme for the restoration of the application site shall be submitted to and approved in writing by the Planning Service. Prior to the cessation of this permission the site shall be restored in accordance with the approved restoration scheme.

Reason: To ensure the timeous and appropriate restoration of the site following the expiry of this temporary permission, in the interests of the visual amenity of the area.

3. That within one month of the date of this permission, the cycle storage facilities as shown on drawing no. 1003 Rev B (Site Plan – Proposed) shall be provided and retained for the duration that the building is located on site.

Reason - in the interests of encouraging more sustainable modes of travel.

4. That no cooking or frying operations (including but not limited to: deep fat frying, shallow frying, oven cooking, boiling, stewing, grilling, or broiling) shall be carried out on the premises.

Reason: in order to protect the amenity of neighbouring uses from cooking odours.

5. That the use hereby granted planning permission shall be undertaken in accordance with the details outlined in the Litter Management Plan (Section 6.8 of the approved Design Statement), unless otherwise agreed in writing by the Planning Authority.

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Reason - In order to ensure suitable waste storage and collection arrangements are in place, including appropriate facilities for customers and to protect public health and the amenity of the area.

6. That the use hereby approved shall not operate outwith the times in the following days and months: a. In the months of April to September (inclusive) in any given year the use hereby approved shall not operate outwith the hours of 08:00 to 19:00 Monday to Thursday or outwith the hours of 08:00 to 20:00 Friday to Sunday. b. In the months of October to March (inclusive) in any given year the use hereby approved shall not operate outwith the hours of 08:00 to 17:00 Monday to Saturday and 09:00 to 17:00 on a Sunday.

Reason: In order to preserve the amenity of neighbouring properties.

The Committee heard from Gavin Clark, Senior Planner, who spoke in furtherance of the application and answered various questions from members. Mr Clark advised that in relation to conditions 1 and 2, that the date should state 31st July 2023 and not 31st July 2024.

The Committee resolved:-

to approve the application conditionally and to amend the date in condition 1 and 2 to 31st July 2023.

36 RAEDEN CRESCENT ABERDEEN - 210972

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

That the application for detailed planning permission for the erection of a single storey extension to the rear at 36 Raeden Crescent Aberdeen, be approved subject to the following condition:-

Condition

1. That no construction related to the extension shall take place unless finalised details of the finishing materials to the walls and roof of the development have been submitted to and approved in writing by the planning authority. Thereafter, the development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding area.

The Committee heard from Roy Brown, Planner, who spoke in furtherance of the application and answered questions from members.

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The Committee resolved:-

to approve the application conditionally.

15 MABERLY STREET ABERDEEN - 210697

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

That the application for detailed planning permission for the redevelopment of an existing site for erection of 17 residential flats over 4 storeys including demolition and all associated works at 15 Maberly Street Aberdeen, be approved subject to the following conditions and with a legal agreement:-

Conditions

1.Noise Assessment Mitigation Measures

The flats hereby approved shall not be occupied unless the specific noise mitigation measures have been installed in complete accordance with the Noise Impact Assessment carried out by AVAL (ref. 91407 rev. D) dated 12 Jan 2022, or such other mitigation measures as may be agreed in writing with the Planning Authority. The measures once installed, shall be retained in perpetuity.

Reason: In the interests of the residential amenity of occupants.

2.Dust Management Plan

No works in connection with the development hereby approved (including demolition) shall take place unless a Dust Management Plan has been submitted to and approved in writing by the Planning Authority. Any mitigation measures highlighted within this plan shall be implemented and retained in full for the duration of the demolition process.

Reason: In the interests of existing residential amenity.

3. Contaminated Land

No works in connection with the development hereby approved (other than the demolition of the existing buildings) shall commence unless an investigation of the site has been undertaken in accordance with Planning Advice Note 33 ‘Development of Contaminated Land’ and BS 0175:2011+A2:2017 - ‘Investigation of Potentially Contaminated Sites – Code of Practice’ and a report of that investigation has been submitted to and approved in writing by the Planning Authority. The investigation report shall include the following:

1. an investigation to determine the nature and extent of contamination;
2. a site-specific risk assessment;
3. a remediation plan to address any significant risks and ensure the site is fit for the use proposed; and
4. verification protocols to demonstrate compliance with the remediation plan.

Where it is determined by the site investigation report that remediation of the site is required no works in connection with the development hereby approved (other than the demolition of the

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existing buildings) shall commence unless a remedial scheme has been submitted to and approved in writing by the planning authority. The development hereby approved shall not be brought into use unless the approved scheme of remediation has been carried out in its entirety and a validation report has been submitted to and approved in writing by the planning authority. Any areas of hardstanding, clean cover or other such barriers within the application site boundary that are included within the approved scheme of remediation and are required to break one or more pollutant linkages shall be permanently retained as such and shall not be disturbed without the prior written approval of the planning authority.

Reason: In order to ensure any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

4. Surface Water Drainage

No development shall take place pursuant to this permission unless the proposed surface water drainage system for the site has been submitted to and approved in writing by the Planning Authority. This shall include details of surface water SUDS measures and associated maintenance measures as required on site. The building hereby approved shall not be occupied unless the approved surface water drainage system has been implemented in full and is permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

5. Landscape and Amenity Space

No development pursuant to the planning permission hereby approved shall take place unless a detailed scheme of landscaping and amenity space for the site has been submitted to and approved in writing for the purpose by the Planning Authority. This scheme shall include details of the proposed grassed / herbaceous areas, areas of any tree/shrub / climbing planting including details of numbers, densities, locations, species, sizes, stage of maturity at planting and establishment / protection measures and management arrangements. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any planted areas which within a period of 5 years from the completion of the development, are removed or become seriously damaged shall be replaced in the next planting season with others of an extent 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 protection of the amenity of the area and ensure a suitable landscape treatment and amenity for occupants.

6. Carbon Neutrality / Water Saving

No development shall take place pursuant to this permission unless an Energy and Water Saving Statement for the building has been submitted to and approved in writing by the Planning Authority. The Energy Statement shall include the following items:

- a) Full details of the proposed water efficiency measures and renewable technologies to be incorporated into the development;
- b) Calculations using the SAP or SBEM methods which demonstrate that the reduction in

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carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy R7 of the Aberdeen Local Development Plan 2017.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy and Water Saving Statement. The carbon and water reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions and water efficiency required in Scottish Planning Policy and Policy R7 of the Aberdeen Local Development Plan 2017.

7. Cycle Store

No development shall take place pursuant to this permission unless details of secure cycle storage for occupants has been submitted to and approved in writing by the Planning Authority. The flats hereby approved shall not be occupied unless the cycle storage facilities as shown on drawing no. 3359 PL-05 C, or such other drawings as may be approved, have been provided and are demonstrated to be secure/lockable, via submission of such details.

Reason: In the interests of encouraging more sustainable modes of travel and the objective of ALDP policy T2.

8. Granite Re-use

No development shall take place pursuant to this planning permission, nor shall any demolition works commence, unless a scheme for the sensitive doughtaking, storage and subsequent re-use on site of granite walling within the site has been submitted to and agreed in writing by the planning authority. Thereafter, the development shall be implemented in complete accordance with the approved scheme.

Reason: In order to secure appropriate re-use of granite within the development in accordance with the expectations of ALDP policy D5 and sustainability objectives.

9. Boundaries

No development shall take place pursuant to this planning permission, nor shall any demolition works commence, unless a detailed scheme for the retention and alteration of the existing granite boundary walls has been submitted to and approved in writing by the Planning Authority. The development hereby approved shall not be occupied unless such scheme as may be approved and the plot / boundary enclosures as shown on drawing 3359 -18, or such other drawing as may be approved in writing by the Planning Authority have been implemented in their entirety, unless otherwise agreed in writing.

Reason: In the interest of visual and residential amenity / privacy and to ensure a satisfactory finish of the development.

10. Construction Details

No development shall take place pursuant to this planning permission unless construction details of the proposed dormer windows; rainwater goods; external vents / ducts; entrance

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recess; the proposed zinc / blank infill panels and the window / door reveals on the building facades, including detailed cross sections demonstrating the relationship with masonry, have been submitted to, and approved in writing, by the Planning Authority. For the avoidance of doubt all ventilation pipes and services shall be directed to the rear of the building / roof and any interventions on the granite façade shall be minimised. Thereafter the development shall be carried out in accordance with the details so agreed.

Reason: In the interest of visual amenity and to ensure a satisfactory finish of the development.

11. Pedestrian Access

No development shall take place pursuant to this planning permission unless a detailed scheme for the removal of the existing redundant site access and footway reinstatement at the site frontage has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, the existing granite kerbs shall be reused.

Reason: In the interests of encouraging more sustainable modes of travel and the objective of sustainable development and ALDP policy T2.

12. Bin Storage

The flats hereby approved shall not be occupied unless provision has been made within the application site / adjacent premises controlled by the applicant for refuse disposal and recycling facilities in accordance with a scheme which has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt such storage shall include suitable ventilation and wash down / drainage facilities.

Reason: In order to preserve the amenity of the neighbourhood and in the interests of public health.

The Committee heard from Robert Forbes, Senior Planner who spoke in furtherance of the application and answered various questions from members. Mr Forbes advised that a late objection to the application had been received from SEPA and as a result the recommendation for the application was to be amended.

The Committee resolved:-

to defer determination of the application, pending resubmission of a flood risk assessment and delegate authority to the Interim Chief Officer – Strategic Place Planning to issue approval conditionally if the SEPA objection is removed and the legal agreement is concluded.

SITE TO THE NORTH OF KFC, INTOWN ROAD, BRIDGE OF DON ABERDEEN - 211453

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

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That the application for detailed planning permission for the erection of a coffee shop with drive thru, (sui generis) and associated infrastructure and landscaping works at site to the north of KFC, Intown Road, Bridge of Don Aberdeen, be approved subject to the following conditions:-

Conditions

1. CAR PARKING

That the development hereby approved shall not be brought into use unless the car and motor cycle parking areas hereby granted planning permission have been constructed, laid-out and demarcated in accordance with drawing No. P(00) 003 Rev PO1 (Proposed Site Plan) of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars and motorcycles ancillary to the development and use thereby granted approval.

Reason: In the interests of public safety and the free flow of traffic and to ensure compliance with Policy T2 (Managing the Transport Impact of Development) of the Aberdeen Local Development Plan and the associated 'Transport and Accessibility' Supplementary Guidance.

2. ELECTRIC VEHICLE CHARGING POINTS

That prior to development commencing on site, details of the type of electric vehicle charging stations to be installed in association with the 2 EV car parking spaces identified on drawing No. P(00) 003 Rev PO1 (Proposed Site Plan) have been submitted to and approved in writing by the planning authority, and thereafter the charging stations are installed in accordance with the agreed detail prior to the use hereby approved commencing.

Reason: In order to encourage the use of electric vehicles and comply with the Council's 'Transport and Accessibility' Supplementary Guidance.

3. CYCLE PARKING (SHORT AND LONG STAY)

That the development hereby granted planning permission shall not be brought into use unless the secure cycle storage and parking facilities identified on drawing No. P(00) 003 Rev PO1 (Proposed Site Plan) of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority have been fully installed and made available for use.

Reason: In the interests of encouraging sustainable travel, as required by Policy T3 (Sustainable and Active Travel) of the Aberdeen Local Development Plan.

4. TRAVEL PLAN

That the coffee shop hereby granted planning permission shall not be occupied unless full details of a Staff Travel Plan which includes an overarching aim, outlines

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sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, realistic modal share targets and a series of measures to obtain these targets as set out in an Action Plan, are submitted to and agreed in writing by the planning authority and thereafter the Travel Plan is implemented in accordance with the approved details.

Reason: In order to encourage the use of alternative and sustainable modes of travel, as required by Policy T3 (Sustainable and Active Travel) of the Aberdeen Local Development Plan.

5. LANDSCAPING SCHEME

That all soft and hard landscaping proposals shall be carried out in accordance with drawing No. 0001 Rev D (Proposed Landscape Layout) and drawing No. 0002 Rev C (Proposed Planting Plan) of the plans hereby approved or such other drawing(s) as may subsequently be submitted and approved in writing by the planning authority, with all planting, seeding and turfing carried out in the first planting season following the completion of the development. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works, including all boundary treatment, shall thereafter be permanently retained.

Reason: In the interests of the visual amenity of the area.

6. CARBON REDUCTION AND WATER EFFICIENCY

The building hereby granted planning permission shall not be occupied unless an Energy Statement and Water Efficiency Statement applicable to that building has been submitted to and approved in writing by the planning authority, and thereafter any measures agreed within that submission have been implemented in full.

The Energy Statement shall include the following:

- Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development; and
- Calculations using the SAP or SBEM methods which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy R7 of the Aberdeen Local Development Plan.

The Water Efficiency Statement shall include details of all proposed water saving technologies and techniques, along with evidence that the required BREEAM standard has been achieved.

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Reason: To ensure the development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy R7 of the Aberdeen Local Development Plan.

7. RESTRICTED USE

That no cooking/frying operations or hot food preparation shall be carried out on the premises of the coffee shop hereby approved other than the re-heating of pre-cooked produce by means of a microwave oven.

Reason: In the interests of the amenity of the surrounding area and in the absence of a suitable commercial Local Extract Ventilation (LEV system), the premises are considered unsuitable for unrestricted Class 3 uses.

The Committee heard from Jane Forbes, Planner who spoke in furtherance of the application.

The Committee resolved:-

to approve the application conditionally.

536 GREAT WESTERN ROAD ABERDEEN - 211633

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

That the application for detailed planning permission for the installation of broadband antenna (retrospectively) at 536 Great Western Road, be approved subject to the following condition:-

Condition

Exact Colour of Broadband Antenna and Cable Conduit

1. Within 1 month of the date of the granting of planning permission, details of the exact colour of grey to be used for the painting of the approved installed broadband antenna and cable conduit shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the painting of the broadband antenna and cable conduit shall take place within 2 months of the date the colour is agreed.

Reason – to preserve the character and appearance of the building and the conservation area.

The Committee heard from Aoife Murphy, Senior Planner, who spoke in furtherance of the application and answered questions from members.

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The Committee resolved:-

to approve the application conditionally.

WEST CULTS FARM, WEST CULTS ROAD ABERDEEN - 211490

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

That the application for planning permission in principle for the erection of a dwelling house at West Cults Farm, West Cults Road Aberdeen, be refused for the following reasons:-

1. That the application site lies within the Green Belt, and the proposal is for a new additional dwelling. Additional dwellings are not permitted through any of the exceptions set out in Policy NE2 (Green Belt) of the 2017 Aberdeen Local Development Plan, or policy NE1 (Green Belt) of the 2020 Proposed Development Plan. The proposed development is therefore contrary in principle to Green Belt Policy. There are no other material planning considerations that would justify a departure from these policies;
2. That the application site contains a number of mature and semi-mature trees. To enable assessment of the proposal on these trees, additional information in the form of a tree survey, tree protection plan and arboricultural impact assessment is required. This information has not been provided, and there is thus insufficient information to assess the impact of the proposed development on the existing tree stock within the site. The development proposal is thus considered contrary to the requirements of policy NE5 (Trees and Woodlands) of the 2017 Aberdeen Local Development Plan; policy NE5 (Trees and Woodlands) of the 2020 Proposed Local Development Plan and Supplementary Guidance on Trees and Woodlands;
3. That the application site is located within the Green Space Network; and is considered suitable as bat habitat and has the potential to offer habitat to other protected species. To enable assessment of the impact of the proposal on the Green Space Network, European protected species (including bats), and potentially other protected species, additional information by means of an Ecological Impact Assessment including a preliminary bat roost assessment is required. This information has not been provided, and there is thus insufficient information to assess the impact of the proposed development on the Green Space Network; European and other protected species and their habitats. The development proposal is thus considered contrary to the requirements of policies NE1 (Green Space Network) and NE8 (Natural Heritage) of the 2017 Aberdeen Local Development Plan; and policies NE2 (Green & Blue Infrastructure) and NE3 (Our Natural Heritage) of the 2020 Proposed Local Development Plan;
4. That part of the application site is located in an area liable to flooding as shown on the SEPA flood risk maps. To establish the potential of flooding of the proposed development, additional information by way of suitable supporting information and potentially a flood risk assessment is required. This information has not been provided, and there is thus insufficient information available to assess the proposed development in terms of flood risk. The development proposal is thus considered contrary to the

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requirements of policy NE6 (Flooding, Drainage and Water Quality) of the 2017 Aberdeen Local Development Plan and policy NE4 (Our Water Environment) of the 2020 Proposed Local Development Plan;

5. That due to the change in levels between the application site and the location of the proposed vehicular access onto West Cults Road, levels survey information is required to enable assessment of the works required to construct the driveway and its visual impact on the character and amenity of the surrounding area. This information has not been provided, and there is thus insufficient information to establish the extent of engineering works and their impact on the character and amenity of the surrounding area, contrary to the requirements of policy D1 (Quality Placemaking by Design) and T2 (Managing the Transport Impact of Development) of the 2017 Aberdeen Local Development Plan; policy D1 (Quality Placemaking) of the 2020 Proposed Local Development Plan; and Supplementary Guidance on Transport and Accessibility.

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

The Committee resolved:-

to refuse the application.

BANK COTTAGE, 6 SUNNYBANK ROAD ABERDEEN - 211702

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

That the application for detailed planning permission for the erection of a shed to the rear (partly retrospectively) at Bank Cottage, 6 Sunnybank Road Aberdeen, be refused for the following reasons:-

The proposal failed to consider the context of the site and its surrounding area, and on the basis that the shed would occupy a prominent location within the rear curtilage and, from a design perspective, failed to relate to the original dwelling or surrounding area, it was considered that such development would be incompatible with the original dwelling, and have an adverse effect on the character of the existing built environment. The proposal was therefore considered to be contrary to the requirements of Policies CF1 (Existing Community Sites and Facilities) and D1 (Quality Placemaking by Design) of the adopted Aberdeen Local Development Plan 2017; the Supplementary Guidance: 'The Householder Development Guide'; and Policies CF1, D1 and D2 of the Proposed Aberdeen Local Development Plan 2020.

The proposal would fail to preserve the character and appearance of the Old Aberdeen Conservation Area in line with the legislative requirements of Scottish Planning Policy and Historic Environment Policy Scotland and would therefore also fail to address the requirements of Policy D4 (Historic Environment) of the adopted Aberdeen Local Development Plan 2017 and Policy D6 of the Proposed Aberdeen Local Development Plan 2020.

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Taking the above into account and following on from the evaluation under policy and guidance, it was considered that there were no material planning considerations of sufficient weight that would warrant approval of the application in this instance.

The Committee heard from Jemma Tasker, Planner, who spoke in furtherance of the application and answered various questions from members.

The Convener moved, seconded by the Vice Convener:-

that the application be approved as on balance the Development was considered to be in accordance with Policies D1 and D2 in that despite its prominence in the street scene the design and materials are such that they would be compatible with the location within the conservation area subject to a further condition requiring details of landscaping and sedum roof to soften the visual impact from public viewpoints.

Councillor Greig moved as an amendment, seconded by Councillor Cooke:-

that the application be refused in line with the officer recommendation.

On a division, there voted:- for the motion (4) – the Convener, the Vice Convener and Councillors MacKenzie and Malik – for the amendment (5) – Councillors Allan, Cooke, Copland, Cormie and Greig.

The Committee resolved:-

to adopt the amendment and therefore refuse the application.

SCOTTISH GOVERNMENT CONSULTATION ON THE DRAFT NATIONAL PLANNING FRAMEWORK 4 (NPF4) - PRESENTATION BY CLAIRE MCARTHUR

10. The Committee heard from Claire McArthur, Team Leader, who provided a presentation in relation to the Scottish Government consultation on the draft National Planning Framework 4 (NPF4).

Ms McArthur explained that the document was currently out for consultation and officers from across the Council were currently working hard behind the scenes to prepare a response to the consultation questions.

The first National Planning Framework was published in 2004, and had since been reviewed twice, with NPF3, published in 2014, serving as the current iteration. The NPF was a long-term plan prepared by the Scottish Government that set out where development and infrastructure was thought to be needed.

The Draft NPF4 was published in late 2021 and focused on an approach to planning and development to try and help to achieve a net zero, sustainable Scotland by 2045. Ms McArthur advised that this aim was different to previous versions which focused on facilitating development and on economic growth.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

17 February 2022

Ms McArthur indicated that the Draft NPF4 published by Scottish Government in late 2021 was described as a bold ambitious strategy for our future places. It set out a vision for Scotland in 2045 and a long-term Spatial Strategy for the whole country. It also included a number of National Planning Policies and, although currently not available, it was noted that the final version of the document would also be underpinned by a clear delivery programme.

Ms McArthur provided details on the timeline of the process over the next few months towards the eventual adoption of the document and explained that the Scottish Parliament would consider the draft document for a period of up to 120 days, and the Interim Chief Officer – Strategic Place Planning, David Dunne, last week gave verbal evidence to the Local Government, Housing and Planning Committee as part of that process. Alongside the Parliament's process the Scottish Government was also publicly consulting on the document until the 31st March 2022.

Ms McArthur concluded that the intention of the Government was to bring back a revised version of the NPF for Parliament to approve before the upcoming summer recess and until then, the current National Planning Framework (NPF3) and Scottish Planning Policy (SPP) remain in place.

The Convener thanked Ms McArthur for her informative presentation and asked that the slides from the presentation be shared with members.

- **Councillor Marie Boulton, Convener**

	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			17 March 2022						
4	106 Forrest Avenue (Nargile) - 220015	To approve or refuse the application for change of use from pavement and installation of raised decking to form an outdoor seating area with access ramp (retrospective)	On agenda	Gavin Evans	Strategic Place Planning	Place	1		
5	105 Waterton Road - 211813	To approve or refuse the application for erection of single storey extension with canopy to rear	On agenda	Jemma Tasker	Strategic Place Planning	Place	1		
6	690-692 King Street - 220097	To approve or refuse the application for change of use from public house to 2 hot food takeaways	On agenda	Jemma Tasker	Strategic Place Planning	Place	1		
7			21 April 2022						
8	Prime Four Development Framework	Updated DF for the remaining part of Prime Four Business Park		Laura Robertson	Strategic Place Planning	Place	1		
9	OP51, Peterculter - 190314	To approve or refuse the proposed residential development including mix of private, affordable and retirement housing consisting of approximately 49 homes with associated access roads and landscaping.		Gavin Evans	Strategic Place Planning	Place	1		
10			Future applications to PDMC (date of meeting yet to be finalised).						
11	Orchard Cottage, 1 The Orchard	To approve or refuse the application for replacement windows		Dineke Brasier	Strategic Place Planning	Place	1		
12	Queens Link Leisure Park - 211715	To approve or refuse the application for proposed drive thru restaurant/ take away		Robert Forbes	Strategic Place Planning	Place	1		
13	Wellington Road Cove - 211072	To approve or refuse the application for residential development (27 units)		Robert Forbes	Strategic Place Planning	Place	1		
14	56 Park Road - 211224	To approve or refuse the application for erection of 47 flats		Robert Forbes	Strategic Place Planning	Place	1		

	A	B	C	D	E	F	G	H	I
	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
2									
15	Millbank House - 211430	To approve or refuse the application for conversion to form 10 flats		Robert Forbes	Strategic Place Planning	Place	1		
16	Former Treetops Hotel site - 211528	To approve or refuse the residential development of 89 units (including 25% affordable) comprising 54 houses and 35 flats over 3, 4 and 6 storey blocks and associated roads and parking, drainage infrastructure, open space and landscaping.		Matthew Easton	Strategic Place Planning	Place	1		
17	Wallace Tower - DPP and LBC 211613 and 211657	To approve or refuse the application for Change of use from residential dwelling (class 9) to mixed use (class 3 and 4) including community cafe and ancillary office accommodation; erection of 2 storey extension to form additional seating areas to cafe; formation of access ramp, external seating area and erection of bin store with associated hard and soft landscaping works		Dineke Brasier	Strategic Place Planning	Place	1		
18	26 Hollybank Place - 211807	To approve or refuse the application for demolition of an existing commercial unit and erection of 11 no. residential apartments over 4 storey with associated hard and soft landscaping works		Roy Brown	Strategic Place Planning	Place	1		
19	Aberdeen Grammar School FP's Club, 86 Queens Road - 211806	To approve or refuse the application for erection of 3no. villas, 4no. apartments and 2no. maisonette apartments with associated works		Jane Forbes	Strategic Place Planning	Place	1		
20	Aberdeen Local Development Plan 2022 – Draft Aberdeen Planning Guidance: Masterplans and Planning Briefs			Andrew Brownrigg	Strategic Place Planning	Place	4 and 5		
21	PRE APPLICATION FORUM - Causewayend Bridge of Don - 201365 - date to be confirmed.	To hear from the applicant in relation to an application for Major residential development of approximately 350 units (at least 25% affordable) with associated infrastructure, open space and landscaping		Gavin Evans	Strategic Place Planning	Place			
22	PRE DETERMINATION HEARING - Tillyoch - 211699 - Wednesday 1 June 2022	Residential development (circa 250 units) with associated infrastructure, open space, landscaping and community facilities.		Aoife Murphy	Strategic Place Planning	Place			

Planning Development Management Committee



Erection of single storey extension with
canopy to rear

105 Waterton Road

Detailed Planning Permission
211813/DPP

Location Plan

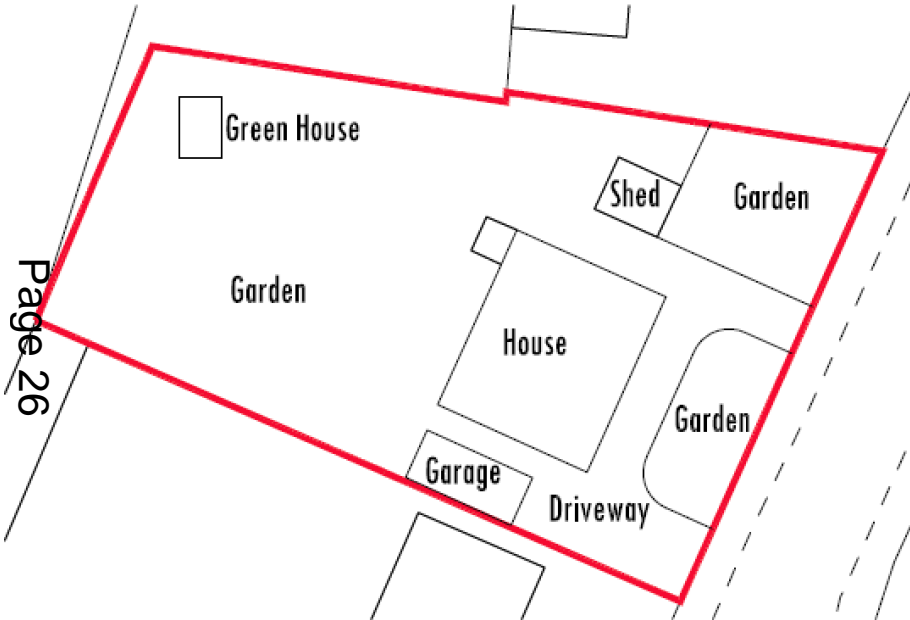


Aerial Photo

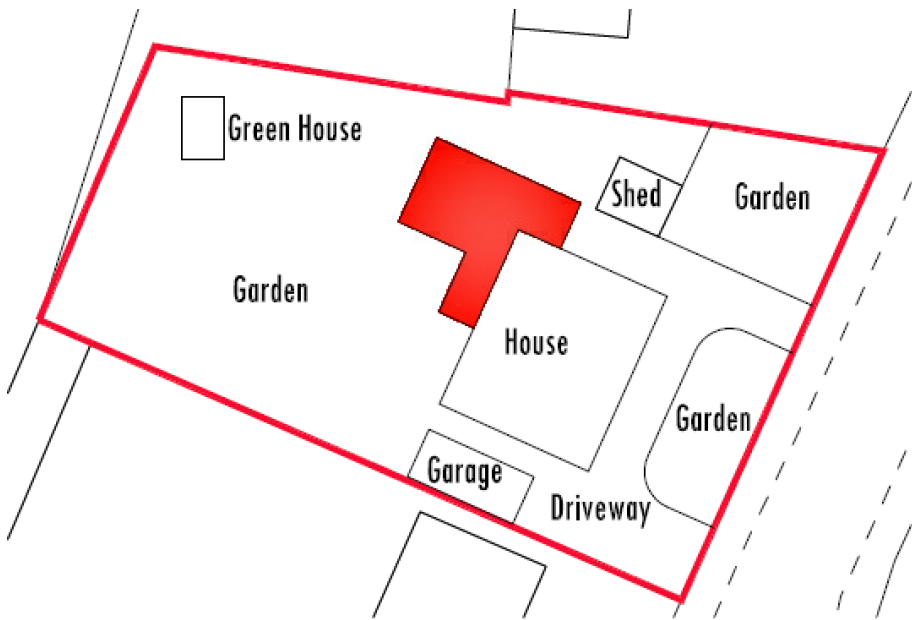


Existing & Proposed Site Plans

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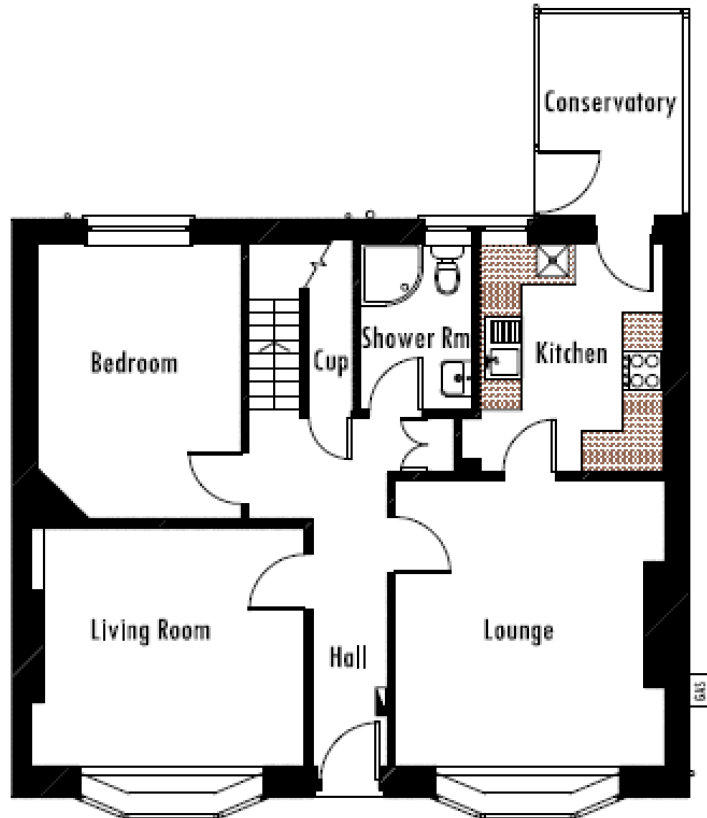
Existing Site Plan



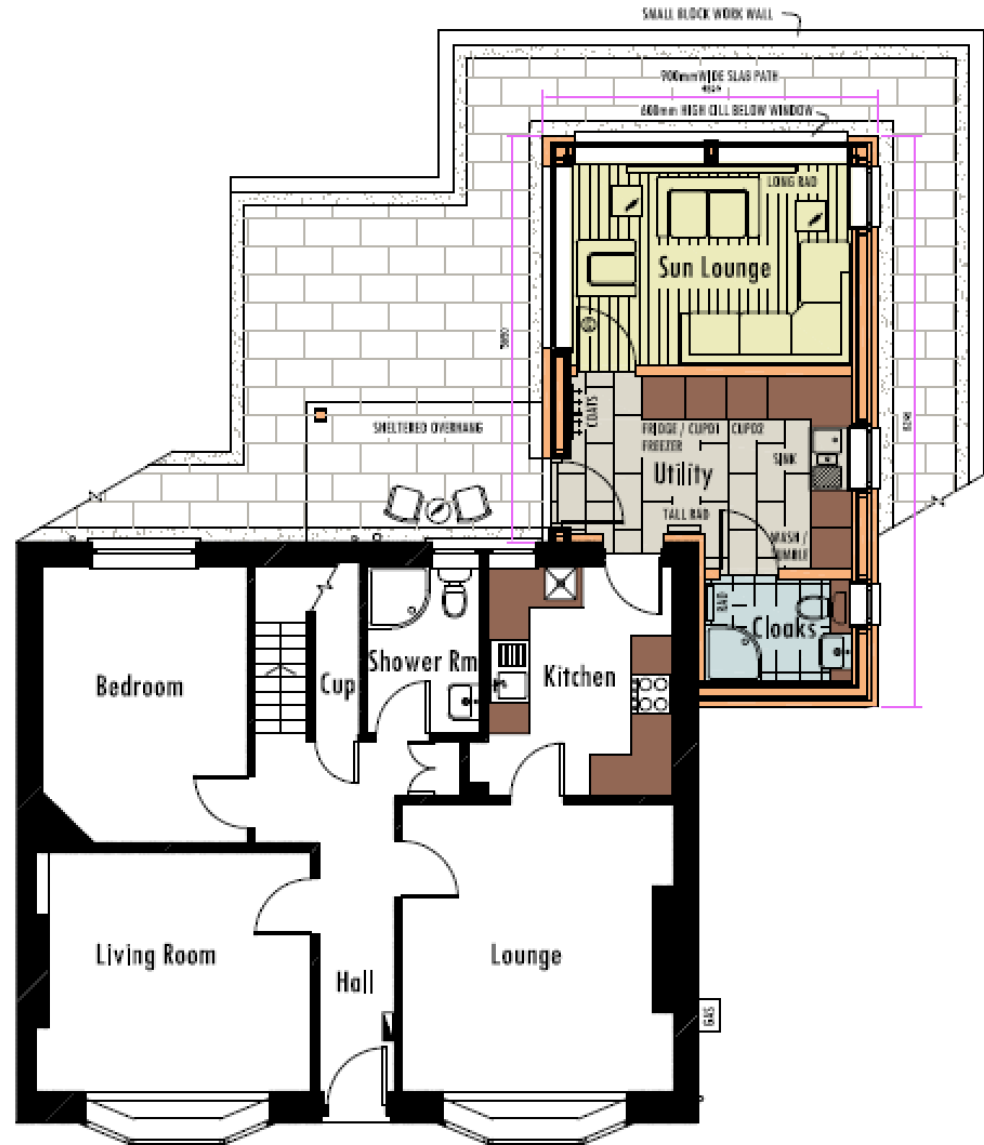
Proposed Site Plan

Existing & Proposed Floor Plans

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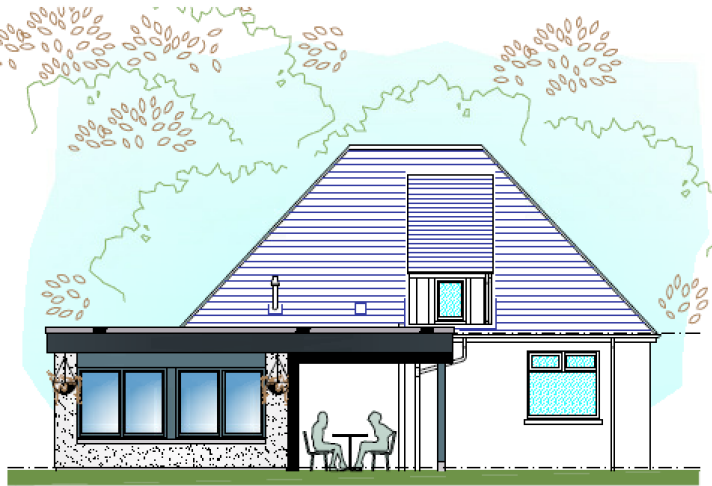
Existing Floor Plan



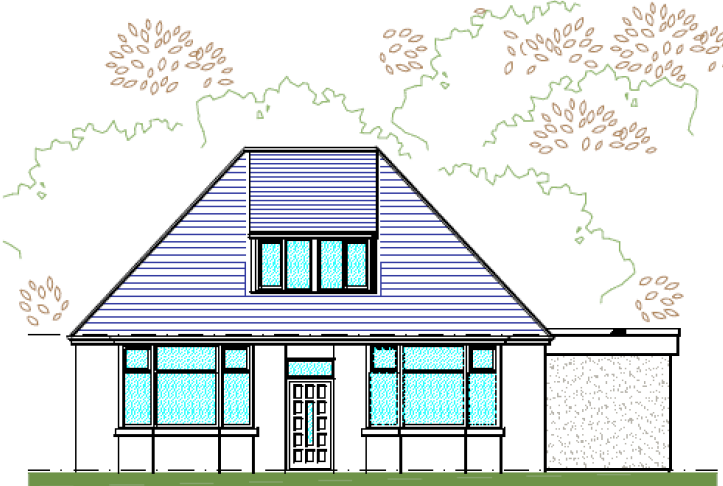
Proposed Floor Plan

Proposed Elevations

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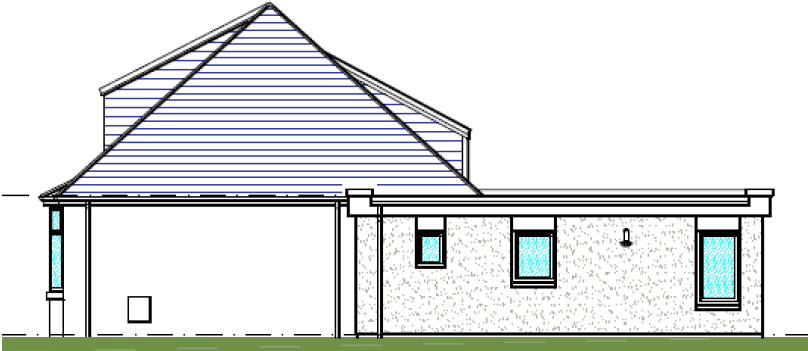
West Elevation



East Elevation



South Elevation



North Elevation

Site Photos

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Site Photos



Site Photos



Site Photos

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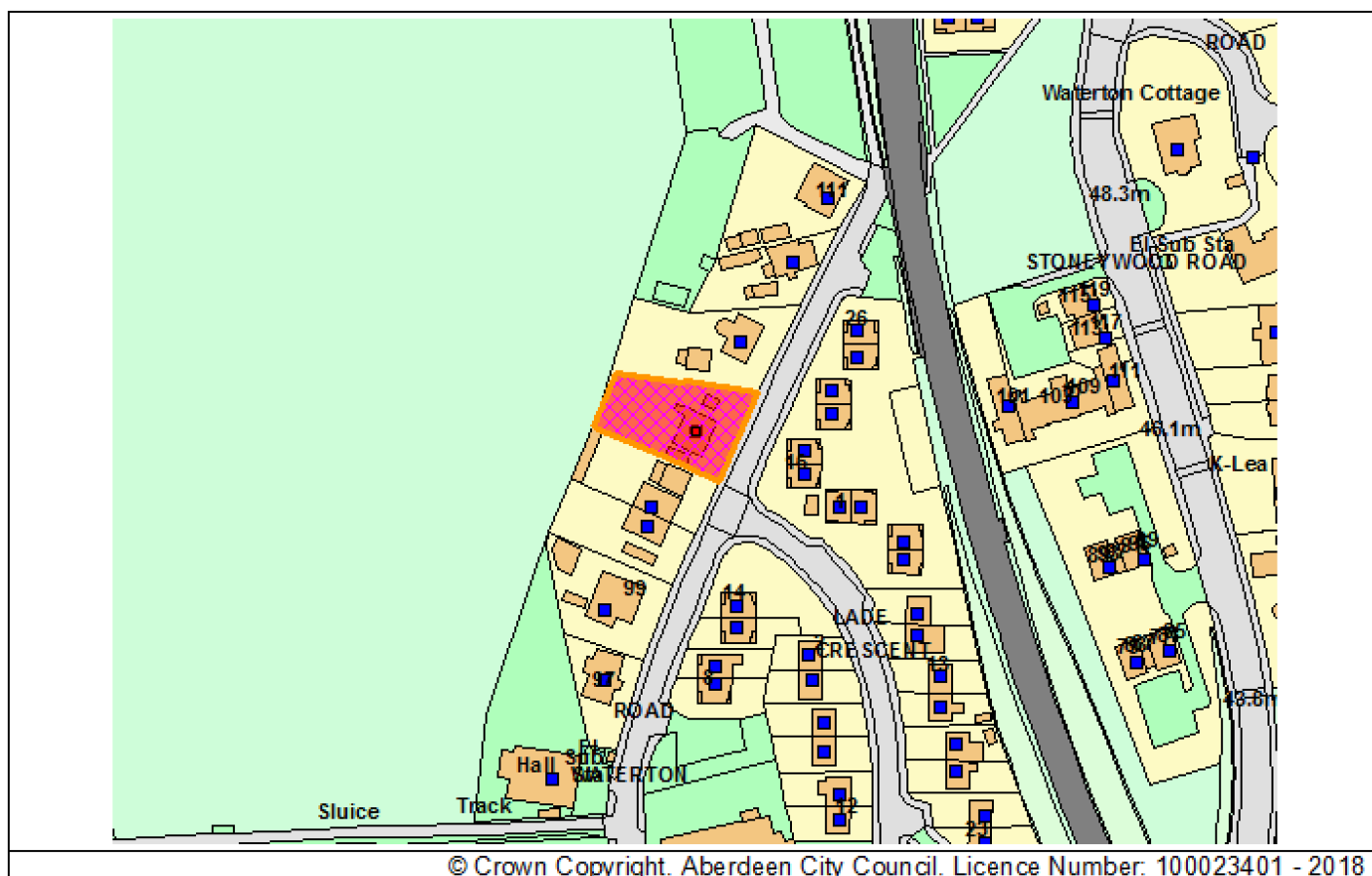


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 17th March 2022

Site Address:	105 Waterton Road, Aberdeen, AB21 9HS
Application Description:	Erection of single storey extension with canopy to rear
Application Ref:	211813/DPP
Application Type	Detailed Planning Permission
Application Date:	24 December 2021
Applicant:	Mr & Mrs D & J Murray
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Bucksburn and Newhills
Case Officer:	Jemma Tasker



RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The application site relates to a one-and-a-half storey, detached dwellinghouse and its associated front and rear curtilage. The dwelling has a west facing principal elevation fronting Waterton Road; 107 Waterton Road lies to the north; 103 Waterton Road is located to the south; and immediately to the west lies undeveloped land, with TECA beyond. There is a single, detached garage to the south of the dwelling and a shed to the north, both contained behind the principal elevation of the dwelling. The property has been previously extended to the rear by way of a single storey extension forming a fully glazed conservatory.

Relevant Planning History

No relevant planning history

APPLICATION DESCRIPTION

Description of Proposal

Detailed Planning Permission is sought for the erection of a single storey extension with a canopy to the rear (west) elevation of the dwellinghouse.

The existing conservatory would be removed and the proposed extension would project 5.9m from the rear elevation of the dwelling. It would measure 4.8m in width, extend 2.6m past the northern elevation of the dwelling, while its north elevation would measure 8.2m. Adjoining the extension to the south would be a canopy area, which would have a footprint of c.6.75sqm. Both the extension and the canopy would have a flat roof design with a height of 3m. Finishing materials would include roughcast blockwork and uPVC windows coloured dark grey.

Amendments

None

Supporting Documents

All drawings can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R4KPQDBZJ8P00>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it has been made on behalf of a member of staff employed within the Strategic Place Planning function of the Planning Authority.

CONSULTATIONS

Bucksburn and Newhills Community Council – No comments received.

REPRESENTATIONS

None

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.

Development Plan

Strategic Development Plan

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan 2017 (ALDP)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –
 Policy D1 – Quality Placemaking by Design
 Policy H1 – Residential Areas

Supplementary Guidance (SG)

The Householder Development Guide (HDG)

Proposed Aberdeen Local Development Plan 2020

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. Policies of relevance include:
 Policy D1 – Quality Placemaking
 Policy D2 – Amenity
 Policy H1 – Residential Areas

EVALUATION

Principle of Development

The application site is located in a residential area under Policy H1 of the ALDP and the proposal relates to householder development. The proposal would comply with this policy in principle if it does not constitute overdevelopment; does not adversely affect the character and amenity of the surrounding area; does not result in the loss of open space; and it complies with the associated Supplementary Guidance.

The proposal would not result in the loss of any open space given the proposal is located within the curtilage of a residential property. The remaining issues are assessed in the evaluation below.

Scale and Design

To determine the effect the proposal will have on the character of the area it is necessary to assess the proposal in the context of Policy D1 of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment.

The proposed extension and canopy area are considered to be an acceptable form of development and would be compliant with the HDG in terms of scale for the following reasons: they would increase the original footprint of 81.5sqm by a further 41qm, which is under the maximum 100% increase on the original footprint permitted by the guidance; built rear site coverage would rise from 8% to 15% which would retain an acceptable level of development; and thus, in excess of 50% of the rear garden would remain undeveloped. The scale of the proposal would therefore not constitute overdevelopment and would be acceptable within the context of the both the plot size and surrounding area.

In terms of design, the extension and canopy would make an acceptable contribution to their setting; the roof would tie in similarly with the eaves height of the main dwelling, sitting well below the ridge height; the scale and massing are such that the extension/canopy would result in it appearing secondary and therefore subservient to the original dwelling, neither overwhelming nor dominating the rear elevation and the proposed materials would integrate suitably with the existing finishes on the original dwelling. Although the extension would project past the north elevation of the dwelling and thus, would be visible from a public viewpoint, given the scale and design of the extension and the fact that it would be largely screened by way of a garden hedge to the front, there would be no adverse impact on the visual amenity of the area. Due consideration has been paid to its siting, scale, massing and finishing materials and the proposal is therefore compliant with the aims of Policy D1 and the HDG.

Impact on Residential Amenity

No development should result in a situation where amenity is “borrowed” from an adjacent property, or there is an impingement on the amenity enjoyed by others. Due to the positioning of the proposal in relation to neighbouring properties, using the ‘45 Degree Rule’ methodology given by the HDG, calculations indicate there would be no significant adverse impact on neighbouring amenity in terms of internal daylight receipt or overshadowing. In terms of privacy, although the extension would be extensively glazed and include a sheltered canopy area, due to existing screening around the site, it is considered there would be no significant privacy concerns posed by the development. Current levels of residential amenity would be retained, in compliance with Policy H1 and the HDG.

Proposed Aberdeen Local Development Plan 2020

In relation to this particular application, the Policies D1, D2 and H1 in the proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan 2017 and the proposal is acceptable in terms of both Plans for the reasons previously given.

RECOMMENDATION

Approve Unconditionally.

REASON FOR RECOMMENDATION

The proposal is considered to be an acceptable form of development given its locale, and would be satisfactory in terms of scale, massing, materials and design. The site would not be overdeveloped, the proposal would have no significant adverse impact on residential amenity of neighbouring properties in terms of overshadowing, or on daylight receipt and privacy, and visual impact on the streetscape would be negligible. The proposal has therefore been designed with due consideration for the context of the surrounding area and would be compliant with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the current Aberdeen Local Development Plan 2017; with the associated Supplementary Guidance: 'The Householder Development Guide'; and Policies D1, D2 and H1 of the proposed Aberdeen Local Development Plan 2020.

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Planning Development Management Committee

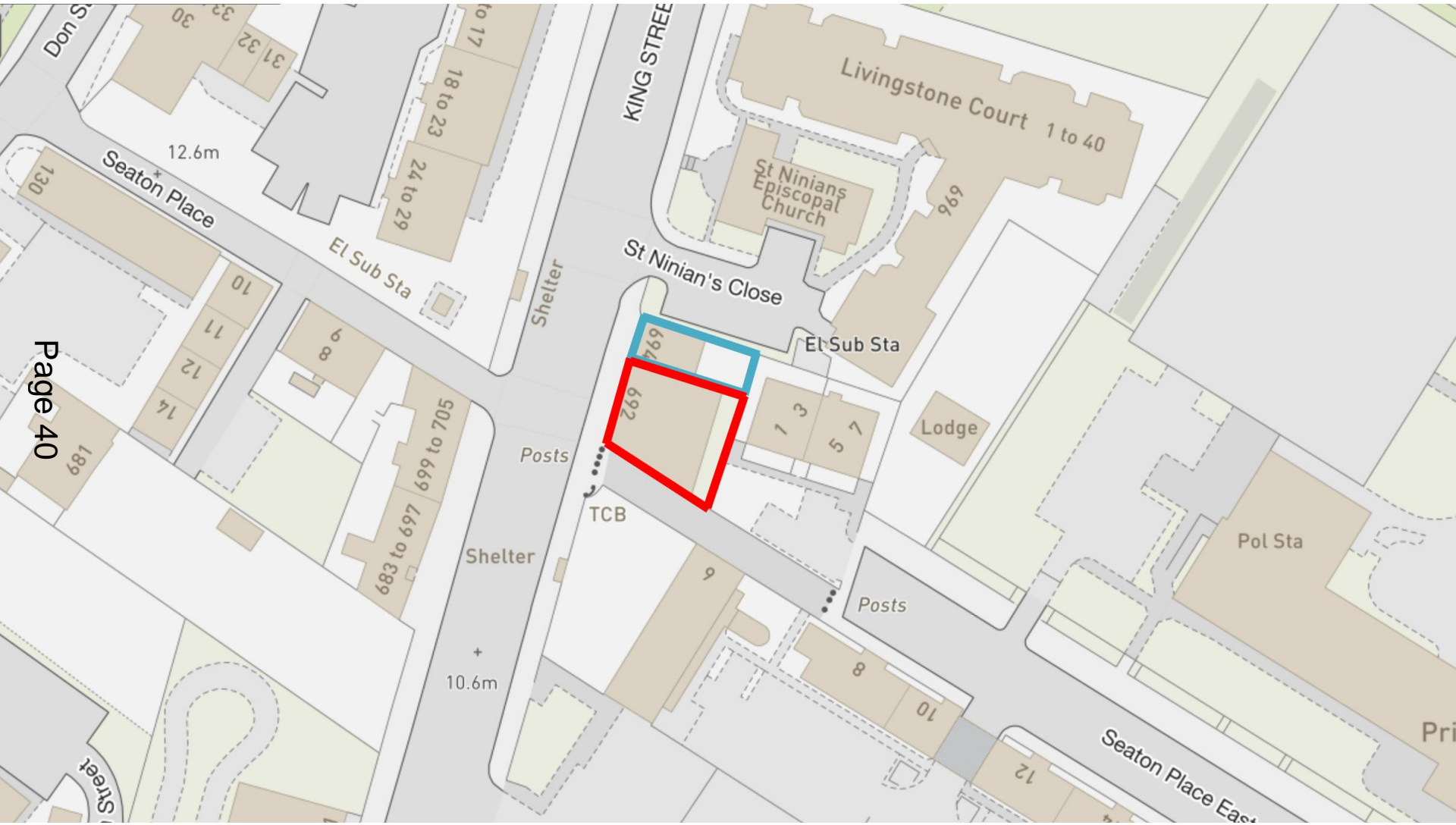


Change of use from public house (sui generis)
to 2no. hot food takeaways (sui generis);
Installation of extract flues; formation of
entrance door and alterations to a shop front
with associated works

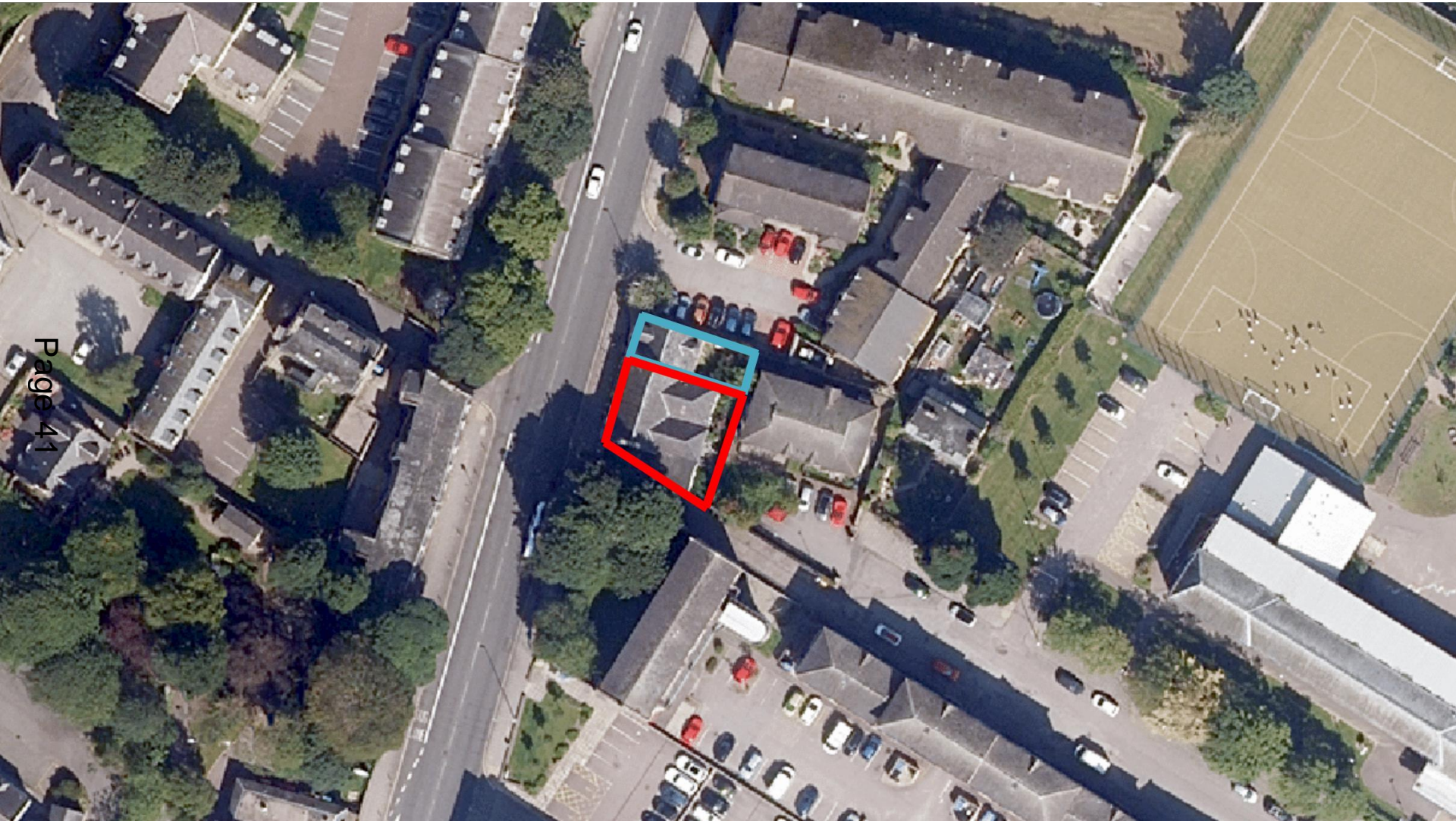
690-692 King Street

Detailed Planning Permission
220097/DPP

Location Plan

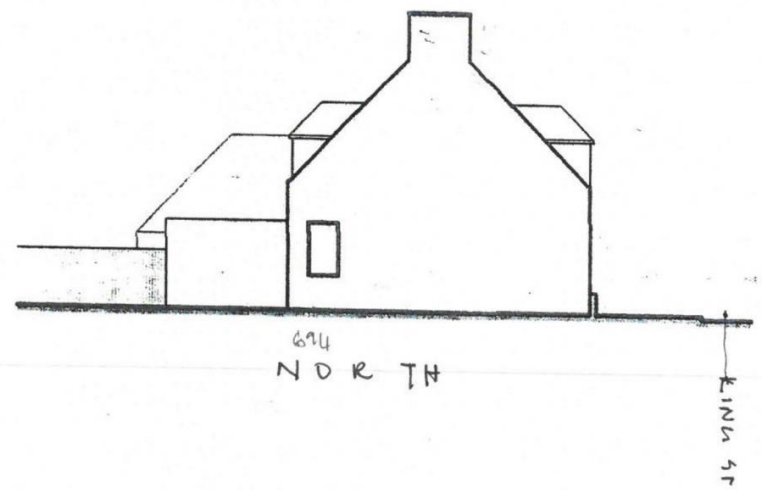
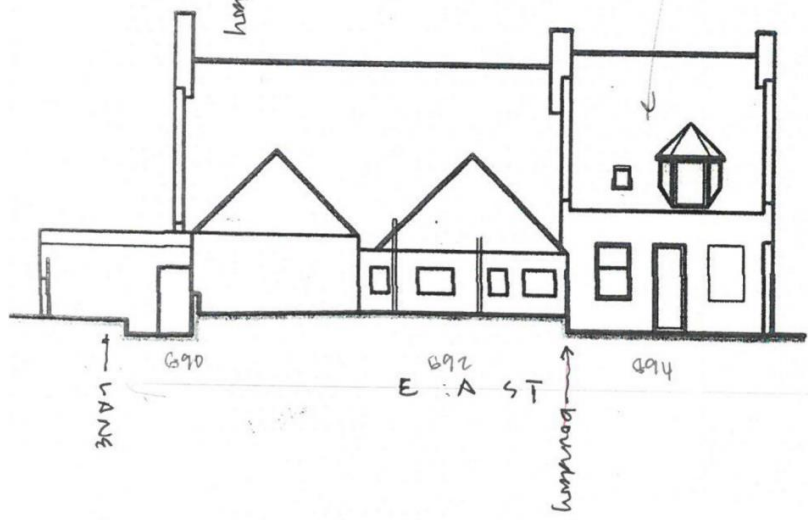
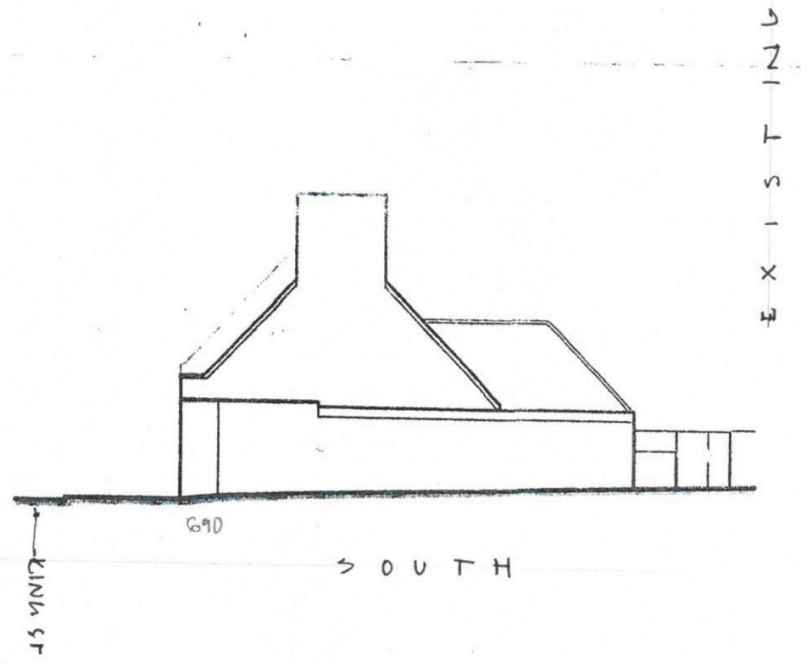


Aerial Photo



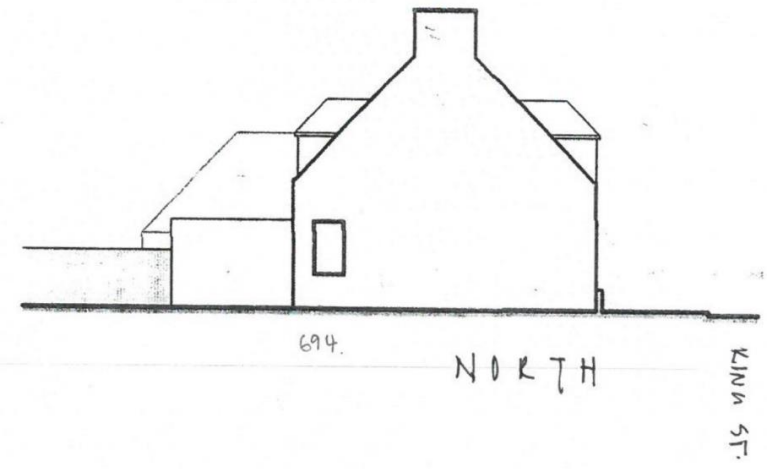
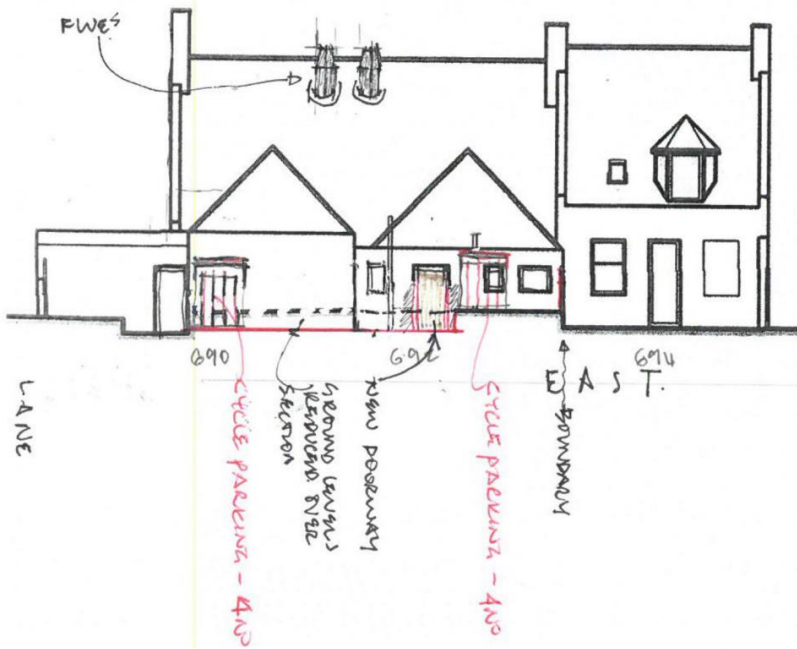
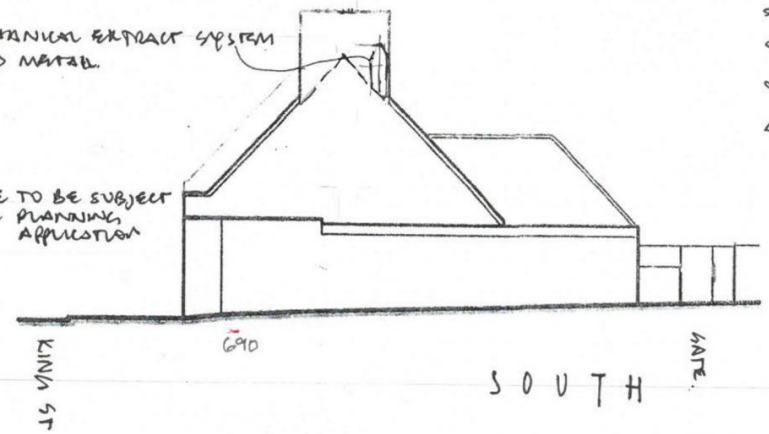
Existing Elevations

494 KING ST ; IN SAME OWNERSHIP AS APPLICANT



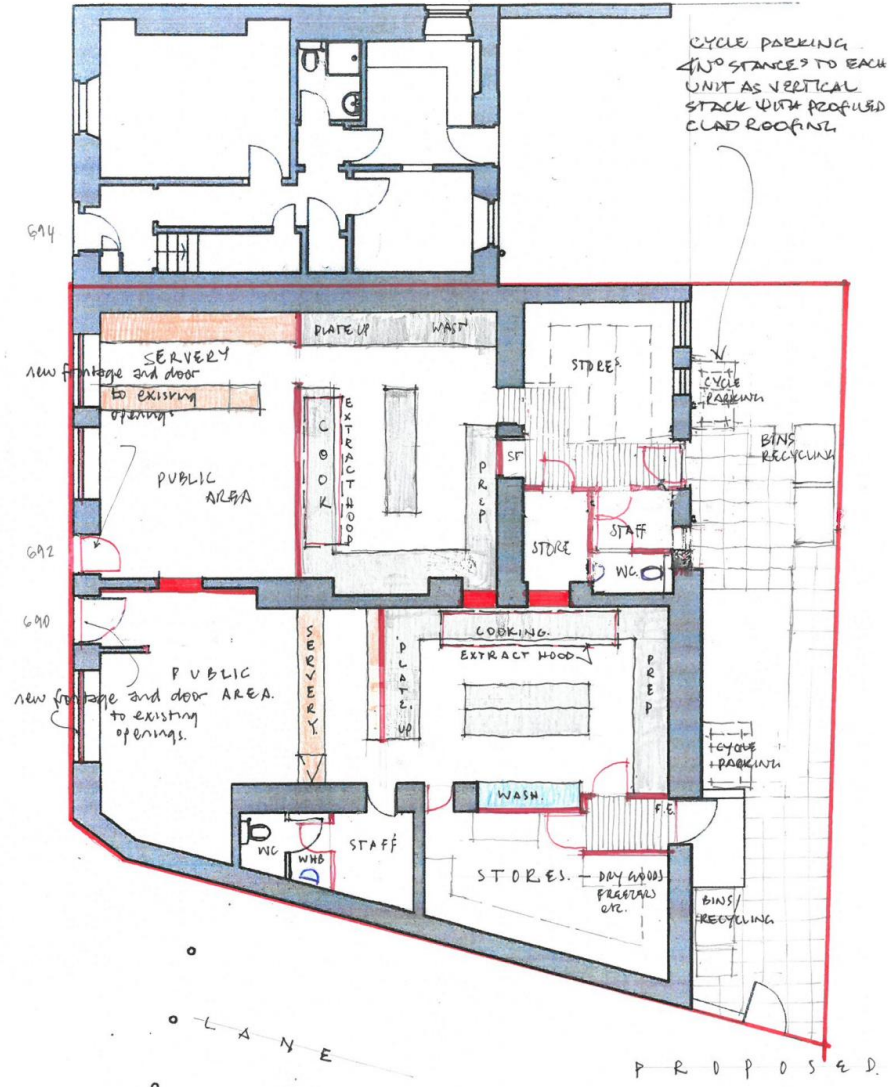
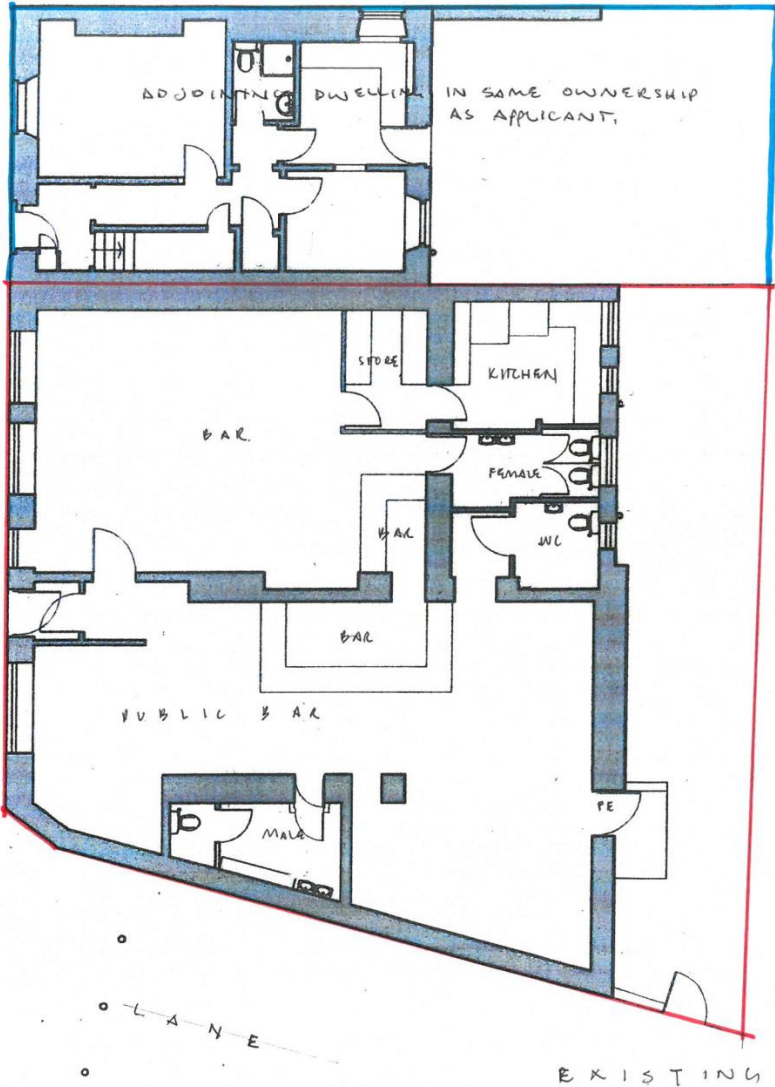
Proposed Elevations

P R O P O S E D



Existing & Proposed Floor Plans

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Site Photos



Site Photos

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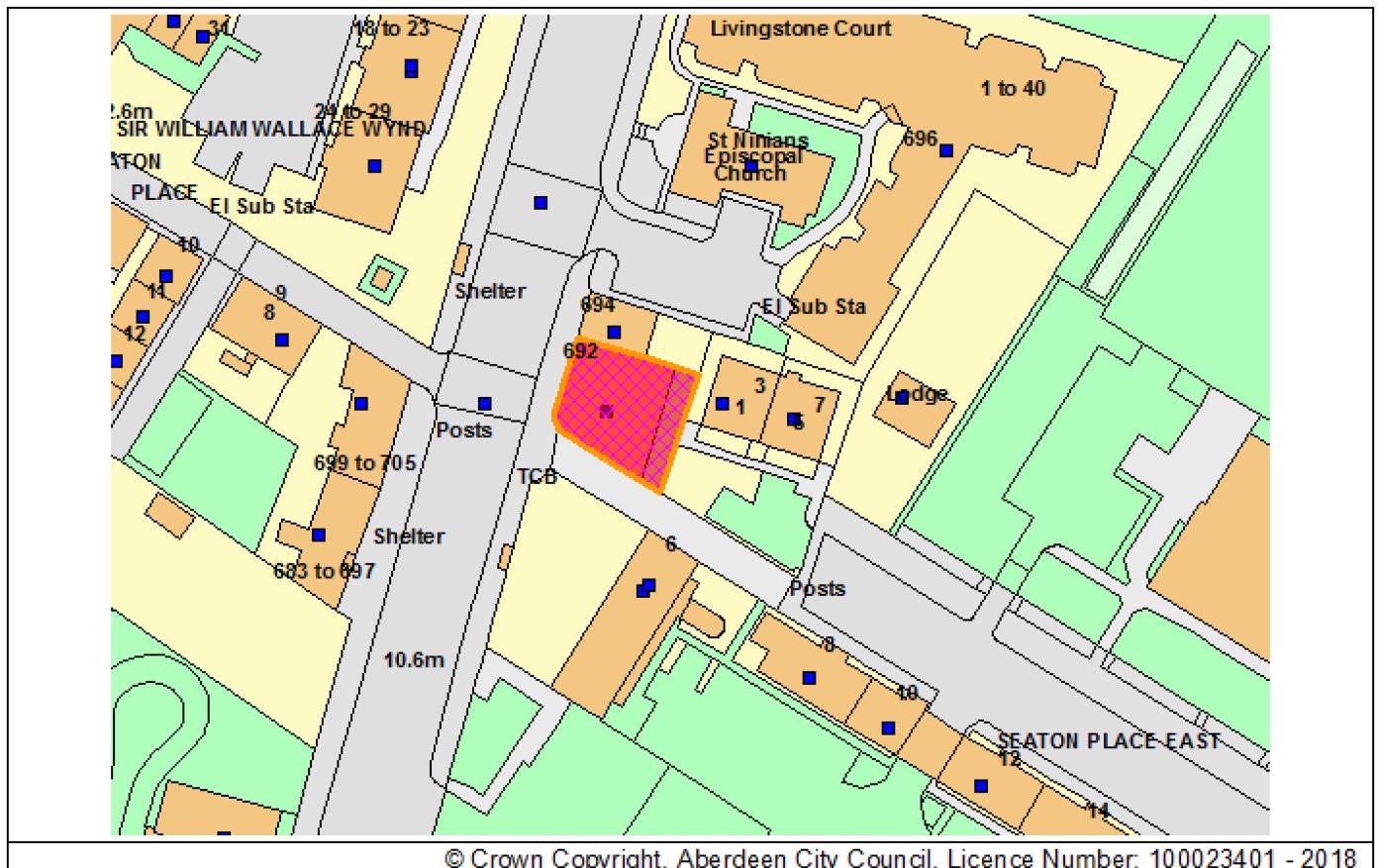
Site Photos

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Site Address:	690-692 King Street, Aberdeen, AB24 1SJ
Application Description:	Change of use from public house (sui generis) to 2no. hot food takeaways (sui generis); Installation of extract flues; formation of entrance door and alterations to a shop front with associated works
Application Ref:	220097/DPP
Application Type	Detailed Planning Permission
Application Date:	26 January 2022
Applicant:	Praedium Group Ltd
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Seaton and Linksfield
Case Officer:	Jemma Tasker



RECOMMENDATION

Approve Conditionally.

APPLICATION BACKGROUND

Site Description

The application site relates to a single storey building of traditional construction with granite walls and a slate roof, with a small external area to the rear, but no parking provision. The premises were last in use as a pub (Sui Generis use); however, it became vacant between late 2015 and 2016. The site fronts onto and is accessed from King Street, the main thoroughfare to the city centre from the north. The building adjoins 694 King Street to the north, which is a one-and-a-half storey residential property. To the east is a block of four flats with associated car parking, accessed via Seaton Place East, and to the north east lies further residential flats at Livingstone Court, St Ninian's Episcopal Church and their associated parking. To the south is a c.40m long lane connecting Seaton Place East to King Street, which is stopped up using bollards prohibiting any vehicular access. There is a mixture of building ages, styles and forms in the surrounding area.

Relevant Planning History

Application Number	Proposal	Decision Date
130944	Detailed planning permission to demolish existing building and construct new respite care home	24.12.2014 Status: Refused.
040410	Detailed planning permission for the erection of 4 flats, car parking and external works	22.07.2004 Status: Approved Conditionally.
010335	Detailed planning permission for the erection of 4 residential flats and associated car parking/open space	12.06.2003 Status: Approved Conditionally.
962041	Detailed planning permission for the erection of wooden fence to rear of building	18.12.1996 Status: Approved Unconditionally.
850886	Detailed planning permission for alterations to and the erection of an extension to the public house known as the Seaton Arms	13.06.1985 Status: Approved Conditionally.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for a change of use from a public house (sui generis) to two hot food takeaways (sui generis). The existing entrances to the premises via King Street would be retained and reused. The property would be divided in two with the use of partition walls and would accommodate kitchens/servery's, back of house areas including stores and WC's and both would have customer waiting areas. In terms of external alterations, to the front of the building, two new entrance doors and three enlarged windows would be installed, framed in dark grey aluminium. While to the rear, part of the ground level would be reduced, with a new door opening formed and two galvanised metal flues would be installed.

Amendments

The application has been amended since original submission at the request of the Planning Authority in that cycle storage to the rear is now proposed to be covered, with each site providing four cycle parking spaces.

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=R6BAHOBZK0H00>

- Supporting Letter by Neil Rothnie Architecture (January, 2022)
- Noise Impact Assessment by Couper Acoustics (December, 2021)
- Odour Impact Assessment by Couper Acoustics (January, 2022)

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 timeous objections from the public have been received and thus, the application falls out with the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Environmental Health – has reviewed the submitted Noise and Odour Impact Assessments and advises that, subject to conditions ensuring the mitigation measures outlined in each report is undertaken, the Service has no objection. The Service also request that an advisory be attached to ensure that the applicant prepares a written Odour Management Plan.

ACC - Roads Development Management Team – No objection. Noted and accepted that no parking is proposed. Following the submission of amended drawings relating to cycle storage and additional information relating to parking and waste storage, this Service has advised it has no concerns.

ACC - Waste and Recycling – No objection and notes general comments for business premises.

Seaton and Linkfield Community Council – No comments received.

REPRESENTATIONS

17 representations have been received, all objecting to the development. The matters raised can be summarised as follows:

1. Concerns regarding the added traffic the development would bring to the private car parks at Livingstone Court and flats 1-7 Seaton Place East.
2. Concerns regarding parked cars on King Street, causing disruption to other road users.
3. Concerns regarding where delivery drivers would congregate and park their cars, bikes and electric bikes.
4. Concerns regarding litter outside the premises, attracting seagulls and vermin.
5. Concerns regarding noise from customers late at night.
6. Anti-social behaviour outside the takeaways late at night will leave residents of Livingstone Court feeling insecure.
7. Concerns regarding smell and smoke from the ventilation flues.
8. There are already at least six takeaways within the area and no more are required.

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.

Development Plan

Strategic Development Plan

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan 2017

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

Policy H1 – Residential Areas

Policy D1 – Quality Placemaking by Design

Policy T2 – Managing the Transport Impact of Development

Policy T3 – Sustainable and Active Travel

Policy T5 – Noise

Policy R6 – Waste Management Requirements for New Development

Supplementary Guidance (SG)

Transport and Accessibility

Harmony of Uses

Noise

Proposed Aberdeen Local Development Plan 2020

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;

- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. The following policies are relevant:

Policy H1 – Residential Areas

Policy D1 – Quality Placemaking

Policy D2 – Amenity

Policy R5 – Waste Management Requirements in New Development

Policy T2 – Sustainable Transport

Policy T3 – Parking

Policy WB3 – Noise

EVALUATION

Principle of Development

The application site lies within a residential area as zoned in the Aberdeen Local Development Plan (ALDP). Policy H1 (Residential Areas) of the ALDP 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.*

The Council's Harmony of Uses SG identifies hot food shops as one of a number of uses that 'can raise sensitive amenity issues for neighbouring properties and land uses due to the adverse effect of noise, smell and litter.'

It is thus considered that although the proposed hot food takeaways would provide a service for residents in the surrounding area, the use itself does not complement the existing residential use. Thus, the proposed development does not comply with criterion 1 of Policy H1 as set out above. The proposal therefore requires to be assessed against criterion 2, which will be considered below.

Impact on Residential Amenity

The Harmony of Uses SG states:

'The protection of the living conditions of residents in close proximity to any proposed hot food shops, liquor licensed premises, amusement centres, amusement arcades and casinos will form a major consideration in assessing applications of this nature. These uses can generate unacceptable levels of noise, vibration, odour, traffic disturbance and litter. It is therefore important that such uses are controlled or restricted to protect residential amenity.'

Noise and vibrations generated from cooking and essential extraction equipment in hot food shops [...] along with increased levels of customer movement, can cause disturbance to residents.

It is not usually considered acceptable to locate a hot food shop [...] directly adjacent or beneath residential properties.

Applications within close proximity to residential units will be refused where it is considered that there may be significant adverse impacts on residential amenity in terms of noise, vibration, odour, traffic disturbance, litter or hours of operation as a result of the proposed premises.'

The above aspects of the proposed hot food takeaways that could cause harm to residential amenity can each be assessed in turn as follows:

Noise & Opening Hours

The applicant submitted a Noise Impact Assessment (NIA) which has been reviewed by the Council's Environmental Health Service. The NIA finds that, subject to appropriate mitigation measures, the proposed hot food takeaways would not have a detrimental impact on the amenity of any neighbouring residential properties. As such, the Environmental Health Service accepts the findings of the NIA and do not object to the proposed development, subject to conditions requiring the recommended mitigation measures being implemented prior to the use commencing, and those measures being retained in perpetuity for the lifetime of the use. The proposed development is thus acceptable in accordance with Policy T5 (Noise) of the ALDP.

In addition to noise from within the premises from kitchen equipment, staff and customers, it is noted that the off-site consumption nature of hot food takeaways can see a high frequency of customer arrivals and departures, particularly during peak periods (typically in early evenings). It is not considered, however, that noise levels from customer activity would be significant and it is also pertinent to note that although the site lies within a residential area as zoned in the ALDP Proposals Map, the use of the premises is currently established as a public house. Thus, the existing use, in itself, would likely cause similar levels of activity in terms of noise, which would perhaps extend later into the night. Furthermore, although there are residential properties around the site – of particular relevance are those to the north, north-east and west – King Street displays a mixture of uses which includes a fuel station and other takeaways just to the south of the site. In this respect, the area could be argued to be more mixed-use in nature than that of a typical, wholly residential street. In addition, due to King Street being a main thoroughfare, it carries a higher volume of vehicular traffic, with the associated noise arising therefrom, than a typical residential street. Therefore, taking account of the existing use of the site and acknowledging the presence of different uses in the surrounding area, it is considered that any noise from customer activity would not have any significant detrimental impact on the surrounding area.

Nevertheless, it is acknowledged that the activity generated by the regular arrival and departure of customers has the potential to impact the amenity of neighbouring properties especially if the takeaways were to be operational during late evening and early morning hours, which are generally more sensitive hours in terms of residential amenity. Thus, it is considered necessary and appropriate to attach a condition to any granting of consent for the change of use, restricting the operational hours of the takeaways to between the hours of 11am and 10pm Sunday-Thursday, and 11am to 10.30pm Friday and Saturday. Such a condition would thus ensure that there would be no activity during the more sensitive night-time period. It is considered that the activity associated to the new use during the permitted opening hours would not have any undue impact on residential amenity.

Vibration

It is considered that vibration from cooking equipment is unlikely to be an issue. The kitchen areas and all cooking ventilation extraction equipment would be sited within and atop the building, which due to its single storey nature, has no residential properties above. It is thus considered that, subject to the implementation of the mitigation measures recommended in the NIA, there would be no undue impact on residential amenity.

Odour

The applicant's Odour Impact Assessment acknowledges that the proposed hot food takeaway use would, without any mitigation measures, result in a detrimental impact on the amenity of neighbouring residential properties as a result of cooking odours.

As a result, the Odour Impact Assessment recommends a number of mitigation measures including specific elements to be incorporated into the ventilation system. The findings and recommended mitigation measures of the Odour Impact Assessment have been accepted by the Council's Environmental Health Service, who are satisfied that, subject to a suspensive condition requiring the implementation of the mitigation measures, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring uses.

Traffic disturbance

With regard to traffic and road safety issues, the Harmony of Uses SG states:

'Hot food shops tend to attract a high proportion of car users and short stay customers. Increased noise and traffic disturbance from vehicles can be a nuisance for adjacent land uses.

Often, in the vicinity of hot food shops, there is an increased occurrence of obstructed parking and interruption to the flow of traffic adjacent to these premises due to inconsiderate parking. Insufficient parking facilities can also have an adverse impact on the amenity of the immediate and surrounding area.

The impact of a proposal on the safety of pedestrians and road users will be considered with regard to:

- *The existing use of the site;*
- *Existing traffic conditions;*
- *The accessibility of the site by public transport, walking and cycling;*
- *The availability of public parking provision in close proximity to the premises;*
- *Proximity of proposal to lighting junctions, pelican crossings and bus stops;*
- *The availability of safe and legal loading areas in close proximity; and*
- *The implications for the amenity of the surrounding area.'*

The application site is located within a residential area to the north of the city centre. Although there appears to be a mixture of uses along King Street, the area as a whole it is considered residential and thus, there is a vast number of residential properties within walking and cycling distance of the premises. The premises also lie within very close proximity of bus stops on either side of King Street, used by several bus routes serving the city. As a result, it is anticipated that a proportion of customers could travel to the takeaways to collect food either on foot or by bike, with the option of accessing the site on public transport also available. The site is therefore considered to be suitably located such that it could be accessed by sustainable and active modes of travel, in accordance with ALDP Policy T3 (Sustainable and Active Travel).

Nevertheless, it is acknowledged that, as per the Harmony of Uses SG, hot food shops tend to attract a high proportion of car users and short stay customers. In this regard, the agent has advised that it is anticipated that collections and delivery drivers in vehicles would use Seaton Place East, as this has no restrictions. It may also be the case that, during appropriate times, some users may park on King Street as this has a single-yellow line restriction. There is also the potential for any other pick-ups by bicycle or moped to use the adjacent lane leading from King Street to Seaton Place East. Although it is acknowledged that there may be more parking pressure on surrounding residential streets, it is considered that the proposed takeaways would not likely compete with the other commercial uses for customer car parking availability given the sufficient distance between other similar premises.

It is also acknowledged that hot food takeaways can often see instances of indiscriminate car parking by customers while collecting food, for example on double-yellow lines and pavements, where there is insufficient off-street parking availability, which has the potential to adversely affect

the operation of the public road, in this case King Street. Additionally, there is a risk that the proposal could result in vehicle parking pressure within the adjacent private car park associated with Livingstone Court. However, St. Ninian's Close, which is effectively a car park serving Livingstone Court and St Ninians Episcopal Church, is a private car park and not part of the adopted road network. While it has the potential to be used by customers/delivery drivers and thus have an impact on the amenity of the residents, any unauthorised use of it by customers/delivery drivers would be a civil matter to be resolved by the residents and church.

However, given the transient nature of the patronage of the use, it is considered more likely that car borne customers would opt to stop on the public road. Should customers or delivery drivers choose to park or wait immediately outside the premises, it is noted that this stretch of King Street has single-yellow lines. This should help deter people from parking here between 7am-7pm Monday to Saturday and encourage most customers arriving by car to choose to park lawfully in the surrounding streets. Roads Development Management have not expressed concerns regarding the potential for unlawful parking to occur and have no objection to the proposal on road safety grounds. It is therefore considered that refusal on the basis of indiscriminate car parking would not be reasonable.

Policy T2 (Managing the Transport Impact of Development) of the ALDP states *'commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.'*

The development of new communities should be accompanied by an increase in local services and employment opportunities that reduce the need to travel and include integrated walking, cycling and public transport infrastructure to ensure that, where travel is necessary, sustainable modes are prioritised.'

For the reasons noted above, it is considered that the siting of the takeaways within a residential area would maximise the opportunities for customers to access it utilising sustainable and active travel, with nearby unrestricted car parking for those who would seek to drive. The proposal is thus considered to be compliant with Policy T2 of the ALDP.

Litter

The Harmony of Uses SG states:

'Hot food shops, liquor licensed premises, amusement centres, amusement arcades and casinos can generate a significant volume of waste and litter. Consideration must be given to providing bins that are of suitable size, appropriately sited and screened.'

Inadequate storage facilities for refuse can result in harm to visual amenity as well as serious risk to public health.'

The Planning Authority considers that due to the takeaway nature of the proposed use, with a level of immediate off-site consumption anticipated, there could be a risk of external littering by customers in the vicinity of the premises that could impact on the amenity of the area. As such, should the Committee be minded to approve the application, it is recommended that a condition be attached to the grant of consent requiring a scheme to be submitted to and approved by the Planning Authority which details the provision of an external litter bin immediately adjacent the premises. Such a condition would satisfy the Planning Authority that the risk of littering in the immediate vicinity of the property would be minimised.

It is important to note that any external litter from customers would be dealt with under separate environmental legislation and the Planning Authority understands that the applicant would have a

duty of responsibility to ensure that areas within the vicinity of the unit would be kept clear from litter. Any persistent littering problems associated to the use would be the subject of enforcement under separate legislation.

Summary

Overall, it is considered that, for the aforementioned reasons and subject to conditions, the proposed change of use of the premises to two hot food takeaways would not have a significant adverse impact on the amenity of any neighbouring properties. Although the proposal causes tension with the Council's Harmony of Uses Supplementary Guidance which does not usually consider it acceptable to locate hot food takeaways adjacent to residential properties, in light of the above, it has been demonstrated that it would not cause any significant harm to residential amenity and thus, the proposal is in accordance with criteria 2 of Policy H1 (Residential Areas) of the ALDP, in that it has been demonstrated that the use would cause no conflict with, or any nuisance to, the current levels of residential amenity within the surrounding area.

Waste management

Policy R6 (Waste Management Requirements for New Development) of the ALDP requires new development to have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate.

As indicate within the proposed plans, the two takeaways intend to utilise the existing communal bin store area to the rear of the building for the storage of waste. The applicant has confirmed that refuse vehicles could use the lane to the south as this would be the preferred method of collecting waste as refuse vehicles will access Seaton Place East for other collections; however, they may also opt to stop on King Street. Standards contained within the Transport and Accessibility SG state that refuse collection vehicles should be able to park within 25m of bins. Although the proposal may exceed this, depending on where refuse collection takes place, Roads Development Management note that a slight increase in this distance is less concerning as it is private contractors that will be used, who can choose whether or not they accept this client. Therefore, it is considered there would be adequate space for the storage and collection of waste, in accordance with Policy R6 of the ALDP.

Design

Currently, as the building has been unoccupied for some number of years, it has fallen into a somewhat dilapidated state. The external alterations to the building and site are limited in extent and involve increasing the level of glazing to the front, along with the installation of 2 new entrance doors, which is considered to make an acceptable contribution to the character and amenity of the area. Alterations to the rear of the property, including the storage of waste, would be screened by the existing wall and fence which surrounds the rear of the site, and thus, ensuring there would be negligible additional impact on the character and visual amenity of the area. It is acknowledged that the metal flues would be minorly visible from the front of the premises. However, due to their locations and the orientation of the building, there would be no impact to the flatted properties to the east. In addition, these would not dominate the roofslopes, nor would they be unduly intrusive within the streetscene; therefore, they would not cause any significant harm to the visual amenity or character of the area. Overall, the proposal is considered compliant with Policy D1 (Quality Placemaking by Design) of the ALDP.

Proposed Aberdeen Local Development Plan 2020

In relation to this particular application, the Policies H1, D1, R5, T2, T3 and WB3 in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan 2017 and the proposal is acceptable in terms of both Plans for the reasons previously given.

Policy D2 (Amenity) is a new policy in the proposed ALDP with no direct equivalent in the adopted ALDP. Policy D2 seeks to ensure that all new developments do not cause undue harm to the amenity of any existing residential properties. Subject to conditions, the proposed change of use would not cause undue harm to the amenity of any neighbouring uses for the reasons noted in the foregoing evaluation. As such, the proposed development is considered to comply with Policy D2 of the Proposed ALDP.

Matters Raised in Representations

1. *Concerns regarding the added traffic the development would bring to the private car parks at Livingstone Court and flats 1-7 Seaton Place East.*

Issues regarding parking are addressed in the foregoing evaluation. The car parks mentioned above are private and thus, any issues would be for the occupiers to address.

2. *Concerns regarding parked cars on King Street, causing disruption to other road users.*
It would have to be assumed that single-yellow line road markings are obeyed during the specified times. Otherwise, outside of these times (i.e. after 7pm and all day Sunday), parking on this section of King Street is lawful.

3. *Concerns regarding where delivery drivers would congregate and park their cars, bikes and electric bikes.*

This is addressed in the foregoing evaluation.

4. *Concerns regarding litter outside the premises, attracting seagulls and vermin.*

Issues regarding litter are addressed in the foregoing evaluation where a condition will be attached to the grant of consent requiring a scheme regarding litter disposal. The attraction of seagulls or vermin is not a material planning consideration.

5. *Concerns regarding noise from customers late at night.*

This is addressed in the foregoing evaluation. A condition is attached restricting the opening hours of the premises to ensure that there is no impact on amenity between 10/10.30pm and 11am the following day but otherwise it is considered the impact on amenity will not be significant.

6. *Anti-social behaviour outside the takeaways late at night will leave residents of Livingstone Court feeling insecure.*

Any anti-social behaviour would be controlled via separate legislation and is not a material planning consideration.

7. *Concerns regarding smell and smoke from the ventilation flues.*

The Council's Environmental Health Service have accepted the findings of the applicant's Odour Assessment and consider that, subject to the implementation of the recommended mitigation measures, the development would not cause undue harm to the amenity of any neighbouring properties in terms of odour and raise no concerns regarding smoke.

8. *There are already at least six takeaways within the area and no more are required.*

Although over-concentration is mentioned within the Harmony of Use Supplementary Guidance, there is no planning policy or supplementary guidance restriction on a specified number of hot food takeaways permitted within one area. While it is acknowledged that there are other takeaways within the vicinity, they are considered to be located sufficiently distant to ensure there is not an over-concentration in this locality, which would have an adverse impact on residential amenity.

RECOMMENDATION

Approve Conditionally.

REASON FOR RECOMMENDATION

Subject to conditions requiring the implementation of appropriate mitigation measures, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring properties, thus the proposals are acceptable in accordance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 (ALDP). While there is a degree of tension with the Harmony of Uses Supplementary Guidance due to the proximity of residential properties, it has been demonstrated that the proposal would not cause any significant harm to residential amenity.

Subject to conditions, the proposed use would not have a detrimental impact on the amenity of any neighbouring properties in terms of noise emissions, in accordance with Policy T5 (Noise) of the ALDP and the Supplementary Guidance on Noise. Waste generated from the proposed use would be satisfactorily stored and collected without harm to amenity, in accordance with Policy R6 (Waste Management Requirements for New Development) of the ALDP.

The external alterations to the building are considered to be of an appropriate scale and design, preserving the visual amenity and character of the area, in accordance with Policy D1 (Quality Placemaking by Design) of the ALDP.

Recognised there would likely be increased parking pressure in the area, it is considered there is sufficient car parking available in the surrounding area (including on Seaton Place East) to ensure that customers visiting the premises by car would be able to park without detriment to the parking availability for residents or to road safety. The site lies within a residential area, in close proximity to a bus route and the use would be accessible by sustainable and active travel, in accordance with Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP and the Council's Transport and Accessibility Supplementary Guidance.

The proposed change of use is also compliant with the relevant policies of the Proposed Aberdeen Local Development Plan 2020 including Policies H1 (Residential Areas), D1 (Quality Placemaking), D2 (Amenity), R5 (Waste Management Requirements in New Development), T2 (Sustainable Transport), T3 (Parking) and WB3 (Noise).

CONDITIONS

1. Hours of Operation

The hereby approved use shall operate between the hours of 11am and 10pm Sunday to Thursday, and 11am and 10.30pm Friday to Saturday, and at no other time whatsoever.

Reason: In order to preserve the amenity of neighbouring residential properties during the more sensitive late evening and early morning hours.

2. Noise

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Noise Impact Assessment (Reference: 0897212314 – V1, Version: n/a, Date: 13 December 2021) have been carried out and implemented in full. Thereafter the mitigation measures, or similar as may be agreed in writing with the planning authority, shall remain in place for the duration of the use.

Reason: In order to preserve the amenity of neighbouring residential properties from noise emissions associated to the new use.

3. Odour

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Odour Assessment (Reference: 0897212314 – V1, Version: n/a, Date: 13 January 2022) have been carried out and implemented in full. Thereafter the mitigation measures, or similar as may be agreed in writing with the planning authority, shall remain in place for the duration of the use.

Reason: In order to preserve the amenity of neighbouring residential properties from odour emissions associated to the new use.

4. Litter Bin Provision

The use hereby approved shall not commence unless a waste management scheme, detailing litter disposal and, if appropriate, recycling facilities immediately adjacent the application site has been submitted to and approved in writing by the planning authority. Thereafter, the scheme shall be implemented in accordance with the agreed details and retained for the duration of the operation of the units as Sui Generis uses.

Reason: in order to preserve the amenity of the neighbourhood and in the interests of public health.

ADVISORY NOTES FOR APPLICANT

Odour Management Plan

It is recommended that the operator to establish a written Odour Management Plan including cleaning and maintenance procedures for the plant corresponding with Sections 5.03 to 5.06 of the report, manufacturer's instructions and extent of use, to reduce risk of malodour and statutory nuisance going forward.

Advertisement Consent

For the avoidance of doubt any alterations to the existing signage or proposing new signage will require to be assessed under an independent Advertisement Consent.

Waste Management

- Business premises need to be provided with a bin store to allocate, within the property curtilage for the business waste and recycling bins.
- Commercial waste bins cannot be stored on the street any day of the week as per Council Policy 2009 (Obstructions- Commercial Waste Bins). Infringement on the Council Policy can lead to a fine of £500 per bin as adopted by the Enterprise, Strategic Planning and Infrastructure Committee on 29th August 2013.
- There are many waste contract collection providers operating in Aberdeen and each one provides different collection of waste and recycling services. For this reason, business premises need to liaise with their waste contract collection to ensure the correct management of their waste.
- Business premises have a legal Duty of Care covering all the waste they produce. This means that it is the Business premises responsibility to manage and dispose of any waste correctly.
- The Waste (Scotland) 2012 requires that all businesses from 1st January 2014 are required to separate paper, cardboard, glass, plastic and metals for recycling. Some businesses will additionally be required to separate their food waste (where food waste >5kg per week).

- General tips for site and hopefully the chosen waste collection contractor will detail this but for access, the following is needed:
 - o An area of hard standing at storage and collections point(s)
 - o Dropped kerb at proposed bin collection point
 - o Yellow lines in front of bin collection point
 - o Bin storage areas to ideally be provided with a gulley and wash down facility for the interest of hygieneFor further independent guidance about waste and recycling provision, storage and collection please refer to the following document: http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste_000.pdf and additional Trade Waste information can be found in the Waste Supplementary Guidance available at <https://www.aberdeencity.gov.uk/sites/default/files/2020-07/7.1.PolicySG.ResourcesForNewDevelopmentUpdateJuly2020.pdf>

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Planning Development Management Committee



Change of use from pavement and installation of raised decking to form an outdoor seating area with access ramp (retrospective)

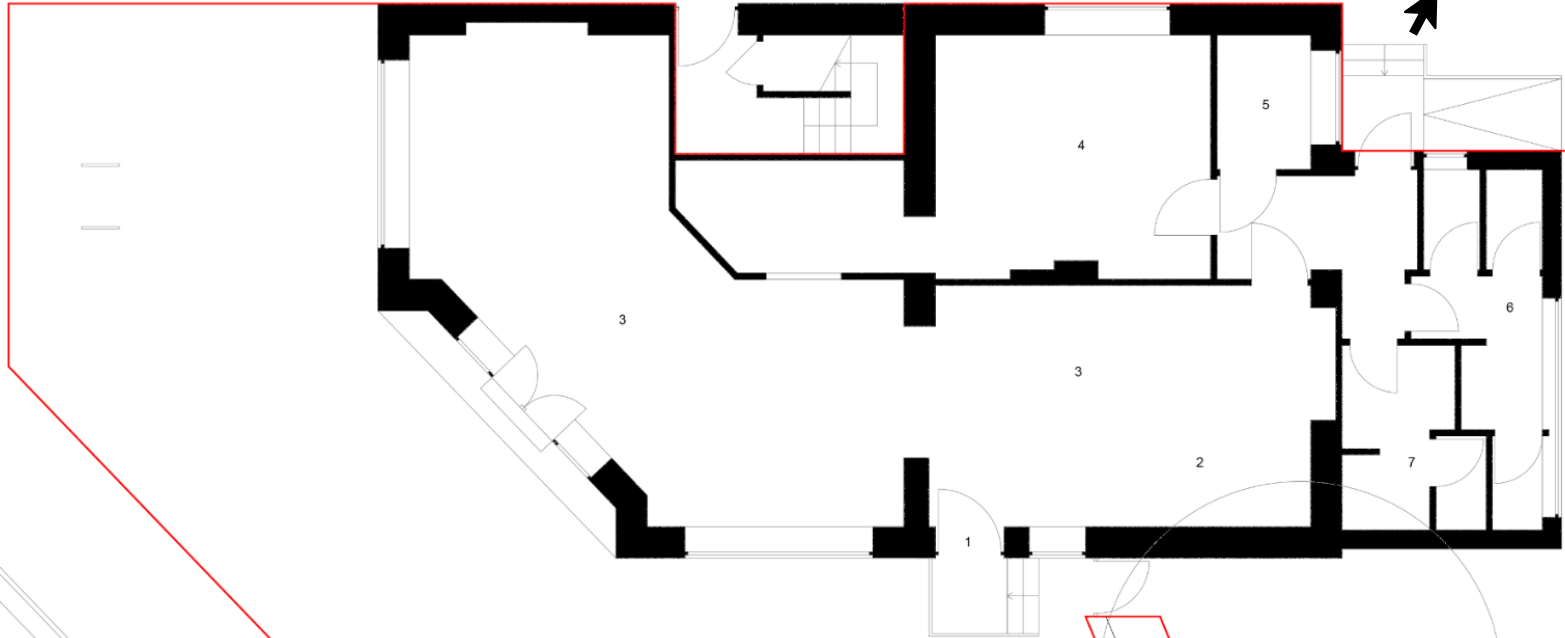
106-108 Forest Avenue

Detailed Planning Permission (220015/DPP)

Location plan



Site Plan: Existing

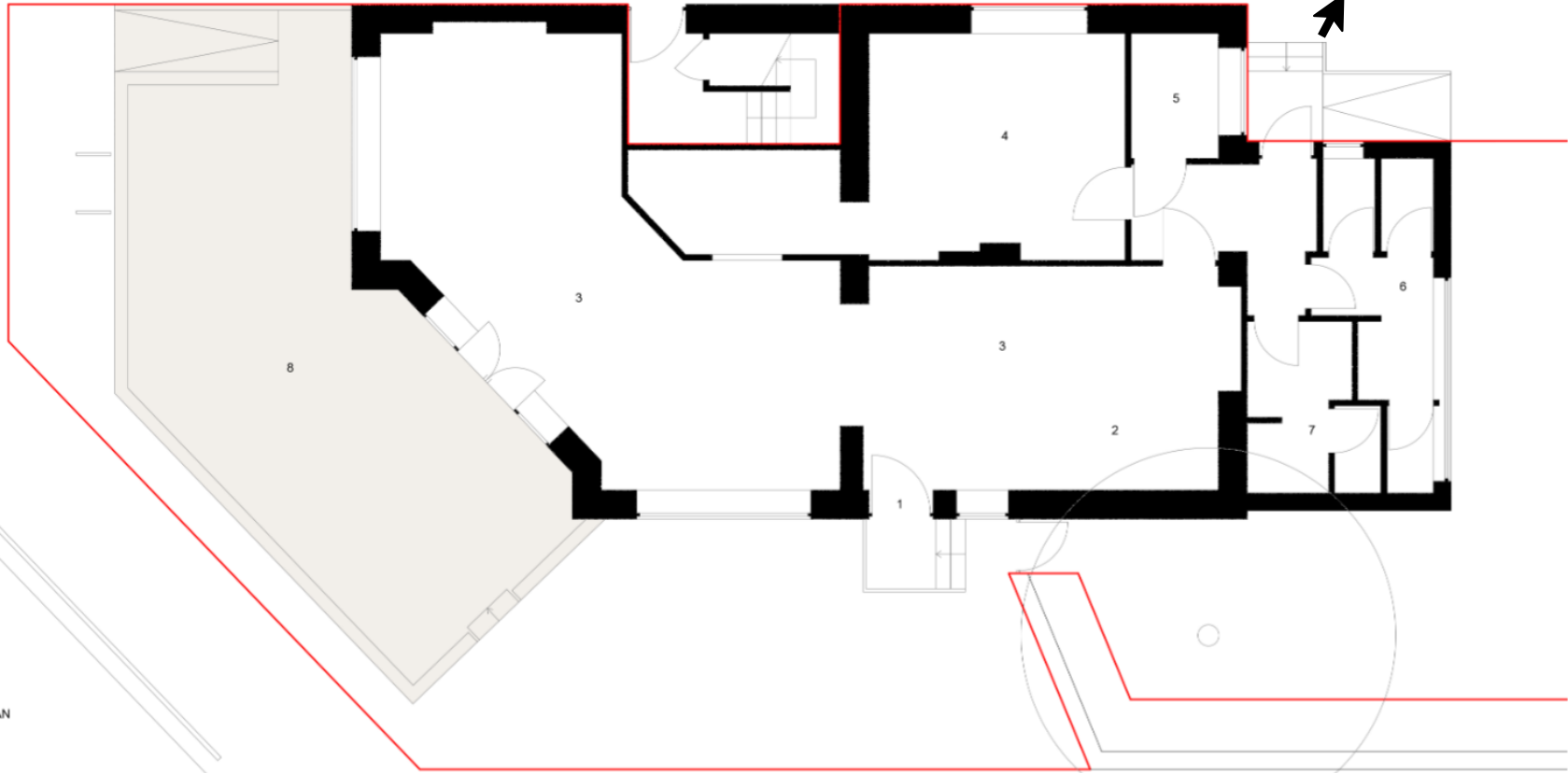


EXISTING GF PLAN

LEGEND

- 1 - ENTRANCE
- 2 - SERVICE COUNTER
- 3 - DINING AREA
- 4 - KITCHEN
- 5 - DISABLED WC
- 6 - FEMALE WC
- 7 - MALE WC

Site Plan: Proposed



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PROPOSED GF PLAN

LEGEND

- 1 - ENTRANCE
- 2 - SERVICE COUNTER
- 3 - DINING AREA
- 4 - KITCHEN
- 5 - DISABLED WC
- 6 - FEMALE WC
- 7 - MALE WC
- 8 - DINING DECK

West Elevation (to Forest Ave) – Existing/Proposed

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South Elevation (to Union Grove) – Existing/Proposed



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Street view image – March 2019



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FOREST AVENUE

UNION GROVE

Street view image – November 2011



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© 2021 Google

UNION GROVE

FOREST AVENUE

© 2021 Google

Northern end of decking



South-eastern end of decking



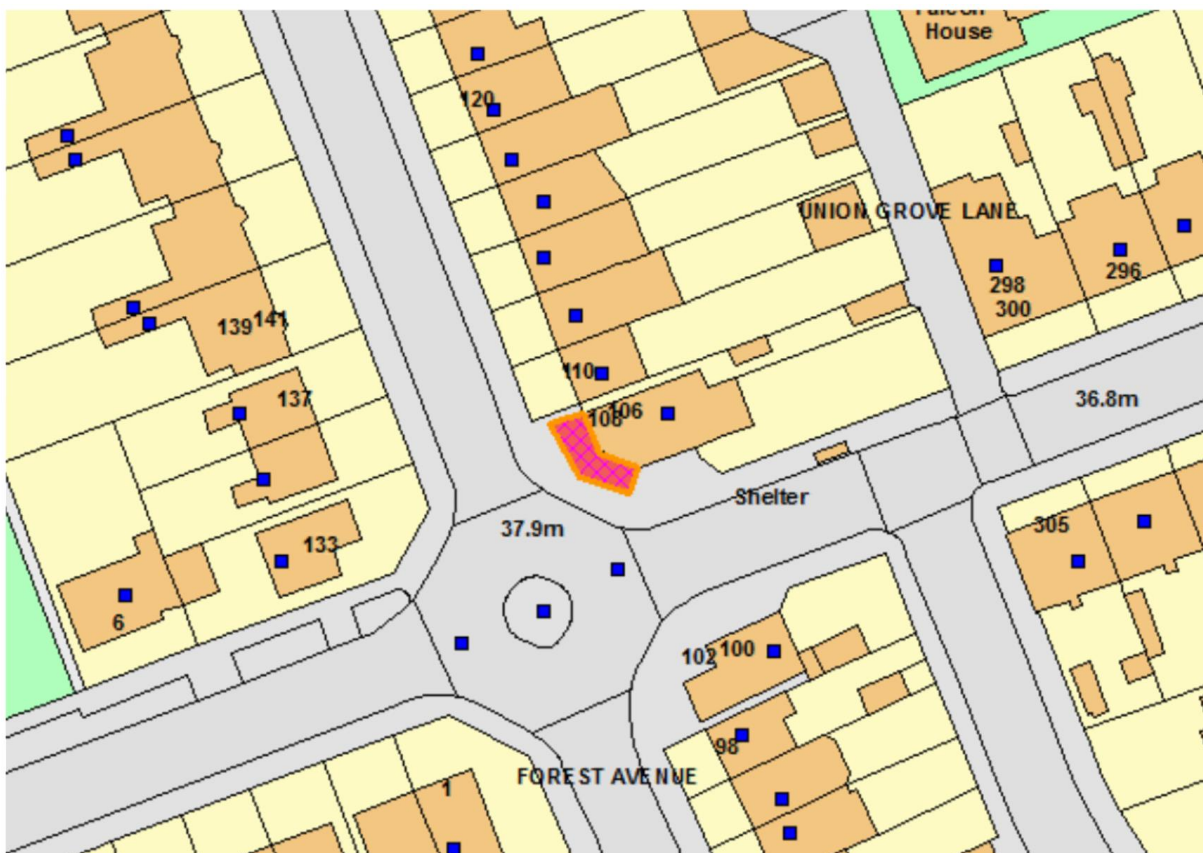


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 17 March 2022

Site Address:	106 - 108 Forest Avenue, Aberdeen, AB15 4UP,
Application Description:	Change of use from pavement and installation of raised decking to form an outdoor seating area with access ramp (retrospective)
Application Ref:	220015/DPP
Application Type	Detailed Planning Permission
Application Date:	10 January 2022
Applicant:	Rendezvous Nargile
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Queen's Cross and Harlaw
Case Officer:	Gavin Evans



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

This application pertains to an area of hardstanding at the frontage of 'Rendezvous@Nargile', a restaurant (Class 3 use) within a traditional 1 ½ storey granite building, located on the north-eastern corner of the junction at Forest Avenue and Union Grove/Cromwell Road. Surrounding land use is principally residential, and the built form is characterised by traditional granite buildings with slate roofs, although it is noted that there are various building types. These include detached bungalows on Cromwell Road, 2 ½ storey flatted blocks on Union Grove and both terraced and semi-detached dwellings on the closest sections of Forest Avenue.

Relevant Planning History

There are no earlier planning applications of relevance.

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought for the change of use of this area of hardstanding/footway at the frontage of the property and the installation of raised timber decking to form an outdoor seating area with access ramp. The decking is currently in situ, with the works carried out around August 2020. Planning permission has been sought retrospectively, and on a permanent basis.

The area of decking is located at the Forest Avenue face of the building, before partially returning around the corner. It measures approximately 14m wide and projects between 4 and 4.8m from the face of the building, with a total footprint of circa 54sqm.

The proposed decking is formed in treated, unfinished timber and provides a level surface directly outside the restaurant, enclosed by balustrades of between 1.3m and 1.5m above the prevailing ground level, formed in the same horizontal timber cladding and incorporating raised planters. These contain various plants and flowers which appear to provide some greenery to soften its appearance year-round. The structure also includes a ramp to facilitate disabled access at its northern end and a stepped access point at its south-eastern end, along with associated handrails and anti-slip tape.

Amendments

None.

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=R5HTCLBZJHR00>

- Plans and elevations as existing and as proposed
- Photographs of decking in situ

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the local Queen's Cross and Harlaw Community Council has stated its objection to the application and the recommendation is for approval.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. Consider that the proposals do not hinder pedestrian movement on the footway, and are within the applicants' red line boundary (i.e. under the applicants' control).

Note that the proposals have been discussed with ACC's Traffic Management Team, who have no concerns. It is highlighted that a pavement café permit and other permissions may be required separately (e.g. building warrant).

ACC - Environmental Health – No objection. Recommend that conditions are applied in order to prohibit: (1) amplified music, use of microphones/speakers or other forms of music entertainment within the proposed seating area; and (2) use outwith the hours from 10.00am to 10.00pm.

Queen's Cross And Harlaw Community Council – Objects to the proposal, stating that the temporary wooden structure is not in keeping with the surrounding area and its granite buildings. Notes that the Community Council has no objection to use of the area within the applicants' property boundary for outdoor seating as has occurred in the past.

REPRESENTATIONS

A total of 41 valid and timeously made representations have been received in relation to this application (5 objections and 36 in support). The matters raised can be summarised as follows:

Objections

- The raised wooden decking detracts from the appearance of these buildings and the wider streetscape. Specifically, the decking would spoil the symmetry between this building and the Rendezvous gallery on the opposite corner and obscure much of the building's frontage.
- The timber used in its construction is not sympathetic to its surroundings, where granite is the dominant material.
- The decking sits just outside the Great Western Road and Albyn Place and Rubislaw Conservation Areas, and is prominently visible in views of and from both.
- If planning permission is granted retrospectively it will set a precedent for others to seek permission to erect decking and other structures prominently in front of their buildings and expect that permission to be granted.
- Argues that changes to Covid restrictions mean that outdoor areas such as this are not required as permanent features, noting that similar businesses have mostly removed their structures.
- Argues that use of the outdoor area could be achieved less intrusively via tables and chairs on the pavement, as has been done in the past at the premises. Notes that the decking does not enlarge the area previously available for outdoor use nor allow for increased availability.
- Contends that the nature and size of the decking suggests it was always intended to be a permanent feature.

- Wheelchair access is welcome, however there are much less obtrusive solutions to that issue.
- The proposed decking, though of a small scale, is of a type which would cumulatively detract from the city's granite heritage if replicated and should be resisted. Conflict with policy D5 (Aberdeen's Granite Heritage) is highlighted.
- The proposals would fail to accord with policy D1 (Quality Placemaking by Design) of the ALDP, as the proposal is not designed with due consideration for its context and fails to make a positive contribution to its setting.
- Queries the presence of existing cycle racks which, when in use, further encroach on the useable area of footway.
- Highlights potential for noise nuisance to affect nearby residents, contrary to policy T5 (Noise).
- Suggests conflict with policies H1 (Residential Areas) and NC3 (West End Shops and Cafes) due to anticipated impact on amenity.
- Suggests that the licence for this premises does not impose any limit on the number of patrons occupying this outdoor space. It was later confirmed to the respondent that the licence states a maximum of 52 patrons.
- Concern that consumption of food and drink outside may attract vermin or birds.
- Ownership of this outside area is queried.
- Alleges that during construction workers were unmasked and did not maintain safe distance from passing pedestrians.
- Concern that this structure was in use for circa 18 months without planning permission having been obtained.

Support

- General unspecified support and praise for this longstanding restaurant.
- Highlight importance of supporting local businesses.
- Stresses the importance of outdoor spaces in reducing COVID-related risks and supporting mental wellbeing.
- Support for promotion of a 'cafe culture' in Aberdeen which has flourished recently.
- Proposal utilises a well-considered and tasteful design which incorporates flowers/greenery.
- Includes provision for disabled access/pushchairs.
- Notes that this area of pavement is particularly wide and can readily accommodate the proposed outdoor seating area without presenting an impediment to pedestrian movement.
- Notes that the seating area is safely enclosed through its design.
- Contends that this restaurant is not open late into the evening and there has been no issue with noise or amenity impact.
- Some respondents highlight a number of cafes on St Swithin Street and bars on Queen's Road which have contributed positively to their surroundings.
- Express the view that this enhances the facilities/dining offering available locally.

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.

Development Plan

Strategic Development Plan

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Local Development Plan

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

H1: Residential Areas
 T2: Managing the Transport Impact of Development
 D1: Quality Placemaking by Design
 T5: Noise

Supplementary Guidance and Technical Advice Notes

- Transport and Accessibility
- Noise

Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;

- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. In this instance the applicable policies are not subject to material change that would alter the recommendation of this report.

Other Material Considerations

- Chief Planner's Letters
 - 29th May 2020 – Coronavirus (COVID-19): Planning procedures
 - 2nd July 2020 - Coronavirus (COVID-19): planning – use of outdoors spaces and 'the 28 day rule'
 - Stakeholder updates in Dec 2020, March 2021 and November 2021

EVALUATION

Principle of Development

The application site is located within an area that the Aberdeen Local Development Plan (ALDP) identifies as a H1 Residential Area, where policy H1 is applicable. Policy H1 supports new residential development subject to specified criteria, but also provides for non-residential uses where either (1) the proposed use is considered complementary to residential use or (2) it can be demonstrated that there would be no conflict with, or any nuisance to, existing residential amenity.

Residential Amenity and Noise

The presence of local shops and other facilities such as restaurants and cafes can complement residential use by offering convenience for local residents and reducing the need to travel to access such shops and services. This must be balanced against any potential environmental impacts such as noise or odour. In this instance the proposal relates to an existing restaurant which, according to representations received, has previously utilised the area in question for outdoor dining on an ad-hoc basis through the siting of chairs and tables as and when the weather allows. With that in mind, it appears that the existing restaurant has been able to co-exist alongside residential properties without any notable conflict arising. The decking occupies an area of approximately 54sqm at the frontage of the property, facing directly towards the roundabout and returning around the Forest Avenue face of the building. Whilst there is a residential dwelling immediately to the north (110 Forest Avenue), the corner location of the site is such that Forest Avenue and Union Grove offer a degree of separation from other near neighbours. The closest property on the west side of Forest Avenue lies approximately 27m away, with approximately 21m separating the decking and 102 Forest Avenue, which lies on the opposite side of Union Grove. This degree of separation to residential properties serves to mitigate the potential for significant impact on amenity.

Consultation with the Council's Environmental Health Service has not identified any concerns about unacceptable noise levels, subject to restrictions on hours of use and prohibition on amplified music or live performance. Such matters can be satisfactorily controlled through the use of planning conditions. In this regard, the proposals are considered to cause no conflict with, nor any nuisance to, the enjoyment of existing residential amenity, and demonstrate their accordance with policy H1 (Residential Areas) of the Aberdeen Local Development Plan (ALDP).

Having established the principle of the use in terms of policy H1, this assessment now turns to the physical works for the erection of the decking structure, its visual impact and relationship with the surrounding streetscape.

Design

D1 (Quality Placemaking by Design) requires that all development ensures a high standard of design and demonstrates a strong and distinctive sense of place. Factors such as context appraisal, architectural quality, craftsmanship, materials and landscaping are relevant considerations in assessing of design quality. In this case, the structure is formed in treated, unfinished timber. The flat deck area is enclosed by a balustrade also formed in treated, unfinished timber, laid horizontally. This balustrade measures between 1.3 and 1.5m high from the prevailing ground level and incorporates planters containing various plants and flowers. The structure also includes a ramp to facilitate disabled access, along with handrails and anti-slip tape.

The decking structure is relatively simple in its styling and its alignment is somewhat sympathetic to the building in replicating the turn in its frontage. The horizontal hit-and-miss timber cladding to its outer face helps to add texture and reduce its massing to some extent. Similarly, the incorporation of planters assists in softening the appearance of the structure, with grasses, herbs and shrubs incorporated which ensure the presence of year-round greenery. It is noted also that the height of the decking and the absence of any additional structure such as an awning, canopy or tent ensures that the frontage of the granite building is not excessively screened or obscured.

Whilst representations contend that the siting of decking in this location would detract from a symmetry between the buildings on opposite sides of Union Grove (Nargile and the Rendezvous Gallery), these buildings actually differ in their orientation and the application premises have an angled frontage which is not mirrored by any other property at this junction. Nevertheless, whilst the proposals are relatively sympathetic in styling, they are nevertheless prominently sited at the frontage of granite buildings on a relatively busy road junction. This degree of prominence and the prominence of the timber construction is such that the structure does appear somewhat out of place in relation to the surrounding built environment. On this basis, it is considered that the proposals would not demonstrate the appropriate regard for their context to warrant retention as a permanent feature, however it is considered that the degree of harm on the character and appearance of the residential area is not such that it would be unreasonable on balance to allow for a temporary consent for a period not exceeding one year. It is noted also that any visual impact associated with its presence is entirely reversible, and the structure can be readily removed and the site restored to its former condition in due course. Whilst recognising that there is conflict with policy D1 (Quality Placemaking by Design) of the ALDP, the granting of a temporary permission is considered to strike an appropriate balance between safeguarding the character of the area in the long term whilst supporting a local business in its recovery from exceptionally challenging trading circumstances.

It is noted, as highlighted in representations, that the site lies close to the boundary of two designated Conservation Areas, however the scale and prominence of the decking structure is not considered to be so great as to detract from the character or appearance of either of these. It is therefore considered that there is no conflict with policies D4 (Historic Environment) or D5 (Our Granite Heritage) of the ALDP.

Transportation and Accessibility issues

The proposed outdoor seating area occupied an area of hardstanding at the front of the property, however it is noted that whilst this is generally indistinguishable from the public footway, it is actually in the applicants' ownership. The siting of the proposed decking in this location would not materially impede pedestrian movement and there remains an adequate area of footway for foot traffic. The response from ACC's Roads Development Management Team confirms this position, with no objections stated. There may be a requirement for a pavement café licence, however that process is separate from consideration of this application for planning permission and the applicants would be obliged to comply with any applicable restrictions to all consents/permits obtained. It is noted that there are cycle stands located immediately adjacent to the decking. Whilst these are mentioned in representations as if associated with the proposal, Google street

view images confirm that these have been in their present location since at least May 2014. These cycle stands remain accessible and their use is not hindered as a result of these proposals. Taking these matters into account, it is considered that there is no conflict with policies T2 (Managing the Transport Impact of Development) or T3 (Sustainable and Active Travel) of the ALDP, nor the associated 'Transport and Accessibility' Supplementary Guidance.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given.

Matters Raised in Representations

Comments in support of the proposal are noted. It is agreed that businesses have faced difficult trading circumstances over the last 2 years and a degree of continued flexibility would help support recovery in the short-term. Design, accessibility, noise and amenity issues are considered separately within this report, including assessment against the relevant Development Plan policies.

It is important to note that all planning applications must be considered on their individual merits, and the approval of one outdoor seating area does not mean that any or all others would be approved. Similarly, the fact that permission has been sought retrospectively does not alter the basis on which the application should be considered, other than offering a clearer reference point for any visual and amenity impacts. Some representations suggest a potential conflict with policy Suggests conflict with policies H1 (Residential Areas) and NC3 (West End Shops and Cafes), however that policy is not applicable to this application as the site lies outwith the relevant area, as defined in the ALDP.

Comments relating to the licence applicable to the premises are noted, however members are reminded that their consideration of this application extends only as far as its planning merits. In the event that planning permission is granted, it will be the proprietors' responsibility to ensure that they comply with the terms and restrictions of all consents and permits required. It should be noted that the planning permission sought concerns land use and the addition of the decking structure, but would not impose any upper limit on the number of patrons, which is a matter for the licensing process. It is considered that the proposed outdoor seating area is unlikely to result in any issues in terms of attracting vermin or birds provided that tables are routinely cleared. There is no evidence to suggest that this would not take place as part of the usual running of the business, nor are we aware of this having been an issue whilst the decking has been in situ. Ownership of land is generally not a material consideration, as planning permission can be sought regardless of ownership, however the applicants have in making this application certified that they are the sole owners of the land in question. Matter relating to construction workers' alleged failure to comply with covid restrictions are not a material consideration in the assessment of this application.

Matters Raised by Community Council

Issues relating to design, materials and context have been considered within the body of this report. It is noted that the Community Council has no objection in principle to outdoor seating to the front of the premises.

Other Material Considerations

The Scottish Government's Chief Planner has previously written to all planning authorities to set out that the planning system has a role in supporting covid recovery by supporting businesses which have sought to diversify or adjust the way in which they operate to suit changing circumstances. Whilst not intended to be exhaustive, these do specifically highlight that the intended approach would provide support for the hospitality industry to provide outdoor seating. The most recent update from the Chief Planner advised that this broad approach of relaxing

control should continue where reasonable and appropriate to support the national response to COVID-19, noting an aim to withdraw this guidance supporting relaxation of planning control at the end of September 2022. In this case, the applicants have expressly sought planning permission ahead of that anticipated change in national advice. It is recognised that the proposed siting of this structure does not involve physical alterations to the building itself and appears to be entirely reversible, therefore any compromising effects on the character and appearance of building or the wider residential area can, subject to restrictions on any grant of planning permission, be entirely temporary and readily undone on removal of the structure. On balance, it is felt that a temporary permission for one year is the most appropriate course of action to support business recovery in the short term whilst also safeguarding residential amenity and design quality in the longer term.

Heads of Terms of any Legal Agreement

n/a.

Time Limit Direction

n/a.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposals relate to an existing restaurant (Class 3) use within a predominantly residential area. The use of an outdoor area to the front of the property is not, in principle, considered to be incompatible with residential use. The proposed structure, whilst being of size, design and siting which would be not wholly sympathetic to the surrounding streetscape, is acceptable on a strictly temporary basis as a means of supporting business during the transitional period following necessary but protracted restrictions on normal trading. It is not anticipated that there would be any adverse impact on residential amenity by way of noise nuisance, subject to restrictions on amplified music and hours of operation which can be adequately controlled via planning conditions. The proposal is considered to accord with the provisions of policy H1 (Residential Areas) of the Aberdeen Local Development Plan (ALDP).

It is recognised that there are conflicts with policy D1 (Quality Placemaking by Design), however it is considered that the impacts are tolerable on a short-term and temporary basis, and that removal of the structure can be secured by appropriately worded planning conditions.

CONDITIONS

1. Timescale for removal

The structure hereby approved shall be wholly removed from the site by 17th March 2023.

Reason: To ensure timely removal of a structure which has been assessed as being acceptable only on a temporary basis due to its design, materials and resultant adverse impact on the character and appearance of the surrounding area.

2. Hours of use

The structure hereby approved shall not be made available for use by patrons outwith the hours of 10.00am-10.00pm.

Reason: in the interests of safeguarding residential amenity by restricting use at unsociable hours.

3. Amplified music

The outdoor seating area hereby approved shall not be utilised for the performance of live or amplified music, nor the use of microphones/speakers.

Reason: in the interests of protecting residential amenity from potential noise nuisance.

ADVISORY NOTES FOR APPLICANT

1. Attention is drawn to the consultation response provided by ACC's Roads Development Management Team, which notes that other permissions such as a pavement café permit and/or building warrant may be required in addition to planning permission. Further information on café permits can be found at:

(<https://www.aberdeencity.gov.uk/services/business-and-licensing/licences-and-permits/pavement-cafe-permit-application>)