

Public Document Pack



To: Councillor Henrickson, Convener; Councillor Bouse, Vice-Convener; and Councillors Alphonse, Blake, Boulton, Clark, Cooke, Copland, Crockett, Farquhar, McRae, Mrs Stewart and Thomson.

Town House,
ABERDEEN 13 April 2023

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in **Council Chamber - Town House** on **THURSDAY, 20 APRIL 2023 at 10.00 am**. This is a hybrid meeting and Members may also attend remotely.

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>

JENNI LAWSON
INTERIM CHIEF OFFICER – GOVERNANCE (LEGAL)

B U S I N E S S

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 9 March 2023 - for approval (Pages 7 - 14)

COMMITTEE PLANNER

- 5.1. Committee Planner (Pages 15 - 18)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1. Detailed Planning Permission for the change of use from class 2 (financial, professional and other services) to class 3 (food and drink); change of use from pavement to outdoor seating area with associated enclosure and installation of canopy and kitchen extract flue - 495- 499 Great Western Road Aberdeen (Pages 19 - 38)

Planning Reference – 221298

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

[Link.](#)

Planning Officer: Alex Ferguson

- 6.2. Detailed Planning Permission for the erection of domestic detached garage at 108A North Deeside Road Aberdeen (Pages 39 - 48)

Planning Reference – 221146

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

[Link.](#)

Planning Officer: Roy Brown

- 6.3. Detailed Planning Permission for the erection of temporary hot food unit (retrospective) - land adjacent to Westburn House, Westburn Park, Westburn Road, Aberdeen (Pages 49 - 62)

Planning Reference – 230140

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

[Link.](#)

Planning Officer: Alex Ferguson

- 6.4. Detailed Planning Permission for the installation of CCTV camera (retrospective) - 91 Ashley Road Aberdeen (Pages 63 - 68)

Planning Reference – 230201

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

[Link.](#)

Planning Officer: Samuel Smith

- 6.5. Conservation Area Consent for the complete demolition of fence at 34 Don Street Aberdeen (Pages 69 - 74)

Planning Reference – 221540

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

[Link.](#)

Planning Officer: Samuel Smith

DATE OF NEXT MEETING

- 7.1. Thursday 25 May 2023

EHRIAs related to reports on this agenda can be viewed [here](#)

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

Agenda Item 1.1

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 and any conditions to be attached 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. The Convener will usually call a short recess for discussion between officers and Members putting forward an alternative to the recommendation.

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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 9 March 2023. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Henrickson, Convener; Councillor Bouse, Vice Convener; and Councillors Allard (as substitute for Councillor Alphonse), Blake, Boulton, Clark, Cooke, Copland, Farquhar, Lawrence (as substitute for Councillor Crockett), van Sweeden (as substitute for Councillor McRae), Mrs Stewart and Thomson.

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.

DECLARATIONS OF INTEREST OR CONNECTIONS

1. The following statement of transparency was noted:-

In relation to item 6.2 on the agenda (81 Brighton Place), Councillor Allard advised that he had a connection as he knew one of the objectors, Dr Susan Smith, who was due to present her objection to the application, but he did not consider that the nature of his connection amounted to an interest that would require him to withdraw from the meeting.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 9 FEBRUARY 2023

2. The Committee had before it the minute of the previous meeting of 9 February 2023, for approval.

Councillor Blake advised that in relation to her transparency statement, that the wording be corrected slightly and should read:-

In relation to item 6.2 on the agenda (variation to condition 10, A944 Jessiefield Junction), Councillor Blake advised that she had a connection due to coordinating advertisements for the MBC News, which was linked to Cults, Bielside and Milltimber Community Council, but did not consider that the nature of her connection amounted to an interest that would require her to withdraw from the meeting.

The Committee resolved:-

- (i) to request that the change be made to Councillor Blake's transparency statement; and
- (ii) to otherwise approve the minute as a correct record.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

9 March 2023

COMMITTEE PLANNER

3. The Committee had before it the committee business planner, as prepared by the Interim Chief Officer – Governance.

The Committee resolved:-

- (i) to note that in relation to item 4 on the planner, Baads Farm, that the decision would be made through delegated powers and did not require a committee decision, therefore would be deleted from the planner; and
- (ii) to otherwise note the information contained in the planner.

81 BRIGHTON PLACE ABERDEEN - 221086

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

That the application for detailed planning permission for the erection of extensions to the side and rear and formation of door opening to form 2 semi-detached dwelling houses, at 81 Brighton Place Aberdeen, be approved subject to the following conditions:-

Conditions

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(02) BOUNDARIES

That the development hereby approved shall not take place unless a detailed scheme of site and plot boundary enclosures for the entire development hereby granted planning permission has been submitted to and approved in writing by the Planning Authority. None of the residential units hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety.

Reason: In order to ensure an acceptable level of residential amenity.

(03) PARKING

That the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. 610-31/RevE of the plans hereby

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approved. For the avoidance of doubt, this includes the installation of the EV charging points. Such areas shall not thereafter be used for any other purpose than the parking of cars ancillary to the development hereby granted approval.

Reason: In the interests of public safety and the free flow of traffic.

(04) PHOTOGRAPHIC SURVEY

No demolition or any other works in connection with the development hereby granted planning permission shall commence unless a photographic survey of the existing building on the application site has been submitted to and approved in writing by the Planning Authority. All external elevations of the building together with the setting of the building and any unusual features of the existing building shall be photographed. The photographic viewpoints must be clearly annotated on a plan to accompany the survey. The photographs and plan must be in a digital format and must be clearly marked with the planning reference number.

Reason: To ensure that a historic record of the building is made for inclusion in the National Monuments Record for Scotland and in the local Historic Environment Record.

(05) OBSCURE GLAZING

That the development hereby approved shall not be brought into use unless the bathroom window on the south facing elevation of the building as shown on drawing 610-32/RevD has been fitted with obscure glazing. Once installed, the obscure glazing shall be permanently retained thereafter and the window shall not be altered in any way without the prior express planning permission of the planning authority.

Reason: In the interests of the residential amenity of the adjacent property.

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

The Committee then heard from Dr Susan Smith and Mr John Love, who both objected to the application.

The Committee then heard from the agent for the application, Mr Bruce Ritchie, who spoke in support of the application.

The Committee resolved:

to unanimously refuse the application for the following reasons:

1. Given the prominent location of the proposal and its design, scale and massing, the proposed extensions were considered overbearing and out of keeping with the scale and massing of the existing building and also detrimental to the historic character of the adjoining Albyn Place/ Rubislaw Conservation Area.

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2. Furthermore, the proposed materials for the extension, especially the use of timber and render, were also incompatible with the character of the existing dwelling and the conservation area. It was thus considered to have an adverse impact on the character of the surrounding area and had not given due consideration to the surrounding site context.
3. For the foregoing reasons the proposal was considered not to be in compliance with the relevant criteria in;
 - Policies 7 (Historic Assets); 14 (Design, Quality and Place) of National Planning Framework 4;
 - Policies H1 (Residential Areas), D1 (Quality Placemaking by Design) and D4 (Historic Environment) of the 2017 Aberdeen Local Development Plan;
 - Policies H1 (Residential Areas), D1 (Quality Placemaking) and D6 (Historic Environment) of the 2020 Proposed Aberdeen Local Development Plan and;
 - Relevant sections of the Householder Development Guide and the Council's Technical Advice Note on "Materials: External Building Materials and their Use in Aberdeen.

LAND AT INTERNATIONAL GATE, DYCE, ABERDEEN - 221436

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

That the application for detailed planning permission for the extension of an existing car park with associated external lights and landscaping works, at land at International Gate, Dyce, Aberdeen, be approved subject to the following conditions:-

Conditions

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason – in accordance with section 58 (duration of planning permission) of the 1997 act.

(02) BIRD HAZARD MANAGEMENT PLAN

No development shall take place unless a Bird Hazard Management Plan has been submitted to and approved in writing by the planning authority, in consultation with Aberdeen International Airport. The submitted plan shall include details of –

- Earthworks, soil stripping and excavation works;
- Monitoring of any standing water within the site whether temporary or permanent.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

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Thereafter, the Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the development. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the planning authority in consultation with Aberdeen International Airport.

Reason – to minimise the development’s attractiveness to birds which could endanger the safe movement of aircraft and the operation of Aberdeen International Airport.

(03) LANDSCAPING

No development shall take place unless a scheme of landscaping for the site has been submitted to and approved in writing by the planning authority. The scheme shall include the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting.

Thereafter, 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 trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority.

Reason – to satisfactorily integrate the development into the surrounding area and enhance biodiversity.

(04) DRAINAGE

The car park shall not be brought into operational use unless all drainage works detailed in the Drainage Assessment (ref: 151781 DA01) or such other plan as may subsequently be approved in writing by the planning authority for the purpose have been installed in complete accordance with the said plan.

Reason – to safeguard water qualities in the adjacent watercourse and to ensure that the proposed development can be adequately drained.

(05) EXTERNAL LIGHTING

The car park shall not be brought into operational use unless all external lighting detailed in the drawing WWL-XX-XX-PL-U96002 (Rev. P03) by Wallace Whittle, or such other plan as may subsequently be approved in writing by the planning authority for the purpose have been installed in complete accordance with the said plan.

Reason – to ensure the site is adequately lit.

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(06) CAR PARK USEAGE

The car park hereby approved shall be used only for the parking of vehicles belonging to passengers taking flights to and from Aberdeen International Airport and any ancillary activity.

Reason – to ensure that the car park is not used as a general parking facility which would undermine efforts to encourage the use of more sustainable modes of transport within Aberdeen.

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

The Convener moved, seconded by Councillor Allard:-

That the application be refused for the following reasons:-

The provision of additional car parking capacity near the airport would hinder the ability to encourage modal shift towards the use of public transport. There was no evidence that there were capacity issues with the existing level of parking available to those using the airport and additional supply was likely to make driving to and parking at the airport more attractive. This would be inconsistent with the following policies of National Planning Framework 4; Policy 1 (Climate and Nature Crises) and Policy 13 (Sustainable Transport) as well as the Regional Transport Strategy, Local Transport Strategy and Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the Aberdeen Local Development Plan.

Councillor Boulton moved as an amendment, seconded by Councillor Copland:-

That the application be approved conditionally in line with the officer recommendation.

On a division, there voted:- for the motion (5) – the Convener and Councillors Allard, Blake, van Sweeden and Thomson – for the amendment (8) – the Vice Convener and Councillors Boulton, Cooke, Copland, Clark, Farquhar, Lawrence and Mrs Stewart.

The Committee resolved:-

to adopt the amendment and therefore approve the application in line with the officer recommendation.

LOCAL REVIEW BODY PROCEDURE REVIEW PLA/23/079

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which sought approval to change the constitution of the Local Review Body (LRB) following an instruction given at the Planning Development Management Committee (PDMC) of 12 January 2023.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

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The report recommended:-

that the Committee –

- (a) note the options presented in the report in relation to the constitution of the LRB;
- (b) approve Option 2 as the preferred option for the constitution of the LRB; and
- (c) refer the proposed changes to the constitution of the Local Review Body (LRB) outlined in Option 2 of this report to the Full Council meeting of 26 April 2023 for formal adoption.

The Convener moved, seconded by Councillor Copland:-

That the Committee -

- (i) note the options presented in the report in relation to the constitution of the LRB;
- (ii) agree the recommendations contained within option two of the report subject to the following changes:
 1. Membership of the local review body is drawn exclusively from PDMC Members on a rota basis, and members have the dates set in their diaries.
 2. LRB Membership at any specific meeting is set at 5 members and a quorum at 3 Members.
 3. A local ward Member cannot take part in decision making at the LRB when it is considering an application in the ward that Member represents.
 4. Any substitutes to be exclusively drawn from PDMC Members and must be notified to the Committee Clerk as far as possible in advance of the meeting so that there is time to ensure that this would not result in a member from the ward as an application on the LRB.
 5. LRB to be chaired by the Convenor of the PDMC, or Vice Convenor or another member if they are both unavailable or are precluded from taking part in the decision making at the LRB because it is considering an application in the Member's ward; and
- (iii) refer the proposed changes to the constitution of the LRB to the Full Council meeting of 26 April 2023 for formal adoption.

Councillor Boulton moved as an amendment, seconded by Councillor Mrs Stewart:-

That the Committee approve option 2 as outlined in the report.

On a division, there voted:- for the motion (7) – the Convener and Councillors Allard, Cooke, Copland, Clark, van Sweeden and Thomson – for the amendment (5) – Councillors Blake, Boulton, Lawrence, Farquhar and Mrs Stewart – absent from the vote (1) – the Vice Convener.

The Committee resolved:-

to adopt the motion.

- **Councillor Dell Henrickson, Convener**

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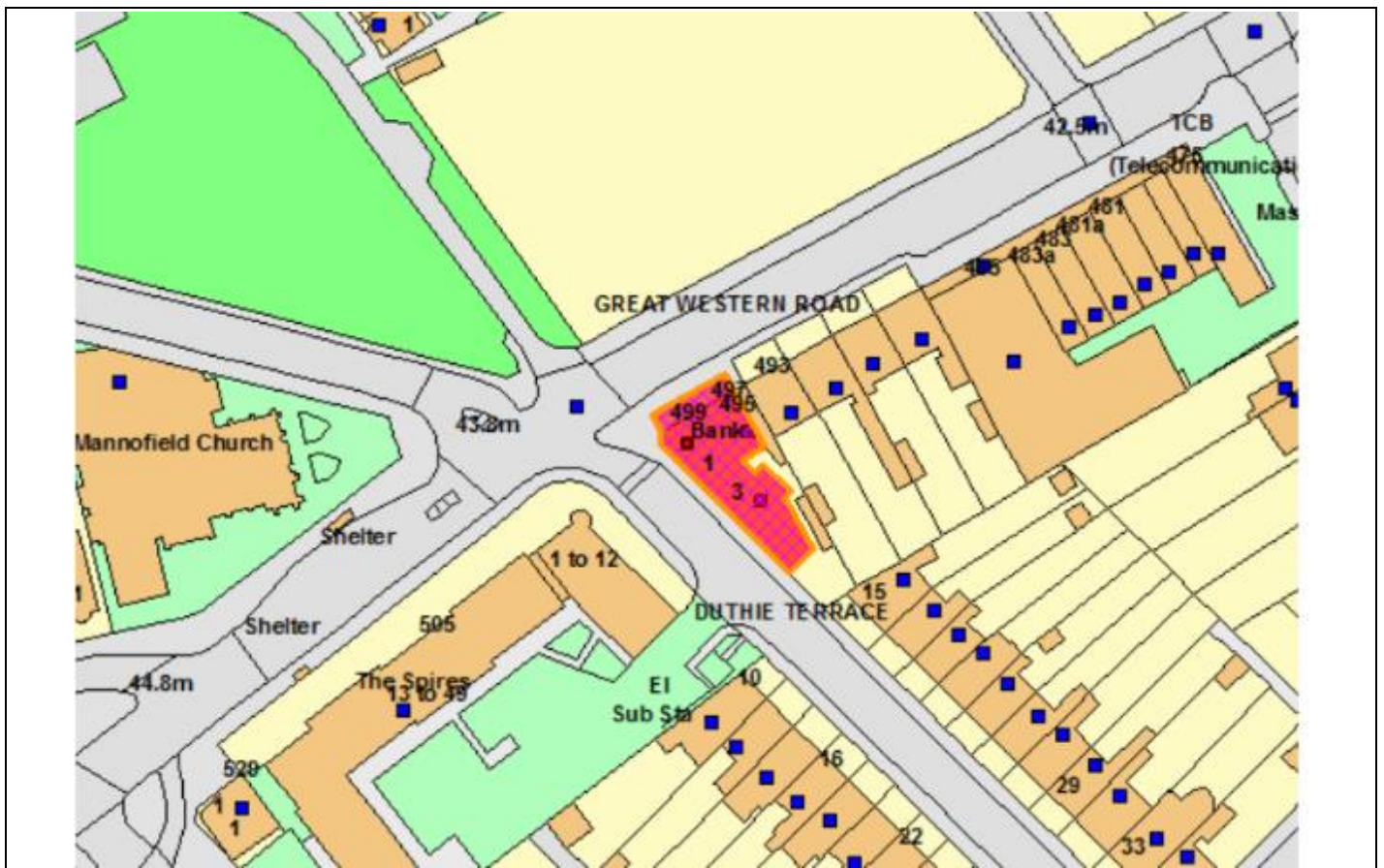
	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision 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	20 April 2023								
4	Land adjacent to Westburn House - 230140	To approve or refuse the application for the erection of temporary hot food unit (Retrospective)	On agenda	Alex Ferguson	Strategic Place Planning	Place	1		
5	108A North Deeside Road - 221146	To approve or refuse the application for erection of domestic detached garage	On agenda	Roy Brown	Strategic Place Planning	Place	1		
6	Former Lloyds TSB 495-499 Great Western Road 221298	To approve or refuse the application for change of Use from Class 2 to Class 3 (food & drink), change of use of pavement to outdoor seating with associated enclosure and canopy	On agenda	Alex Ferguson	Strategic Place Planning	Place	1		
7	91 Ashley Road - 230201	To approve or refuse the application for installation of CCTV	On agenda	Sam Smith	Strategic Place Planning	Place	1		
8	34 Don Street - 221540	To approve or refuse the application for complete demolition of fence	On agenda	Sam Smith	Strategic Place Planning	Place	1		
9	Guidance on Outdoor Seating	At the meeting of PDMC on 1 September 2022, it was agreed to approve the content of the draft Guidance on Outdoor Seating; Instruct the Interim Chief Officer - Strategic Place Planning to, subject to any minor drafting changes, publish the draft Guidance on Outdoor Seating document for a four week non statutory public consultation; and instruct the Interim Chief Officer – Strategic Place Planning to report the results of the public consultation and any proposed revisions to the draft Guidance on Outdoor Seating to a subsequent Planning Development Management Committee within the next six months.		Donna Laing	Strategic Place Planning	Place	5	D	Scottish Government asked for extension for the adoption of the LDP therefore will be delayed until May 2023 meeting.
10	PRE APPLICATION FORUM - 92 - 126 John Street	To hear from the applicant on the proposal for major residential or quasi-residential (sui generis) use - potentially flats, build to rent private rented accommodation, student housing, serviced apartments or a mix of these plus supporting facilities and infrastructure		Gavin Clark	Strategic Place Planning	Place			
11	25 May 2023								

	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									
12	ETZ Masterplan	To present the Masterplan with recommendation to go out for a 4 week consultation		Laura Robertson	Strategic Place Planning	Place	4		
13	Planning Enforcement Report	To note the details contained in the enforcement report		Gavin Clark	Strategic Place Planning	Place	3		
14			22 June 2023						
15			24 August 2023						
16			21 September 2023						
17			02 November 2023						
18			07 December 2023						
19	Procedure for Representations	At the meeting of PDMC on 3 November 2022, a new draft procedure was agreed for allowing representations to speak at Committee. It was agreed to instruct the Chief Officer – Strategic Place Planning to report back to the Committee on the effectiveness of the Procedure by December 2023.		Alan Thomson	Strategic Place Planning	Place	5		
20			Future applications to PDMC (date of meeting yet to be finalised).						
21	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		
22	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		
23	Summerhill Church Stronsay Drive - 220990	To approve or refuse the application for redevelopment of church and manse site for residential development (14 dwellings)		Lucy Greene	Strategic Place Planning	Place	1		
24	Former Cordyce School, Riverview Drive - 221232	To approve or refuse the application for erection of 91 homes including associated infrastructure, open space and landscaping		Dineke Brasier	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									
25	Former Braeside School - 221310	To approve or refuse the application for erection of 30 affordable residential units with associated infrastructure and open space		Matthew Easton	Strategic Place Planning	Place	1		
26	Land At Greenferns Sites OP28 & OP33	To approve or refuse the application for Residential-led, mixed use development comprising approximately 1,650 homes, employment use, a neighbourhood centre comprising local retail and commercial provision, leisure and community uses and associated infrastructure including new and upgraded access roads, landscaping, open space and engineering works		Gavin Clark	Strategic Place Planning	Place	1		
27	56 Park Road - 221074	To approve or refuse the application for the erection of 30 flats		Robert Forbes	Strategic Place Planning	Place	1		
28	Wallace Tower - 221380 - DPP	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, with ancillary office accommodation and meeting hall; erection of single 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		
29	Wallace Tower - 221379 - LBC	To approve or refuse the application for Conversion of existing building to form community cafe with ancillary office accommodation and meeting hall; erection of single storey extension to form additional seating areas to cafe; alterations to internal partitions; 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		
30	The James Hutton Institute, Countesswells Road - 221419	To approve or refuse the application for formation of access road, amended car parking and associated drainage		Matthew Easton	Strategic Place Planning	Place	1		

 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;">Committee Date: 20 April 2023</p>
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Site Address:	Lloyds T S B, 495 - 499 Great Western Road, Aberdeen, AB10 6NN
Application Description:	Change of use from class 2 (financial, professional and other services) to class 3 (food and drink); change of use from pavement to outdoor seating area with associated enclosure and installation of canopy and kitchen extract flue
Application Ref:	221298/DPP
Application Type	Detailed Planning Permission
Application Date:	28 October 2022
Applicant:	Moossh
Ward:	Airyhall/Broomhill/Garthdee
Community Council:	Braeside And Mannofield
Case Officer:	Alex Ferguson



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a vacant commercial premises that occupies the ground floor level of a 3-storey end-terraced building of traditional design (granite walls and slated mansard roof) situated on the eastern side of Great Western Road's junction with Duthie Terrace. The vacant unit is authorised for Class 1A use (shops, and financial, professional and other services), having previously operated as a bank before closing in 2021. The unit has large shopfront windows on its principal (north) elevation to Great Western Road and two further windows on its side (west) elevation to Duthie Terrace, all set below a light grey fascia. The unit extends southward into a single-storey flat-roofed rear extension which incorporates a raised access door onto the street. An area of hardstanding used for bin storage occupies the southernmost part of the premises' rear curtilage which is shared with multiple residential flats that occupy the upper floors of the building, accessed via communal entry doors on Great Western Road and Duthie Terrace. The site forms part of the Mannofield neighbourhood centre and lies within the Great Western Road Conservation Area.

Relevant Planning History

Application Number	Proposal	Decision Date
230195/DPP	Erection of bin store	Status: Pending Determination
130344	Proposed illuminated Fascia Sign, Projecting Sign and ATM Surround	03.04.2013 Status: Approved Unconditionally

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought to change the use of the premises from Class 1A to Class 3 (food & drink), with the applicant intending to operate a café / delicatessen between the hours of 8am to 11pm Monday to Saturday and 8am to 10pm on Sundays. The existing use was, until 31st March 2023, Class 2 (financial, professional and other services), as per the application description. Following an update to the Town and Country Planning (Use Classes) (Scotland) Order 1997, Classes 1 and 2 were replaced by Class 1A use (shops and financial, professional and other services)

The café would incorporate seating and a counter, bar & deli display in the front portion of the unit (facing onto Great Western Road), with toilets, storage, staff rooms and a kitchen in the rear extension. Additional seating is proposed externally, on the Great Western Road pavement immediately in front of the unit, along with associated street furniture including a 1.8m high timber privacy screen adjacent to the communal entry door to the upper floor flats, low-level screen planting and fabric parasols and two Sheffield cycle stands. It is proposed to repaint the existing fascia to a green colour, and to install a metal kitchen extract flue to the southern elevation of the single storey rear extension. The flue would be powder coated a muted grey colour and would project 1m above the flat roof.

A bin store is proposed to be formed within the shared rear curtilage. As the proposed bin store is outwith the red line boundary for this application it is therefore the subject of a separate planning application (230195/DPP), which is pending determination at the time of writing.

Amendments

In agreement with the applicant, the following amendments were made to the application:

- Noise and Odour Impact Assessments were submitted; and
- The application description and plans were amended to include the installation of the kitchen extract flue;
- The installation of two cycle parking loops on the pavement, adjacent to the outdoor seating area, was incorporated.

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=RKEMDOBZKVN00>

- Noise Impact Assessment
- Kitchen Ventilation Report / Odour Assessment
- Design Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 representations were received either objecting to, or raising concern about, the proposed development and the application is recommended for approval.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. The premises has no car parking spaces at present and none are proposed. On-street parking is available on surrounding streets and it is likely that the proposed use would predominantly cater to the local community. The site lies in close proximity to bus stops which are used by regular bus services and cycle parking has been added to the proposals which could be used by customers. The applicant has confirmed that only transit-van sized vehicles would be required for deliveries which would occur, at most, twice daily and it is considered that this operation would be no more onerous than the regular security van visits to the property for deposits and collections when it operated as a bank. The applicant will need to apply for a café permit from the Council in order to occupy part of the adopted pavement for use as outdoor seating, but ample footway width would be retained, therefore there are no road or pedestrian safety concerns in that regard.

As the proposed use would not result in a net detriment in terms of parking, would be amply served by foot, cycle and bus, and as deliveries would be similar to the previous bank security vans in terms of size and frequency, there are no Roads concerns with the proposed development.

ACC - Environmental Health – No objection. Environmental Health are satisfied that the

proposed use would not cause any significant harm to the amenity of any neighbouring properties, subject to the implementation of the mitigation measures recommended in the applicant's Odour and Noise Impact Assessments, which can be summarised as follows:

Odour Control

A Local Ventilation Extract System requires to be installed to meet the requirements set out in the applicant's Odour Assessment, to incorporate odour mitigation measures including, but not limited to:

- Grease baffle filters to be applied within the extract canopy (providing initial grease removal/fire protection) as detailed within section 5.3.3 and Appendix C-2;
- A two-stage carbon filter unit incorporating a washable panel/bag pre-filter followed by carbon filtration (with a minimum 0.2 second carbon filters residence time) as detailed within section 5.3.4 and Appendix C-3;
- A high velocity vertical discharge cowl with bird mesh and an internal drain as detailed within section 5.3.6 and Appendix C-5.

Noise Control

- The kitchen ventilation intake/extract fans shall have equivalent, or lower, noise emissions to those detailed in sections 2.3/2.4 of the NIA and appendices 8.2/8.3;
- The café ceiling shall meet a minimum total reduction in sound to the above flats of 47 dB, with acoustic upgrades applied to the existing ceiling if necessary; and
- The outdoor seating area is acceptable provided the patron numbers are restricted to a maximum of 28 at any one time, and the operational hours are restricted to daytime hours (7am to 11pm).

The Environmental Health Service also recommend an advisory note is attached to any planning permission for the operator to establish a written Odour Management Plan including cleaning and maintenance procedures for the plant corresponding with Section 5.3.7 of the Odour report, based on manufacturer's instructions and extent of use, to reduce risk of malodour and statutory nuisance going forward.

ACC - Waste and Recycling – No objection. Advice is provided in relation to commercial waste storage and collection for the applicant to be aware of. These are added as an Advisory Note.

Braeside And Mannofield Community Council – No comments received.

REPRESENTATIONS

A total of 30 representations have been submitted by third parties, 22 of which either support or make positive comments about the proposed development and 8 of which either object to or raise concerns about the proposals. The matters raised can be summarised as follows:

Comments made in support of the application

- The proposed development presents a fantastic opportunity for the area and the local

community, with a new type of café/deli that is not available at present;

- There are a very limited amount of cafés in the Mannofield area and the existing cafés are not open in the evening. It would be good to have a bistro open in the evenings within walking distance, avoiding the need to travel into the city centre for a similar offering;
- The use would be sustainably accessible, being situated on a bus route and within a residential area, with many locals likely to walk to the premises rather than drive – therefore parking would not be an issue;
- The proposed café would be a better use for the property than the currently empty, boarded up unit, which detracts from the area;
- The proposed café would complement the area and existing cafes can often be too busy;
- The café could serve as a meeting place for local residents of all ages and attract other tenants to revitalise other empty commercial units on Great Western Road;
- The café would add to the vibrancy of the area and we should be encouraging new businesses in any way we can at this moment in time;
- The previous bank use was extremely busy with people stopping on the double yellow lines all day long, which customers won't do if sitting in;
- There are no cooking odours from the fully operational kitchen at the Mannofield Church. Modern extractor fans do their job superbly;
- Noise emissions will not be an issue as the use will not be a night club or bar;
- Waste collections and deliveries will be a necessity regardless of what type of establishment occupies the premises. Deliveries and collections will be quick and infrequent; and
- Research shows that the addition of a café / restaurant to an area would be more likely to add value to local residential properties, rather than devalue them.

Concerns raised

- No car parking is proposed and the proposed use would exacerbate existing on-street parking supply issues that affect local residents, particularly as Duthie Terrace is not in a Controlled Parking Zone;
- The proposed use will not be the same in terms of car parking demand as the previous bank use of the premises – with café customers likely to stay longer;
- In 2014, an application (P140359) for a venue nearby at Friendville, Mannofield was refused on the grounds of parking, with Roads Development Management objecting to the proposals and noting that 'the surrounding road network cannot accommodate overspill parking' – what has changed in the intervening years?
- The proposed use would result in the overprovision of food outlets in the area, with two cafés, two takeaways and a supermarket nearby and there is no need for another café;
- The kitchen extractor fans could blow cooking odours into the street and neighbouring properties;
- The placement of commercial waste bins on the public pavement would not be attractive and would jeopardise public safety;
- Evening opening hours would cause increased noise and disruption, causing harm to residential amenity;
- Opening hours should be restricted to between 9am and 6pm;
- The outdoor seating would encroach on the public pavement, to the detriment of pedestrian safety;
- Delivery and waste collection vehicles would block Duthie Terrace, given it is single-lane and one-way, with no space for unloading;
- The Council should consult Mannofield Church who already provide a café service for the community and it would be sad to see their revenue disappear;

- It is alleged that the application premises has no right of access over, or ability to use, the outside area where it is proposed to place the commercial waste bins;
- Industrial bins will not fit through the existing gateway;
- The placement of commercial bins in the rear curtilage would exacerbate existing vermin and hygiene issues – there is no washing area with a drainage system;
- Whilst no application for an alcohol license has been made, the floor plans show a wine counter. The noise from customers and recycling of glass bottles associated to a licensed premises would harm amenity and the application has been submitted for the incorrect use;
- Why are additional tables and chairs required outside and does the applicant have a permit from ACC to occupy part of the pavement?;
- How would access be maintained for upper floor flat owners to clean their windows and gutters?; and
- The change of use would devalue flats in the area.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Development Plan

National Planning Framework 4 (NPF4)

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 23 (Health and Safety)
- Policy 25 (Community Wealth Building)
- Policy 27 (City, Town, Local and Commercial Centres)

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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policies are relevant –

- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)
- Policy NC6 (Town, District, Neighbourhood & Commercial Centres)
- Policy R6 (Waste Management Requirements for New Development)
- Policy T2 (Managing the Transport Impact of Development)
- Policy T3 (Sustainable and Active Travel)
- Policy T5 (Noise)

Proposed Aberdeen Local Development Plan 2020 (PALDP)

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

- Policy D1 (Quality Placemaking)
- Policy D6 (Historic Environment)
- Policy R5 (Waste Management Requirements in New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC8 (Town, District, Neighbourhood and Commercial Centres)
- Policy WB3 (Noise)

Supplementary Guidance and Technical Advice Notes

- Transport and Accessibility
- Harmony of Uses
- Noise
- Resources for New Development

National Planning Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)

EVALUATION

Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4) requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. The proposed development is sufficiently small-scale such that it

would not make any material difference to the global climate and nature crises, therefore the proposals are compliant with Policy 1.

Policy 2 (Climate mitigation and adaptation) requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. The proposed development is sufficiently small-scale such that it would not make any material difference to climate mitigation and adaptation, nor are there any opportunities to minimise greenhouse gas emissions, given the nature of the proposals. The proposals are therefore compliant with Policy 2 of NPF4.

Policy 3 (Biodiversity) of NPF4 requires proposals for local development *'to include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.'* The proposed change of use is small-scale, predominantly internal and does not offer the opportunity for any biodiversity gain other than the screening planters to the perimeter of the outdoor seating which could make a minor contribution to biodiversity enhancement. It is thus considered that the proposals are acceptable despite some minor tension with Policy 3 of NPF4.

Re-use of the existing building

Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 states that:

- d) Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses.*

Policy 12 (Zero Waste) of NPF4 adds further support to the re-use of existing buildings and infrastructure and given the proposed development would repurpose a vacant ground floor unit within an existing building, with no external demolition or additions required, it is considered that the proposals would be sustainable in accordance with Policies 9 and 12 of NPF4.

Commercial Centres

The application site lies within the Mannofield Neighbourhood Centre, as defined in the Council's Hierarchy of Centres supplementary guidance.

Policy 27 (City, Town, Local and Commercial Centres) of NPF4 states that:

- a) Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.*

The proposed development would see a unit that has lain vacant for almost 2 years occupied for a new Class 3 use that would enhance the vitality and viability of the local centre, and add to the mix of uses already present. The proposals are therefore compliant, in principle, with Policy 27 of NPF4.

Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the ALDP states:

Retail is the preferred use within these designated centres, however a mix of uses is desirable. Proposals for changes of use from retail to non-retail use in town, district, neighbourhood and commercial centres will only be allowed if it meets all of the following criteria:

- 1) the proposed alternative use makes a positive contribution to the vitality and viability of the centre;*

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

The above criteria of Policy NC6 can each be addressed as follows:

- 1) *the proposed alternative use makes a positive contribution to the vitality and viability of the centre*

The proposed development would repurpose the existing vacant unit with a food & drink use that would likely be used predominantly by local residents, would reactivate the unit's street frontage and would make a positive contribution to the vitality and viability of the centre.

- 2) *the proposed alternative use will not undermine the principal function of the centre in which it is located*

The Mannofield neighbourhood centre includes the late 20th Century parade of commercial units to the east (475-485 Great Western Road) which contains a convenience retail store, a pharmacy, several other Class 1A units (either occupied or vacant), and a hot-food takeaway. To the west of the application site, in the Mannofield neighbourhood centre, there is the Mannofield Church (which contains a public café), another hot-food takeaway and further Class1A units between 530 and 541 Great Western Road. The principal function of the centre is therefore one of a mix of uses within Classes 1A, 3 and hot-food takeaways and the proposed creation of an additional Class 3 café would not undermine the function.

- 3) *the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use)*

Given both Policy 27 of NPF4 and Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the Proposed Aberdeen Local Development Plan 2020 (PALDP) do not state a preference for retail in such areas, acknowledging the changing retail landscape in recent years, it is considered that criterion 3 of Policy NC6 of the ALDP does not require to be met. Nevertheless, the unit has lain vacant for nearly 2 years, without having been taken on for retail use.

- 4) *the proposed use caters for a local need*

The café would likely be used predominantly by local residents from the surrounding area, with several third party representations noting that they would welcome the new use, with some noting how busy the existing cafés in the area are.

- 5) *the proposed use retains or creates a live and attractive shop frontage*

The Class 3 use would reinstate an active frontage to the street, with all existing shopfront windows to be retained.

- 6) *the new use does not create clustering of a particular use in the immediate vicinity which would undermine the character and amenity of the centre or the well-being of communities*

There is only one other Class 3 use in the neighbourhood centre – Café Connect at Mannofield Church approximately 80m to the west of the application site. The addition of the new café would not result in a clustering of Class 3 uses that would undermine the character and amenity of the area or the well-being of the community.

- 7) *the alternative use does not conflict with the amenity of the neighbouring area.*

A detailed assessment of the impact of the proposed use on amenity is contained in the 'Impact on amenity' section of the evaluation below, but for the reasons given in that section of the evaluation, it is considered that the proposed use would not cause any significant harm to the amenity of the neighbouring area.

The proposals are therefore considered to comply with Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the ALDP, and with the corresponding relevant policy VC8 of the PALDP.

Local living

Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 aims to encourage, promote and facilitate connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable walking, wheeling or cycling distance of their home and notes that development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. Whilst food & drink uses are not specifically listed in Policy 15, it is considered that the café would make a small contribution towards the local living concept promoted by NPF4, being an amenity that would add to the existing facilities available in the Mannofield neighbourhood centre which is itself within a 20-minute walk, wheel or cycle of a significant number of residential properties in the surrounding area. The proposals are therefore considered to be generally compliant with the aims of Policy 15 of NPF4.

Community wealth building

Policy 25 (Community wealth building) of NPF4 states that:

- a) Development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example improving community resilience and reducing inequalities; increasing spending within communities; ensuring the use of local supply chains and services; local job creation; supporting community led proposals, including creation of new local firms and enabling community led ownership of buildings and assets.*

The applicant advises in their Design Statement that the proposed café and delicatessen would be a local, independent business with a focus on showcasing locally sourced seasonal products from independent suppliers. The applicant further notes that, if successful, the business would lead to additional job opportunities within the local community, including part-time seasonal work for the young student workforce in Aberdeen.

Whilst the Planning Service cannot control what uses would operate within Class 3, if permission is granted, nor whether the business would be independent or source produce from local suppliers, it is clear that the occupation of the currently vacant unit for a Class 3 use would result in local job creation and likely result in additional business for other local firms. Spending in the community would also be increased compared to the existing situation, therefore the proposed development is considered to be compliant with the aims of Policy 25 of NPF4.

Impact on amenity

Noise

Policy 23 (Health and Safety) of NPF4 states that: *'The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.'*

Policy T5 (Noise) of the ALDP notes: *'housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses without suitable mitigation measures in place to reduce the impact of noise.'*

The applicant has submitted a Noise Impact Assessment (NIA) which assessed the potential impact of noise emissions on residential amenity from kitchen ventilation equipment, sounds within the café and sound from patrons sitting outside the café. The NIA concludes that any noise emitted by the kitchen ventilation equipment specified would not cause disturbance at the nearest residential property, that sound from within the café would be adequately reduced by the renovation of the premises' ceiling to meet a minimum total sound reduction of 47 dB and that noise from patrons using the outdoor seating area would be mitigated by a relatively high level of background noise from traffic on Great Western Road and sufficiently reduced by the distance to the nearest residential window.

The findings of the NIA are accepted by the Council's Environmental Health Service, subject to the implementation of various mitigation measures via condition, including:

- The kitchen ventilation intake/extract fans shall have equivalent, or lower, noise emissions to those detailed in sections 2.3/2.4 of the NIA and appendices 8.2/8.3;
- The café ceiling shall meet a minimum total reduction in sound to the above flats of 47 dB, with acoustic upgrades applied to the existing ceiling if necessary; and
- The outdoor seating area is acceptable provided the patron numbers are restricted to a maximum of 28 at any one time, and the operational hours are restricted to daytime hours (7am to 11pm).

The Planning Service is content to require the first two of the above mitigation measures to be implemented via conditions but the application of a restriction to the number of patrons using the outdoor seating area is not considered to be enforceable and would therefore not be a competent planning condition. Furthermore, should planning permission be granted for the change of use of the premises, new permitted development rights which came into force on the 31st of March 2023 allow for outdoor seating on the public road (including the pavement) adjacent to Class 3 and public house uses to take place without planning permission (although street occupation permits are still required). Therefore it would also not be reasonable to unduly restrict the occupancy of the outdoor seating area which would otherwise be permitted development. Nevertheless, given the size of the pavement, the relatively busy nature of Great Western Road and Aberdeen's temperate climate, it is not anticipated that the outdoor seating area would be occupied by a significant number of patrons on a regular basis, nor in the more sensitive evening hours. The Environmental Health Service's suggested restriction of the opening hours to between 7am and 11pm is

considered to be generally appropriate but 7am is considered to be relatively early and the Planning Service also considers that any opening hours restriction should be applied to the premises as a whole, rather than just the outdoor seating area. A condition is therefore attached restricting the opening hours of the café and any associated outdoor seating to between the hours of 8am and 11pm on any given day.

Therefore, subject to the implementation of the aforementioned mitigation measures, the Planning Service is satisfied that the proposed use would not have any significant adverse impact on the amenity of any neighbouring residential properties in terms of noise emissions, in accordance with Policy 23 of NPF and Policy T5 of the ALDP.

Although some noise emissions may also arise when waste and particularly recyclables (empty glass bottles) are deposited in the property's bins within the rear curtilage bin store, such waste and recyclable deposits are not likely to be frequent and, due to the aforementioned opening hours restriction, should not generally take place at any particularly sensitive periods in the late evening or early morning when harm to residential amenity would be increased.

Odour

No deep fat frying is proposed but as the cooking of various other hot foods (such as pizzas, pastas and baked potatoes) is proposed within the kitchen of the premises, an Odour Assessment was submitted by the applicant. The Odour Assessment concludes that, subject to the implementation of various mitigation measures in the chosen kitchen ventilation system design (as detailed in Section 7.0 of the Odour Assessment), the risk of malodours from cooking fumes adversely affecting residential amenity would be in the 'Low-Medium' category.

The Council's Environmental Health Service accept the findings of the Odour Assessment and consider that, subject to the implementation of the mitigation measures recommended within the Odour Assessment (mainly requiring certain types and specifications of equipment), the proposed kitchen ventilation equipment would adequately filter any odours produced in the kitchen and ensure that there would be no significant adverse impacts from cooking odours on residential amenity.

Transport & Accessibility

Accessibility and parking

Policy 13 (Sustainable Transport) of NPF4 states:

e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP both require new developments to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

The application site lies in an accessible location, with bus stops served by several regular bus services (no's 19, 52 and 201) situated within 100m of the site on Great Western Road, and within walking, wheeling and cycling distance of a significant number of residential properties in Mannofield, Braeside, Seafield and beyond. Cycle parking would also be provided for up to four bicycles. Given the nature of the proposed use and the surrounding area, and the absence of any

dedicated car parking, it is anticipated that the majority of customers would live in the local area and would access the café via sustainable and/or active modes of transport.

No dedicated car parking is either proposed or feasible, given the constrained nature of the site. For customers who would wish or need to access the site by car, unrestricted on-street car parking is available on Duthie Terrace and other nearby streets. Whilst concerns have been raised in some representations received from local residents in relation to existing on-street parking supply issues, it is considered that due to the predicted local catchment of the proposed use and the accessible nature of the site by foot, wheel or cycle, any increase in parking demand would not likely be significant. It is also worth noting that the property is currently authorised for any use within Class 1A, therefore any parking demand for the proposed Class 3 use should be considered in the context of any new Class 1A use of the property which would not require planning permission. In that context, it is anticipated that the proposed Class 3 use would not have a significant net increase in parking demand to the existing authorised use (albeit vacant at present).

The absence of any dedicated car parking for the proposed use is therefore considered to be acceptable, the proposed use would serve a local catchment area and the site is highly accessible by sustainable and active modes of travel – all in accordance with Policies 13 of NPF4 and T2 and T3 of the ALDP.

Road & pedestrian safety, and the free flow of traffic

Concerns have been raised in some representations in relation to the impact of the proposed development on road & pedestrian safety, and on the free flow of traffic on Duthie Terrace, particularly in relation to delivery and waste collection vehicles and also the encroachment of the public pavement on Great Western Road by the formation of the outdoor seating area.

The applicant has confirmed that deliveries would likely take place, at most, twice daily for relatively short periods of time, whilst waste and recyclables would be collected by a commercial waste contractor, likely on a weekly or twice-weekly basis. It is noted that Duthie Terrace has a relatively narrow carriageway when taking into consideration parked vehicles on both sides, and that it is on-way, with no entry permitted from Great Western Road. The applicant has advised that delivery and waste collection vehicles would be of a relatively small 'transit van' scale, which would be able to navigate Duthie Terrace without any issue. Double yellow lines run along the carriageway in front of the premises on Great Western Road and to the side/rear on the eastern side of Duthie Terrace, outside the rear access door to the property. Whilst parking is not permitted on double yellow lines in Aberdeen, commercial vehicles are permitted to load and unload goods on areas of carriageway marked with double yellow lines. The stretch of double yellow lines outside the property would therefore allow for the proposed café use to be adequately serviced by delivery and waste collection vehicles without detriment to either road safety or the free flow of traffic on Duthie Terrace.

In terms of pedestrian safety, the public pavement in front of the property on Great Western Road is approximately 6m wide. The applicant proposes to use the first 2.85m adjacent to the premises for outdoor seating, which would leave approximately 3m of unobstructed pavement width remaining for use by pedestrians, which is acceptable and would not result in any risk to pedestrian safety. Additionally, the seating area would not obstruct the visibility splay for vehicles turning from Duthie Terrace onto Great Western Road, therefore road safety would also be preserved. The creation of the bin store in the property's rear curtilage, with the waste being collected from Duthie Terrace by an appointed commercial waste contractor, would ensure that the bins would not be placed on the relatively narrow Duthie Terrace pavement at any point.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy R6 (Waste Management Requirements for New Development) of the ALDP both require new developments to have sufficient space for the appropriate storage of any waste and/or recyclables that would be generated. The applicant proposes to form a dedicated bin store in the shared rear curtilage of the property which would allow for the commercial waste and recyclables to be stored separately from the domestic waste bins that are stored in the rear curtilage at present. The rear curtilage lies outwith the red line boundary for this application, therefore a separate application for the bin store was submitted and is pending determination at the time of writing. The bin store proposals are considered to be acceptable however, and a condition is attached requiring the formation of the bin store prior to the new use commencing. The proposals are therefore considered to be compliant with Policies 12 of NPF4 and R6 of the ALDP.

Design, placemaking and impact on the character and appearance of the conservation area

Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking by Design) of the ALDP both require all development to be of a high quality design, appropriate for its context.

The site lies within the Great Western Road Conservation Area and Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland (HEPS) and Policy D4 (Historic Environment) of the ALDP all require development within conservation areas to either preserve or enhance the character and appearance of the conservation area.

The proposed development would largely involve the change of use of the property and associated internal alterations. However, it is also proposed to repaint the existing shopfront fascia from light grey to green, to erect a 1.8m high, 2.85m wide timber privacy screen between the outdoor seating and the communal access door to the upper floor flats, and to install a muted grey, powder-coated metal kitchen extract flue to the rear elevation of the building's single storey rear extension. The repainting of the shopfront fascia to a green colour would not have any discernible impact on the visual amenity of the area or the character and appearance of the conservation area. The timber privacy screen would be of an appropriate material, scale and siting – on a wider section of pavement, partially screened from the east by bushes in neighbouring front gardens – such that it would also preserve the character and appearance of the conservation area. The metal kitchen extract flue would be relatively prominently visible from Duthie Terrace but it would not be of a significant scale, projecting just 1m above the flat-roof, and it would be powder-coated in a muted grey colour which would help to minimise the contrast in appearance between it and the backdrop of the building's grey granite walls.

The proposals are therefore all considered to be of an appropriate design for the context, in accordance with Policies 14 of NPF4 and D1 of the ALDP, and they would adequately preserve the character and appearance of the conservation area, in accordance with Policy 7 of NPF4, HEPS and Policy D4 of the ALDP.

Concerns raised in representations

The matters raised by those either objecting to, or raising concerns about, the proposed development are largely addressed in the foregoing evaluation. The remainder of the concerns not addressed above are each addressed, in turn, below:

- *The proposed use will not be the same in terms of car parking demand as the previous bank use of the premises – with café customers likely to stay longer*

Response: Whilst customers may be likely to stay for longer periods of time when

compared with the property's previous use as a bank, as noted above it is considered that the new café use would likely serve a local catchment area (perhaps more local than a bank branch) and that most customers would likely access the site by sustainable means. Therefore it is considered that the impact of car parking by customers on local on-street parking supply is likely to be insignificant.

- *In 2014, an application (P140359) for a venue nearby at Friendville, Mannofield was refused on the grounds of parking, with Roads Development Management objecting to the proposals and noting that 'the surrounding road network cannot accommodate overspill parking' – what has changed in the intervening years?*

Response: Each planning application is assessed on its own merits and against the relevant planning policies and guidance in place at that time. The 2014 application (P140359) which was refused, partly on the grounds of insufficient parking and the inability of the surrounding road network to accommodate overspill parking, was for a different site and for an alternative use (function facility with guest accommodation) which would likely have served a significantly larger catchment area than the proposed café and would have been more likely to be accessed via private car. Additionally, the 2014 application was assessed against the 2012 Aberdeen Local Development Plan which did not encourage low & zero parking and sustainable and active travel to the same extent as the current adopted and proposed local development plans, or NPF4. The planning policy situation in respect of car parking and sustainable travel has changed significantly since 2014.

- *The Council should consult Mannofield Church who already provide a café service for the community and it would be sad to see their revenue disappear*

Response: All properties within 20m of the application site were notified of the application, as statutorily required, and the application was advertised in a local newspaper. Mannofield Church did not require to be notified of the application and it is not the role of the Planning System to prevent competition between businesses.

- *It is alleged that the application premises has no right of access over, or ability to use, the outside area where it is proposed to place the commercial waste bins*

Response: Land ownership and access rights are not a material planning consideration. Nonetheless, the applicant has advised that they do have shared ownership of, and access rights over, the rear curtilage where it is proposed to store the commercial bins.

- *Industrial bins will not fit through the existing gateway*

Response: The bins proposed to be utilised would not be large 1280l bins, but smaller wheelie bins, which may require more bins or more frequent collections, but they would fit through the existing timber access gate to the rear curtilage.

- *The placement of commercial bins in the rear curtilage would exacerbate existing vermin and hygiene issues – there is no washing area with a drainage system*

Response: Subject to the approval of the separate planning application for the bin store, the commercial bins would be stored securely within a new bin store in the shared rear curtilage of the property. Whilst no washing area or drainage would be provided within the proposed bin store, as is advised by the Council's Waste & Recycling team, such facilities are preferable but not statutorily required. The Planning Service is satisfied that the waste

could be stored within the bin store without any hygiene issues or harm to amenity and were any such issues to occur then the Council would have separate powers, under Environmental Health legislation, to take enforcement action at that time.

- *Whilst no application for an alcohol license has been made, the floor plans show a wine counter. The noise from customers and recycling of glass bottles associated to a licensed premises would harm amenity and the application has been submitted for the incorrect use*

Response: The application must be assessed on its merits and against the description of the proposal, which is for Class 3 use. Subject to obtaining a licence, there is no restriction which prevents the sale of alcohol in Class 3 premises. Should the use be operated as a public house / bar once open then planning permission would be required for a change of use and enforcement action would be taken at that point in time.

- *Why are additional tables and chairs required outside and does the applicant have a permit from ACC to occupy part of the pavement?*

Response: It is not for the Planning Service to speculate why outdoor seating is desired by the applicant but the seating is considered to be acceptable for the reasons given in the foregoing evaluation. The applicant would need to obtain a street café permit from the Council before occupying the pavement with outdoor seating.

- *How would access be maintained for upper floor flat owners to clean their windows and gutters?*

Response: Access rights for maintenance are not a material planning consideration. Nonetheless the outdoor seating would not be permanently fixed in position, therefore it is anticipated that access for window cleaning and upper floor maintenance would be available if required.

- *The change of use would devalue flats in the area.*

Response: The impact of development on property values is not a material planning consideration.

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. The majority of the relevant PALDP policies substantively reiterate those referenced above in the adopted ALDP, therefore the proposal is acceptable in terms of both plans for the reasons previously given. As noted above, Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the PALDP is more relaxed than its equivalent policy (NC6) in the ALDP in relation to the protection of existing retail uses, instead favouring a mix of appropriate uses in commercial centres that should serve local communities. The proposal is therefore fully compliant with Policy VC8 of the PALDP.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed development would be of a sufficiently small scale and nature such that it would not materially affect the global climate and nature crises, in accordance with Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4). The works would not offer up the opportunity for climate mitigation or adaptation, thus there is no conflict with Policy 2 (Climate Mitigation and Adaptation) of NPF4. The works would be sufficiently small in scale and nature and do not provide any opportunity for any on-site biodiversity gain other than some minor planting in the outdoor seating area, therefore the proposals are acceptable despite some minor tension with Policy 3 (Biodiversity) of NPF4.

The proposed development would re-use an existing vacant commercial unit, which would comprise sustainable development in accordance with Policies 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) and 12 (Zero Waste) of NPF4. The proposed change of use would make a positive contribution to the vitality and viability of the Mannofield neighbourhood centre, would cater for a local need, reinstate an active street frontage, not result in a clustering of a particular use and would not conflict with the amenity of the surrounding area, all in accordance with Policy 27 (City, Town, Local and Commercial Centres) of NPF4 and Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the Aberdeen Local Development Plan 2017 (ALDP). Although the applicant has not demonstrated a lack of demand for the continued (or resumed) retail use of the premises as per Policy NC6, Policy 27 of NPF4 and Policy VC8 of the Proposed Aberdeen Local Development Plan 2020 (PALDP) are both supportive of a mix of uses in commercial centres, rather than protecting existing retail uses.

Subject to the implementation of appropriate mitigation measures required by condition, the proposed development would not adversely affect the amenity of any neighbouring residential properties in terms of noise or odour, in accordance with Policy 23 (Health and Safety) of NPF4, Policy T5 (Noise) of the ALDP and the Council's Harmony of Uses supplementary guidance.

The proposed development would be sited within 20 minutes walking, wheeling and cycling distance of a significant amount of residential properties and would likely serve a local catchment. The proposals are therefore compliant with the aims of Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 and the site would be capable of being accessed via sustainable and active modes of travel, in accordance with Policy 13 (Sustainable Transport) of NPF4 and Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP.

The formation of a new commercial use largely aimed at the surrounding local community, in a commercial unit that has lain vacant for nearly 2 years, would result in some local job creation and increased spending and amenities in the local community, in accordance with Policy 25 (Community Wealth Building) of NPF4.

The external alterations and additions to the building would be relatively minimal and of an appropriate design for the context of the area, in accordance with Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking by Design) of the ALDP and the works would all adequately preserve the character and appearance of the conservation area, in accordance with Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland and Policy D4 (Historic Environment) of the ALDP.

The development would have sufficient space for the storage of any waste generated, in accordance with Policy 12 (Zero Waste) of NPF4 and Policy R6 (Waste Management Requirements for New Development) of the ALDP. The proposals are also compliant with all corresponding relevant policies of the PALDP.

CONDITIONS

(1) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(2) FORMATION OF BIN STORE AREA

The hereby approved use shall not operate unless the bin store area shown in the approved plans under planning permission 230195/DPP, or similar as may be agreed in writing with the Council, has been installed and appropriate commercial bins have been made available for the storage of any waste and recyclables generated by the use.

Reason: In the interests of ensuring the satisfactory storage and collection of waste and recyclables without detriment to the amenity or character of the area.

(3) CYCLE PARKING

The hereby approved use shall not operate unless two cycle parking loops have been installed for use by customers as shown on approved Ground Floor Layout Plan drawing P01 Revision D.

Reason: In order to encourage and facilitate the accessibility of the new use via sustainable and active modes of travel.

(4) LOCAL EXTRACT VENTILATION SYSTEM

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 within the café premises unless the Local Extract Ventilation System detailed in Figures 3 & 4 and Section 5.3 of the hereby approved Odour Assessment (FEC Ltd 'Kitchen Ventilation Report including Odour Assessment' - Issue 01, 3rd February 2023), or a similar system as may be agreed in writing with the Council, with critical odour mitigation measures achieving at least an equivalent effect of those measures stated has been installed, including:

1. Grease baffle filters within extract canopy (providing initial grease removal/fire protection) as detailed within section 5.3.3 and Appendix C-2.
2. A two-stage carbon filter unit incorporating a washable panel/bag pre-filter followed by carbon filtration (with a minimum 0.2 second carbon filters residence time) as detailed within section 5.3.4 and Appendix C-3.
3. A high velocity vertical discharge cowl with bird mesh and an internal drain as detailed within section 5.3.6 and Appendix C-5.

Thereafter the use shall not operate unless the approved Local Extract Ventilation System is in place and operational.

Reason: In order to preserve the amenity of surrounding properties and the area by adequately filtering cooking odours.

(5) NOISE MITIGATION

The hereby approved use shall not operate unless:

1. Kitchen intake/extract fans with equivalent or lower noise emissions to those detailed in sections 2.3 & 2.4 and appendices 8.2 & 8.3 of the hereby approved Noise Impact Assessment (FEC Acoustics, 7 February 2023) have been installed, and evidence of this installation has been provided to, and agreed in writing by, the Planning Authority; and
2. Evidence has been provided to, and agreed in writing by, the Planning Authority to demonstrate that the café ceiling has been insulated to give a minimum total reduction in sound from the café to the first-floor flats of 47dB. Such evidence should be verified in writing by a professional noise consultant based on agreed inspection checks during and after work on site.

Reason: In order to protect the amenity of neighbouring residents from noise emissions associated to the café's cooking operations and customers.

(6) OPENING HOURS

The hereby approved use and associated outdoor seating shall only operate between the hours of 8am to 11pm on any given day.

Reason: In order to protect the amenity of neighbouring residents from noise and activity during the quieter, more sensitive late evening and early morning periods.

ADVISORY NOTES FOR APPLICANT

(1) ODOUR MANAGEMENT PLAN

The Environmental Health Service also recommend an advisory note is attached to any planning permission for the operator to establish a written Odour Management Plan including cleaning and maintenance procedures for the plant corresponding with Section 5.3.7 of the Odour report, based on manufacturer's instructions and extent of use, to reduce risk of malodour and statutory nuisance going forward.

(2) 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:

- An area of hard standing at storage and collections point(s)
- Dropped kerb at proposed bin collection point
- Yellow lines in front of bin collection point
- Bin storage areas to ideally be provided with a gulley and wash down facility for the interest of hygiene

For 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>

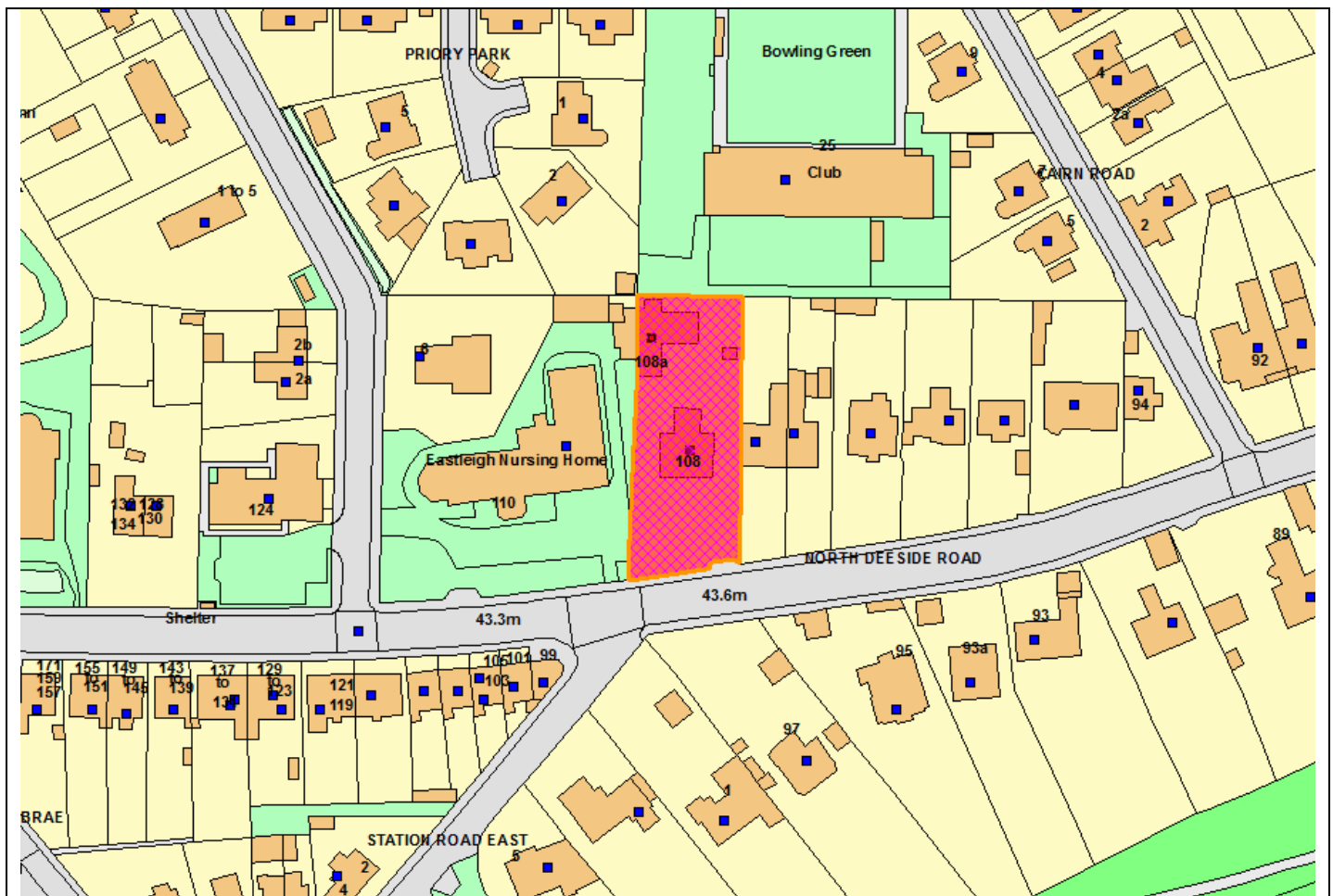


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 20 April 2023

Site Address:	108A North Deeside Road, Peterculter, Aberdeen, Peterculter, AB14 0QB
Application Description:	Erection of domestic detached garage
Application Ref:	221146/DPP
Application Type	Detailed Planning Permission
Application Date:	21 September 2022
Applicant:	Mr Rod Nicolson
Ward:	Lower Deeside
Community Council:	Culter
Case Officer:	Roy Brown



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND**Site Description**

The application site comprises a 1½ storey detached granite dwelling within a long-established shared curtilage of two residential dwellings in a residential area. The application dwellinghouse is located at the north of the site to the rear of 108 North Deeside Road and does not front any public road, but it does have a south facing principal elevation due to the presence of its existing extension approved under 190441/DPP. An existing garage, part of a former garage, and a shipping container lie to its south. Beyond these developments lies 108 North Deeside Road, which is located centrally within the overall site and has a south facing principal elevation which fronts North Deeside Road to the south, from where the site is accessed. Eastleigh Nursing Home lies to the west; Culter Mills Sports and Recreation Club is situated to the north; and a residential dwelling, 106 North Deeside Road, can be found to the east.

A condition of the planning permission (Ref: 190441/DPP) was that no development could take place unless the two garages were removed, however, as one of the garages and the floor of the other are still in existence, there is a breach of planning control, but this is separate to this application and is currently being considered by the Planning Service.

Relevant Planning History

Planning permission was refused under delegated powers, which was upheld by the Local Review Body, for the erection of a 1½ storey extension to the front of the dwellinghouse in January 2019 (Ref: 181783/DPP).

Planning permission was thereafter granted in June 2019 by the Planning Authority by way of the Local Review Body for the erection of a 1½ storey extension to the front of the dwellinghouse (Ref: 190441/DPP) subject to conditions, including:

‘(3) That, unless otherwise agreed in writing by the planning authority, no development pursuant to the construction of the approved extension shall take place unless the 2no existing garages to the south of the dwelling have first been demolished.’

Reason: In order to ensure removal of the existing garages and thereby ensure compliance with the Council’s Householder Development Guide Supplementary Guidance as regards cumulative footprint.’

As noted above, these garages have not been removed, as such there is a breach of planning control due to non-compliance with this condition. This is the subject of an on-going planning enforcement investigation (Ref: ENF220186).

APPLICATION DESCRIPTION**Description of Proposal**

Planning permission is sought for the erection of a single storey domestic garage in the residential curtilage to the southeast of the dwellinghouse of 108A North Deeside Road c.1m from the eastern boundary of the site.

The garage would have a built footprint of c.46.5sqm and be c.6.2m in width and c.7.5m in length. It would have a gable roofed form with an eaves height of c.2.8m and a ridge height of c.4.6m. Due to the slope of the site, the development would be set into the slope at the east of the site and ground to a maximum of c.1m in height would be excavated to facilitate the garage. Its walls would be finished in render and granite quoins, and it would have a slated roof. The garage would have two anthracite grey single garage doors and rooflights on its western elevation and a vertically proportioned window on its south elevation.

Amendments

The application has been revised since submission in that:

- The height of the garage has been reduced from c.4.9m to c.4.6m and its internal dimensions have been adjusted so that instead of being c.6m in width and 8.5m in length, it would be 6.2m in width and 7.5m in length.
- Cross sections have been provided to show how the garage would be situated on the site, the level of excavation, and establish the height of the development in relation to the curtilage of the adjacent dwellinghouse to the east.
- The garages on the south elevation, one of which has since been partially removed, are no longer included on the proposed plans.

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=R1I3P5BZJST00>

Reason for Referral to Committee

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

CONSULTATIONS

Roads Development Management Team – No objection – As revised, the garage would be of dimensions that comply with the Supplementary Guidance: Transport and Accessibility.

Culter Community Council – Objection. The revised proposal to reduce the height does not allay the concerns of neighbours with respect to the impact on amenity. They specifically had concerns with the proximity to the eastern boundary and its height.

Reference is made to the ongoing planning enforcement investigation regarding the non-compliance Condition (3) of application with reference: 190441/DPP, which required the removal of the garages on the south elevation. If the applicant were to comply with that condition, it would be possible to site the garages close to the south elevation where it would not impact the amenity of the neighbours. They would not object to that outcome. They also note that they have not received an update regarding the enforcement case.

REPRESENTATIONS

Neighbours were re-notified of the application because of the revisions that were made to the application. Following both notification periods, the application has been the subject of two objections. The matters can be summarised as the following:

- The proposed garage would be of a height that would overshadow 106 North Deeside Road to the east, notably the patio in their rear curtilage.
- Concern with respect to overdevelopment. It is noted that an issue with the previous application was the additional footprint of that previous extension. The proposed garages are larger so this may have an impact on the new footprint exceeding the main house.
- Concerns with respect to impact on privacy.
- The impact on the structural integrity of the shared wall between the site and 106 North Deeside Road from excavation.
- The proposed plan does not include the existing garages that are on the site.
- The precedent that this proposal would set.
- It is noted in both objections that if the garage was in place of the existing garage, which must be removed as part of the previous permission 190441/DPP, the proposal would be considered more favourably.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 5 (Soils)
- Policy 14 (Design, Quality and Place)
- Policy 16 (Quality Homes)

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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policies are relevant –

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking by Design)

Proposed Aberdeen Local Development Plan 2020

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking)

Supplementary Guidance

- The Householder Development Guide
- Transport and Accessibility

EVALUATION**Principle of Development**

The application site is zoned within Policy H1 (Residential Areas) of the Aberdeen Local Development Plan (ALDP) and the proposal relates to householder development. Householder development would accord with this policy in principle if it does not constitute overdevelopment, adversely affect the character and amenity of the surrounding area, does not result in the loss of valued open space, and it complies with the Supplementary Guidance, in this case the Householder Development Guide.

As this proposal would concern development that would be located in existing private residential curtilage, it would not result in the loss of publicly valued open space. The other issues are assessed in the below evaluation.

Climate Change

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy 2 (Climate Mitigation and Adaptation) states that development proposals will be sited and

designed to minimise lifecycle greenhouse gas emissions as far as possible and that development proposals will be sited and designed to adapt to current and future risks from climate change. Finally, Policy 3 (Biodiversity) states that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance.

In respect of these policies, given the nature of the development as a domestic outbuilding within existing residential curtilage, the proposal would not result in any materially greater risk from climate change. The proposal would have on no significant impact on climate change given no significant natural features or species would be affected by this proposal. The proposed additional soft landscaping on the site by way of areas of grass to the south and east of the dwellinghouse would be consistent with the aims of Policies 1 (Tackling the Climate and Nature Crises) and 3 (Biodiversity). Policy 5 (Soils) seeks to minimise disturbance to soils from development. The proposed level of excavation would be minimal, in compliance with Policy 5 of NPF4. Commensurate with the scale of the development proposed, the proposal would accord with the aims of Policies 1, 2, 3 and 5 of NPF4.

Design Scale

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and Policy D1 of the ALDP. Policy 14 states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Policy 16 requires householder development to not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials. Policy D1 of the ALDP 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 building would comply with the Supplementary Guidance: The Householder Development Guide in that it would be subordinate in scale to the original dwellinghouse of 108A North Deeside Road by way of its single storey gable roofed form and scale, relatively minor eaves and ridge height and its overall massing, which would be diminished by it being set into the slope of the site. The proposed slated roof finish and anthracite grey garage doors would correspond with the finish of 108A North Deeside Road and the use of render as a finishing material would be domestic in appearance and would be appropriate in its context whereby it would not be prominent from the streetscape of North Deeside Road behind 108 North Deeside Road.

It is recognised that the proposed outbuilding would have tensions with the Supplementary Guidance: The Householder Development Guide, which states that outbuildings will not usually be acceptable in front gardens because of the damaging impact development forward of a front building line can have on the visual character of an area. This is because the proposed garage would be located at the front of 108A North Deeside Road. Nevertheless, the long-standing layout of the site is unusual in that this dwellinghouse does not have a street facing principal elevation and is of a subordinate scale and massing to, as well as being sited to the rear of, the dwellinghouse of 108 North Deeside Road. As such, from North Deeside Road, the proposed garage would appear as being an outbuilding within the rear curtilage of 108 North Deeside Road. Its presence at the front of 108A North Deeside Road would not detract from the existing dwelling and it would not adversely affect the character and visual amenity of the surrounding area, as required by the above policies.

In considering whether the footprint of the proposed garage and the cumulative footprint of development on the site is acceptable, it is fully at the attention of the planning authority that the previous permission on the site for the extension to 108A North Deeside Road had a condition

which required no development to take place until the two garages to the south of the extension were removed. As one of these garages has not been demolished and the other has only been partially demolished there is a breach of planning control. It must be highlighted that the presence of the existing garage is the subject of a separate live planning enforcement investigation and proposed plans show that the garages on the south elevation will be removed. It will be addressed separately through enforcement irrespective of the outcome of this application.

The proposed garage would be subordinate in terms of its footprint to both 108 and 108A North Deeside Road, the site, and the other dwellings in the surrounding area, and would appear as an ancillary outbuilding. The Supplementary Guidance: The Householder Development Guide states that no more than 50% of the front or rear curtilage shall be covered by development. Given the application site comprises shared curtilage, assessment of site coverage cannot meaningfully be considered against this guidance.

If the entirety of the curtilage of 108A North Deeside Road, including the dwellinghouse of 108A itself is interpreted as being within the rear curtilage of 108 North Deeside Road, the combined footprint of the existing dwelling of 108A (excluding the garage which is being addressed through separate enforcement action) and the proposed garage would cover only c.20% of the entire area of to the rear of 108 North Deeside Road. It is noted in the proposed site plan that a boundary line is to be established on the site to allow for the formal separation of the curtilage, subject to title deeds being finalised. Whilst establishing that boundary would be a civil matter, if such a boundary was formed, c.22% of the area indicated as the front curtilage of 108A North Deeside Road would be covered by development. 35% of the entire indicative curtilage would resultantly be covered by development. It is considered that the resulting cumulative footprint from the proposed outbuilding would not result in overdevelopment of the site and that it would not in itself, or cumulatively, detract from the pattern of development in the surrounding area by any significant degree.

To summarise, the proposed garage would be architecturally compatible in its design, size, materials, form, height and footprint with the original dwelling, the existing site and the surrounding area. It would not adversely affect the character and visual amenity of the surrounding area and would not constitute overdevelopment, in accordance with Policy 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4; Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) and the Supplementary Guidance: The Householder Development Guide.

Residential Amenity

Policy 16 (Quality Homes) of NPF4 supports householder development that would not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

Using the 45-degree method in the Supplementary Guidance: The Householder Development Guide, the proposed garage would not adversely affect the existing levels of sunlight or background daylight afforded to any neighbouring dwelling or curtilage, notably 106 North Deeside Road to the east of the site. This is because of the minor height of the development from the adjacent curtilage due to its single storey pitched roofed height and form and it would be partially set into slope of the site and thus its base would partially be set below the ground level the curtilage of 106 North Deeside Road. The proposal would therefore not adversely affect the level of sunlight and daylight afforded to the neighbouring residential dwellings and curtilage.

The proposed outbuilding would not adversely affect the existing levels of privacy afforded to the neighbouring properties given its non-habitable nature as a domestic garage. Furthermore, its only window would be on the south elevation, which would face the shared driveway on the site and indirect overlooking would not occur given the presence of boundary treatment to the east.

Whilst the proposed garage would be located 1m from the boundary of 106 North Deeside Road, given its minor height and length, the presence of a boundary wall and vegetation along this boundary in the curtilage of 106 North Deeside Road, the development would not be of a scale, massing or siting whereby it would be overbearing to the neighbouring residential dwelling or its curtilage by any significant degree.

It would therefore not adversely affect the existing levels of residential amenity of the surrounding area in terms of background daylight, sunlight, privacy and general amenity, in accordance with Policy 16 (Quality Homes) of NPF4; Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the ALDP; and the Supplementary Guidance: The Householder Development Guide.

Road Safety

The proposed garage would be of internal and entry dimensions to safely facilitate two parked vehicles, in accordance with the Supplementary Guidance: Transport and Accessibility. The Roads Development Management Team have not objected to the application.

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. The relevant PALDP policies substantively reiterate those in the adopted ALDP and therefore the proposal is acceptable in terms of both plans for the reasons previously given.

Matters Raised in the Representations

The matters raised in relation to overshadowing, cumulative footprint and privacy have been considered in the above application.

The matter relating to the non-compliance of Condition 3 of application with reference: 190441/DPP concerning the removal of the garages to the south elevation is a matter that is being addressed separately through an ongoing planning enforcement investigation (Ref: ENF220186). The garages to the south of the dwelling are not included on the proposed plans because it is proposed that these will be removed. It is recognised that both objections have raised that if this garage were be located to the west of the site where the existing garage is located, the development would be considered more favourable to the objectors. This was raised by the Planning Service with the applicant, however, development at the east of the site and the planning authority must determine the application based on the plans that have been submitted. Nevertheless, for the reasons set out in this assessment, the proposal would comply with the relevant material planning considerations, specifically the relevant policies of the Development Plan.

With respect to the matter of precedent, every planning application is assessed on its own merits in accordance with the relevant material planning considerations at the time of its determination. Nevertheless, given this proposal would comply with the relevant planning policies and guidance it is considered that this development would not set any unwelcome precedent.

The impact on the structural integrity of the shared boundary wall from excavation is not material planning consideration. It is a matter that would be addressed separately through building regulations.

Matters Raised by the Local Community Council

The matters raised with respect to the impact on residential amenity has been addressed in the above evaluation under the heading 'Residential Amenity'. The matter relating to the ongoing breach of planning control concerning the presence of the existing garage has been addressed above. It is noted again that this is a matter that is considered separately through an ongoing planning enforcement investigation (Ref: ENF220186). As above, the Planning Service raised the matter of re-siting the development to the west of the site to allay the concerns of the Local Community Council and the neighbouring properties. However, as highlighted above, the planning authority are required to assess the application submitted and in this case it is proposed to located the development to the east. Nevertheless, for the reasons set out in this assessment, the proposal would comply with the relevant material planning considerations, specifically the relevant policies of the Development Plan.

Whilst not relevant to this planning application, the update sought regarding the planning enforcement case (Ref: ENF220186) has been noted and has been addressed separately.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

In the context of the site and the surrounding area, the proposed garage would be architecturally compatible in design, scale and finish with the dwellinghouse, its setting to the rear of 108 North Deeside Road and the surrounding area. It would not in itself or cumulatively constitute overdevelopment and the development would not adversely affect the existing levels of residential amenity afforded to the neighbouring residential dwellings, notably that of 106 North Deeside Road, by way of impacting sunlight, daylight, privacy and general amenity. The garage would be of a scale whereby it could safely facilitate two parked cars. Commensurate with the scale and nature of development, the proposed garage would not be at undue risk from, or contribute to, climate change and the nature crises. Likewise, the level of excavation in terms of soil sealing would be minimal.

The proposal would therefore accord with the aims of Policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity), 5 (Soils), 14 (Design, Quality and Place) and 16 (Quality Homes) of National Planning Framework 4; Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan 2017; the Supplementary Guidance: 'The Householder Development Guide' and 'Transport and Accessibility'; and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Proposed Aberdeen Local Development Plan 2020.

CONDITIONS

(01) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

ADVISORY NOTES FOR APPLICANT

For the benefit of any doubt, the outcome of this planning application does not authorise any existing breach of planning control on this application site. The development pursuant to this permission solely refers to the erection of the proposed detached garage at the east of the site on the proposed plans.

 <p>ABERDEEN CITY COUNCIL</p>	Planning Development Management Committee
	Report by Development Management Manager
	Committee Date: 20 April 2023

Site Address:	Land Adjacent to Westburn House, Westburn Park, Westburn Road, Aberdeen
Application Description:	Erection of temporary hot food unit (retrospective)
Application Ref:	230140/DPP
Application Type	Detailed Planning Permission
Application Date:	6 February 2023
Applicant:	Ms Lefki Christodoulou
Ward:	Mid Stocket/Rosemount
Community Council:	Rosemount and Mile End
Case Officer:	Alex Ferguson



RECOMMENDATION

Approve Time Limited

APPLICATION BACKGROUND

Site Description

The application site comprises a c. 50sqm rectangular area of land situated approximately 5m to the west of the category 'A' listed Westburn House building in the centre of Westburn Park. The land in question forms part of a tarmac-surfaced car parking area immediately to the west of Westburn House. Westburn House itself is a mid-19th Century, single storey building designed by Archibald Simpson, although at the time of writing it is in a state of disrepair, is enclosed by Heras fencing and its window and door openings are boarded up. It has been on the Buildings at Risk Register since 2004 and is understood to have been vacant since 1998. The wider Westburn Park is a c. 10 hectare area of parkland situated on the northern side of Westburn Road and within the Rosemount Conservation Area. The park incorporates large areas of grass, multiple mature trees to the boundaries and the central section, and bowling greens and both indoor and outdoor tennis courts.

Relevant Planning History

None.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the installation of a 'Portacabin' style temporary building on a section of the car parking area immediately to the west of Westburn House, for use as a hot-food takeaway. Permission is sought for a period of 5 years. The building is a metal-clad structure which measures c. 6m in length by 2.4m in width (15sqm), with a 2.4m high flat-roof. The external metal cladding is painted red and black, with black-painted doors to the front (west) elevation and black-painted metal window shutters on either side elevation (north and south).

The building has already been installed on the site, therefore that aspect of the proposals is retrospective, although the hot-food takeaway use has not yet commenced. It is also proposed to add natural timber linings in a vertical 'board & batten' style to the building, and to attach a secure timber bin store to the side (northern) elevation.

Amendments

In agreement with the applicant, the following amendments were made to the application:

Further information was provided in respect of the waste storage arrangements for the unit, with a secure timber bin store to be attached to the building, within which bins would be stored and waste collected by a commercial contractor on a weekly basis.

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=RPiHTIBZG7E00>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the Rosemount and Mile End Community Council have formally objected to the application.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. The Council’s parking standards require parking for hot food takeaways based on the number of staff, the total public floor area and also for customers. The proposed development would remove one existing car parking space but as the site is within Westburn Park where there are existing parking spaces, the Roads Development Management team can accept the guideline shortfall in parking. The public roads around the park are within a Controlled Parking Zone, thus any unauthorised parking would be dealt with by city wardens, likewise there are waiting restrictions within Westburn Park itself. There are some concerns in relation to delivery drivers accessing the park but given the size of the proposal, the number of deliveries is likely to be low. Waste management requires to be agreed with the Council’s Waste & Recycling team.

ACC - Waste and Recycling – No objection. Some general comments are provided in respect of business waste storage and collection. These have been attached as an advisory note for the applicant to be aware of.

Historic Environment Scotland – No objection but consider that the current location of the container adjacent to Westburn House has an adverse impact on its setting. The massing, materiality and close proximity of the container appears incongruous when seen immediately adjacent to the highly stylised pedimented porch of the house, which is in part also masks and obscures. This has an adverse impact on how the house is appreciated and experienced. Noting the application is retrospective, HEs would encourage the exploration of options to move the container to a less conspicuous location within the park, further away from the house.

Rosemount And Mile End Community Council – Object to the application as the building is not consistent with Aberdeen Local Development Plan 2017 (ALDP) Policies D1 (Quality Placemaking by Design), D4 (Historic Environment) and NE3 (Urban Green Space) – as it is of an inappropriate design which detracts from the character and appearance of the Rosemount and Westburn Conservation Area and the setting of the category ‘A’ listed Westburn House, and the ‘shipping container’ building causes significant loss to the landscape character and amenity of the park and surrounding area.

REPRESENTATIONS

5 representations have been received, all objecting to the application. The matters raised can be summarised as follows –

- The building is not consistent with Aberdeen Local Development Plan 2017 (ALDP) Policy D1 (Quality Placemaking by Design), being of an inappropriate design;
- The building is contrary to ALDP Policy D4 (Historic Environment) as it does not preserve the character and appearance of the Rosemount and Westburn Conservation Area, nor the setting of the category ‘A’ listed Westburn House;
- The ‘shipping container’ building causes significant loss to the landscape character and amenity of the park and surrounding area, contrary to Policy NE3 (Urban Green Space);
- The building is a danger to the adjacent category ‘A’ listed Westburn House – particularly if it either has a fire, or is set on fire; and
- The location is secluded at night and with no CCTV cameras it is at risk of arson and

vandalism, especially as gas canisters are not stored safely and the building has already been vandalised.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Development Plan

National Planning Framework 4 (NPF)

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 20 (Blue and green infrastructure)

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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policies are relevant –

- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)
- Policy NE3 (Urban Green Space)
- Policy R6 (Waste Management Requirements for New Development)
- Policy T2 (Managing the Transport Impact of Development)
- Policy T3 (Sustainable and Active Travel)

Proposed Aberdeen Local Development Plan 2020 (PALDP)

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

- Policy D1 (Quality Placemaking)
- Policy D6 (Historic Environment)
- Policy NE2 (Green and Blue Infrastructure)
- Policy R5 (Waste Management Requirements in New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)

Supplementary Guidance and Technical Advice Notes

- Temporary Buildings
- Materials TAN

Other National Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)
- Historic Environment Scotland – Managing Change in the Historic Environment: Setting (MCHE: Setting)

Other Material Considerations

- Rosemount Conservation Area Character Appraisal

EVALUATION

Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4) requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. The proposed development is sufficiently small-scale such that it would not make any material difference to the global climate and nature crises, therefore the proposals are compliant with Policy 1.

Policy 2 (Climate mitigation and adaptation) requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. The proposed development is sufficiently small-scale such that it would not make any material difference to climate mitigation and adaptation, nor are there any opportunities to minimise greenhouse gas emissions, given the nature of the proposals. The proposals are therefore compliant with Policy 2 of NPF4.

Policy 3 (Biodiversity) of NPF4 requires proposals for local development *‘to include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local*

guidance. Measures should be proportionate to the nature and scale of development.’ The proposed temporary hot-food takeaway unit is small-scale and the nature of the development does not offer the opportunity for any biodiversity gain. It is thus considered that the proposals are acceptable despite some minor tension with Policy 3 of NPF4.

Blue & Green Infrastructure and Urban Green Space

The application site lies at the heart of Westburn Park, which is a public park and zoned in the ALDP as Urban Green Space.

Policy 20 (Blue and green infrastructure) of NPF4 states that: *‘c) Development proposals in regional and country parks will only be supported where they are compatible with the uses, natural habitats, and character of the park.’*

The temporary hot-food takeaway building would provide a food & drink facility that could be used by members of the public when visiting Westburn Park. It is considered that the proposed provision of such a facility would be compatible with the prevailing use of the park as urban green space, with food & drink kiosks of a similar nature generally considered to be successful and appropriate in both Duthie Park and Hazlehead Park. The temporary building is situated on a tarmac car parking area, therefore the building has no impact on natural habitats. The building, as currently installed, does have a utilitarian appearance not dissimilar to a shipping container, with the external walls finished in red and black painted metal cladding. In its current form, the Planning Service considers that the building detracts from the character of the park, which is otherwise generally of soft landscaping and greenery. However, it is proposed to clad the building with natural timber linings in order to soften its appearance and to make it more appropriate for the largely natural setting of Westburn Park. Even with the addition of timber linings, the Planning Service considers that the building would still be of little architectural merit and would clearly be of a temporary nature – as per the guidance set out in the Council’s supplementary guidance on Temporary Buildings.

The Planning Service is however satisfied that subject to conditions requiring the building to be clad in timber as per the submitted drawings, and time limiting the duration of the permission to a maximum period of 2 years, the temporary building would not have any significant or permanent adverse impact on the character of the park, allowing a new active use that would be welcomed within Westburn Park. The proposals are therefore considered to be compliant with Policy 20 of NPF4.

Policy NE3 (Urban Green Space) of the ALDP states that: *‘Permission will not be granted to redevelop any parks, playing fields, sports pitches, woods, allotments or all other areas of urban green space (including smaller spaces not identified on the Proposals Map) for any use other than recreation and sport... In all cases, development will only be acceptable provided that:*

1. *There is no significant loss to the landscape character and amenity of the site and adjoining area;*
2. *Public access is either maintained or enhanced;*
3. *The site is of no significant wildlife or heritage value;*
4. *There is no loss of established or mature trees;*
5. *Replacement green space of similar or better quality is located in or immediately adjacent to the same community, providing similar or improved health benefits to the replaced area and is accessible to that community, taking into account public transport, walking and cycling networks and barriers such as major roads.*
6. *They do not impact detrimentally on lochs, ponds, watercourses or wetlands in the vicinity of the development; and*
7. *Proposals to develop outdoor sports facilities, including playing fields and sports pitches*

should also be consistent with the terms of Scottish Planning Policy.'

Although sited within a park and an area zoned as Urban Green Space in the ALDP, the temporary building is sited on an area of hardstanding used for car parking and it does not constitute a proposal to redevelop any useable parkland, recreational facilities or green space. The proposals are assessed against each of the above criteria applicable to all development in areas of Urban Green Space as follows:

1. There is no significant loss to the landscape character and amenity of the site and adjoining area

The building is sited on a tarmacked car parking area at the heart of the park. The building is not visible from outwith the park and, due to the presence of Westburn House to the east and a significant number of trees surrounding the site to the north, south and west, the building is also not prominently visible within the park. Subject to cladding the building in natural timber linings, as proposed, and limiting the permission to 2 years, the Planning Service considers that the building would not cause any significant or permanent loss to the landscape character of the site and the surrounding area. There are no other uses in close proximity to the site that would be affected by the use, therefore amenity would be preserved.

2. Public access is either maintained or enhanced

The building is sited on a car parking area and although approximately two or three car spaces have been lost as a result of its installation, public access is otherwise unaffected.

3. The site is of no significant wildlife or heritage value

The building is sited on an area of hardstanding and has no impact on wildlife. Although the category 'A' listed Westburn House building lies immediately to the east, it is in a state of disrepair, is fenced off and is highly unlikely to be restored and brought back into use within the proposed 2-year time period of the permission. In its current state, the building's special character is significantly diminished and the Planning Service considers that a temporary permission for the hot-food takeaway would not cause any significant temporary harm to the setting of the listed building, nor any permanent harm. Similarly, the building, by virtue of its relatively discreet siting within the park, the proposed timber cladding and the temporary length of the consent, would not cause any significant harm to the character or appearance of the Rosemount Conservation Area.

4. There is no loss of established or mature trees

The building is sited on a car park and has not resulted in the loss of, nor any harm to, any established trees.

5. Replacement green space of similar or better quality is located in or immediately adjacent to the same community, providing similar or improved health benefits to the replaced area and is accessible to that community, taking into account public transport, walking and cycling networks and barriers such as major roads

This criterion is only applicable to proposals to redevelop existing areas of green space and is not relevant to this proposal.

6. They do not impact detrimentally on lochs, ponds, watercourses or wetlands in the vicinity of the development

The development does not impact on any bodies of water.

7. *Proposals to develop outdoor sports facilities, including playing fields and sports pitches should also be consistent with the terms of Scottish Planning Policy.'*

This criterion is not relevant to this proposal.

The proposed development, subject to conditions including a time-limited 2-year permission, is therefore considered to be compliant with Policy NE3 of the ALDP.

Local living

Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 aims to encourage, promote and facilitate connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable walking, wheeling or cycling distance of their home and notes that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. Whilst hot-food takeaways and other food & drink uses are not specifically listed in Policy 15, it is considered that the hot-food takeaway would make a small contribution towards the local living concept promoted by NPF4, being an amenity that would add to the existing facilities available in Westburn Park which is itself within a 20 minute walk, wheel or cycle of a significant number of residential properties in the surrounding area. The proposals are therefore considered to be generally compliant with the aims of Policy 15 of NPF4.

Design & placemaking

Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking by Design) of the ALDP both require all development to be of a high quality, appropriate for its context.

As noted above, the Planning Service considers that the temporary building, as currently installed, is not of an appropriate design and appearance for the character and context of Westburn Park. However, subject to cladding the building in natural timber linings, and a condition time limiting the permission to a maximum period of 2 years, it is considered that the temporary building would be of a satisfactory design for the temporary period proposed, in accordance with Policy 14 of NPF4 and Policy D1 of the ALDP.

Impact on the historic environment

Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland (HEPS) and Policy D4 (Historic Environment) of the ALDP all require development proposals (where relevant) to either preserve or enhance the setting of any affected listed building and the character and appearance of the conservation area.

The building lies within the Rosemount Conservation Area and adjacent to (c. 5m to the west of) the 19th Century, category 'A' listed Westburn House building. The Archibald Simpson designed villa is of national historic importance and it occupies a prominent position at the heart of Westburn Park. Ordinarily, if Westburn House were in a reasonable state of repair and / or in use then the Planning Service would agree with Historic Environment Scotland that the placement of the hot-food takeaway building in front of its western elevation entrance portico would adversely affect the setting of the listed building. However, Westburn House has lain vacant and been on the Buildings at Risk Register since 1998 and is in an increasingly dilapidated state. It has been boarded up and fenced off since at least 2014, with a large hole now present in the roof and vegetation growing out of and around the building, including a significant amount of vegetation behind the fencing which obscures

much of the public views of the west elevation portico when in leaf in the summer months.

Historic Environment Scotland's 'Managing Change in the Historic Environment' guidance on Setting (MCHE: Setting) states that:

'Changes in the surroundings since the historic asset or place was built should be considered, as should the contribution of the historic asset or place to the current landscape.'

The special character of Westburn House and its setting are considered to be already adversely affected by the building's current poor condition, the surrounding perimeter security fencing and overgrown vegetation. The granting of a permanent planning permission for the installation of a building in front of the western elevation would not be supported, given it would adversely affect the setting of Westburn House in the event that it is repaired, refurbished and brought back into use. However, the Planning Service considers that the current condition of Westburn House is a significant material consideration and that it is unlikely that it will be refurbished within the next 2 years. Therefore the granting of a time-limited 2-year permission would ensure that any adverse impact on the setting of Westburn House would be minimal due to the building's existing condition, temporary and fully reversible, with the hot-food takeaway building required to be removed after 2 years.

It is also considered that the granting of a 2-year consent for the timber-clad building would not cause any significant or permanent harm to the character or appearance of the Rosemount Conservation Area, for much the same reasons as noted above, and also because the building is otherwise relatively discreetly sited within the park, on a car parking area surrounded by established trees.

The proposed development is therefore considered to be acceptable on a temporary basis, in accordance with Policy 7 of NPF4 and Policy D4 of the ALDP.

Temporary Buildings supplementary guidance

The Council's Temporary Buildings supplementary guidance (SG) states that temporary buildings should:

- Be located appropriately – normally to the rear of existing buildings and away from public views;
- Avoid the loss of existing parking spaces, but with particular attention paid to the need to encourage sustainable travel;
- Avoid landscaped areas; and
- Not be sited within conservation areas or the grounds of a listed building where the building would adversely affect the character of the conservation area or the setting of the listed building.

The Temporary Buildings SG further notes that in most circumstances three years will be a reasonable timescale for any permanent accommodation solution to be found, therefore that will typically be the maximum initial time period granted for a portable, temporary building.

Although the temporary building would be sited in front of the listed Westburn House, within the conservation area and within public views, it is considered that the temporary building would not cause any significant harm to visual amenity or the historic environment for the aforementioned reasons. Although approximately two or three car parking spaces would be lost, this is not considered to be significant given the availability of other car parking in the park and the likelihood

of the majority of park users walking or cycling to the park, rather than driving. The building would also not remove or obscure any soft landscaping.

Whilst the SG states that 3 years is the typical initial period granted for portable, temporary buildings, the Planning Service acknowledges that it would cause some harm if retained on a more permanent basis, therefore a reduced period of 2 years is considered to be appropriate in this instance, whilst still allowing sufficient time for the operator to explore a more appropriate permanent solution elsewhere in the park, if desired. It is also proposed to reduce the standard three-year period in which the permission can be implemented to one year, in order to retain control over the use and to adequately limit its impacts. Subject to the aforementioned conditions, the temporary building is considered to be acceptable despite some tension with the Temporary Buildings SG.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy R6 (Managing the Waste Requirements of New Development) of the ALDP both require new developments to have sufficient space for the suitable storage and collection of any waste generated. The applicant proposes to add a secure timber bin store enclosure to the side of the building, within which the waste and recycling bins would be stored and collected by a commercial waste contractor on a weekly basis. The bin storage proposals are accepted by the Council's Waste & Recycling team and are compliant with Policy 12 of NPF4 and Policy R6 of the ALDP.

Transport & Accessibility

Policy 13 (Sustainable Transport) of NPF4 and Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP all require significant weight to be given to prioritising the use of sustainable and active modes of travel including walking, wheeling, cycling and public transport instead of private vehicle trips. Although approximately two or three car parking spaces would be lost as a result of the placement of the building on the car park, this would represent a minor reduction in the overall number of parking spaces in the park, with ample parking adjacent to Westburn House, further to the west outside GetActive@Westburn and outside the Aberdeen Tennis Centre building to the north. It is also considered that the majority of users of Westburn Park are likely to live within walking distance of the park and to access it sustainably. The loss of approximately two spaces on a temporary basis for 2 years is therefore not considered to be a concern and the proposals are therefore compliant with Policies 13 of NPF4, and T2 & T3 of the ALDP.

Matters raised by the Community Council and in third party representations

The matters raised by the Community Council and in third party representations are mostly addressed in the foregoing evaluation. The remaining matters not addressed above are responded to as follows:

- *The building is a danger to the adjacent category 'A' listed Westburn House – particularly if it either has a fire, or is set on fire; and*
- *The location is secluded at night and with no CCTV cameras it is at risk of arson and vandalism, especially as gas canisters are not stored safely and the building has already been vandalised.*

Response: Any anti-social behaviour or criminal activity, such as arson, that the temporary building could potentially be subject to would be covered by separate legislation at that time and is not considered to be a material planning consideration in this instance. Similarly the safe storage of gas canisters and the potential for a hypothetical fire from the building to damage the adjacent Westburn

House are also not material planning considerations.

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. The relevant PALDP policies substantively reiterate those in the adopted ALDP and therefore the proposal is acceptable in terms of both plans for the reasons previously given.

RECOMMENDATION

Approve Time Limited

REASON FOR RECOMMENDATION

The proposed development would be of a sufficiently small scale and nature such that it would not materially affect the global climate and nature crises, in accordance with Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4). The works would not offer up the opportunity for climate mitigation or adaptation, thus there is no conflict with Policy 2 (Climate Mitigation and Adaptation) of NPF4. The works would be sufficiently small in scale and nature and do not provide the opportunity for any on-site biodiversity gain, therefore the proposals are acceptable despite some minor tension with Policy 3 (Biodiversity) of NPF4.

The building as currently installed is of a harsh utilitarian appearance. However, it is proposed to clad the building in natural timber linings which would soften its appearance and make it more visually appropriate for the context and character of the surrounding area. Given its temporary nature and its siting adjacent to the category 'A' listed Westburn House, it is considered that the retention of the building on a permanent basis would cause harm to the setting of the listed building, to the character and appearance of the conservation area and to the character of Westburn Park as an area of urban green space. Given the current and longstanding dilapidated state of Westburn House however, the Planning Service considers that the grant of a time-limited permission for a period of 2-years would ensure that the building would ensure that any harm to the setting of the listed building, the conservation area and the urban green space would be relatively minimal, temporary and fully reversible. The proposals are therefore considered to be acceptable on a temporary basis, generally in accordance, despite some tension, with Policies 7 (Historic Assets and Places), 14 (Design, Quality and Place) and 20 (Blue and Green Infrastructure) of NPF4 and Policies D4 (Historic Environment), D1 (Quality Placemaking by Design) and NE3 (Urban Green Space) of the Aberdeen Local Development Plan 2017 (ALDP), and the Council's supplementary guidance on Temporary Buildings.

The development would have suitable provision for the storage of any waste generated and would be accessible via sustainable and active modes of transport, in accordance with Policies 12 (Zero Waste) and 13 (Sustainable Travel) of NPF4 and Policies R6 (Waste Management Requirements in New Development), T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP. The proposed development is also considered to be generally compliant with the aims of Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 and all relevant corresponding policies of the Proposed Aberdeen Local Development Plan 2020, which substantively reiterate the requirements of the aforementioned policies of the ALDP.

CONDITIONS

(1) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of one year beginning with the date of this notice. If development has not begun at the expiration of the one-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(2) TIME LIMIT

The hereby approved temporary hot-food takeaway building and any associated structures and equipment shall be removed from the site by no later than 30 April 2025.

Reason: The character and siting of the building is not such as to warrant its retention on a permanent basis – in the interests of preserving visual amenity, the setting of Westburn House and the character and appearance of the conservation area.

(3) TIMBER CLADDING & BIN STORE INSTALLATION

The hereby approved hot-food takeaway building shall not be operated unless its external walls have been clad with timber linings and the secure bin store enclosure has been installed, as per approved drawing 1071-01 Rev B.

Reason: In order to ensure that the temporary building would have a more appropriate appearance for the setting of the area and that any waste generated by the use would be adequately stored pending collection.

ADVISORY NOTES FOR APPLICANT

(1) COMMERCIAL 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 hygiene

For 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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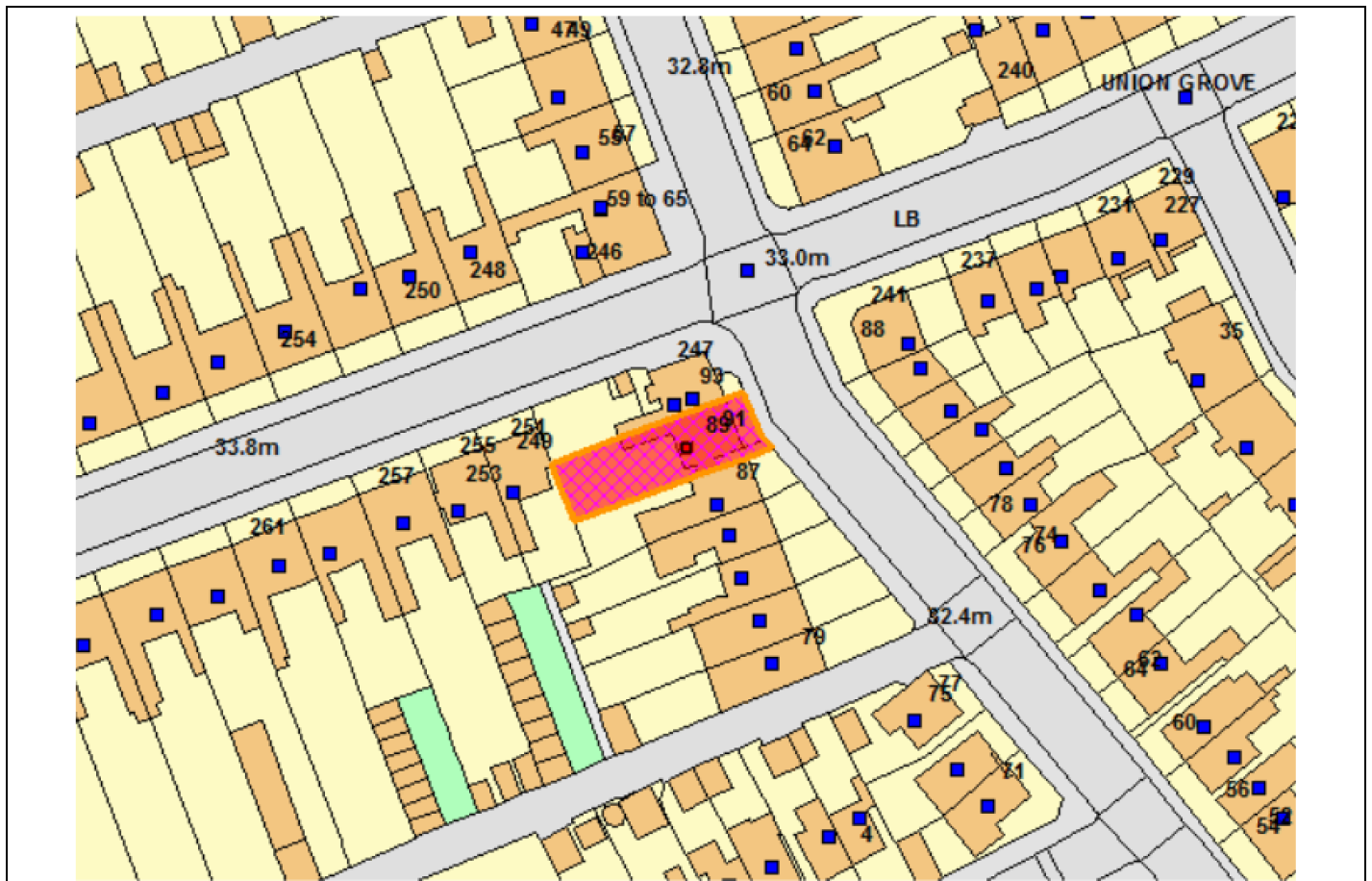


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 20 April 2023

Site Address:	91 Ashley Road, Aberdeen, AB10 6RL
Application Description:	Installation of CCTV camera (retrospective)
Application Ref:	230201/DPP
Application Type	Detailed Planning Permission
Application Date:	21 February 2023
Applicant:	Mrs Edna Chalmers
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Ashley and Broomhill
Case Officer:	Sam Smith



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RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a ground-floor flat in a two-storey tenement building located in a residential area within the Albyn Place/Rubislaw Conservation Area. The building has an east-facing principal elevation that fronts onto Ashley Road and a rear garden to the west which is bounded by the gardens of the surrounding properties. To the south of the site sits terraced properties, separated by an access path at the application site and to the north sits a mixed use two-storey building comprising a ground floor shop and a first-floor residential property. There is an existing shed in the northeast corner of the garden of the application site.

Relevant Planning History

None

APPLICATION DESCRIPTION

Description of Proposal

Retrospective planning permission is sought for the installation of a CCTV camera, fixed to the existing shed on a metal pole measuring 900mm in height from the eaves of the shed. The camera faces southeast to capture the rear garden and rear of the building.

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=RQDTKOBZGR300>

Supporting Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application has received six timeous letters of representation that express objection to the proposal and therefore falls outwith the Scheme of Delegation as per point 1. v.

CONSULTATIONS

Ashley and Broomhill Community Council – No comments received.

REPRESENTATIONS

Thirty representations have been received for the proposal (six in objection and twenty-four in support). The matters raised can be summarised as follows –

Objection

- The CCTV is not suitable for the conservation area and is clearly visible from other properties.
- The CCTV is raised too high and infringing on the privacy of the neighbouring gardens, including neighbours with children.
- The audio allows for conversations to be captured in the neighbouring gardens.
- Neighbours were not notified before CCTV being installed and the rear garden is shared, resulting in CCTV recording the area without permission from all owners of the site.
- Lack of justification for CCTV as there have been no security issues in previous years.

Support

- The camera is barely visible from the road.
- The works would not impact on the appearance of the building or the conservation area.
- The CCTV is required for the protection and peace of mind for the residents of the property and has been advised by Police Scotland.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 7 (Historic Assets and Places)
- Policy 14 (Design, Quality and Place)
- Policy 16 (Quality Homes)

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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policies are relevant –

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)

Proposed Aberdeen Local Development Plan 2020

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

- Policy H1 (Residential Areas)
- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)
- Policy D6 (Historic Environment)

Supplementary Guidance

- Householder Development Guide

Other National Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)
- Managing Change in the Historic Environment: External Fixtures

EVALUATION

Principle of Development

The application site is located in a residential area under Policy H1 (Residential Areas) of the ALDP, and the proposal relates to householder development. Householder development would accord with Policy H1 in principle if it does not constitute over development, adversely affect the character and amenity of the surrounding area, result in the loss of valued and valuable open space and it complies with the Supplementary Guidance, in this case the Householder Development Guide (HDG). Policy D4 (Historic Environment) requires adverse development impacts to be minimised and for high quality design be applied to maintain the historic environment.

The main planning considerations for this proposal relate to the scale and design of the proposed CCTV camera in the context of the impact it may have on the appearance and character of the surrounding residential area and conservation area.

The proposal comprises a camera fitted to an existing shed within an existing residential curtilage and would thus not result in overdevelopment or the loss of any valued open space. All other matters are discussed below.

Scale, design and impact on the historic environment

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 of the ALDP. While 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. Further to this, Policy D4 of the ALDP requires adverse development impacts to be minimised and for high quality design be applied in a conservation area to maintain the historic environment and respect the character and appearance of the area. The Managing Change in the Historic Environment: External Fixtures guidance expects new fixtures to be sited to maintain the architectural interest of any historic buildings and the historic environment.

The proposed camera sits 900mm in height from the eaves of the existing shed and would therefore sit above the adjacent boundary walls and be visible from Union Grove. This height has been identified by the applicant in the *Supporting Statement* as the required height to capture the intended area of the rear garden for operational purposes. Although the camera would be visible from the public road, the proposed works consists of a narrow grey pole attached to the existing shed in the rear garden, sitting approximately 9.5m south of Union Grove. The grey metal pole is also of a subordinate and appropriate scale in relation to the size of the existing shed. The design and materials are therefore considered in keeping with the appearance of the surrounding area and visually subservient in the context of the site. The shed sits in the corner of the site, adjacent to the north and west boundary walls, sitting discreetly in the context of the garden to avoid the development being prominently visible from the road. The height of the property and boundary wall to the west also results in the camera appearing less prominent in terms of its scale. The works have therefore been adequately designed and positioned to avoid having an adverse visual impact on the surrounding conservation area.

In line with the Fixtures Guidance, the proposed camera would be fitted to an ancillary outbuilding on the site which has little special interest in the context of the conservation area. The camera sits in the rear garden of the site and therefore avoids interfering with prominent elevations of any surrounding property as the only public place from which it is visible, is from the north at Union Grove. There is a modern side extension to the property sitting to the west of the site which presents minimal architectural interest adjacent to the camera, in the context of the historic environment. The location of the proposed works is therefore considered acceptable in maintaining the appearance and architectural interest of the historic environment and would avoid resulting in adverse harm to the appearance or fabric of any historic buildings or boundary walls. It is considered that a significant level of this type of development would need to occur for any cumulative impact to result in an adverse impact on the historic environment due to the identified minimal visibility and scale of the CCTV camera pole.

Overall, the proposed CCTV camera would be minimally visible from any prominent public viewpoint and has been located on an ancillary building as to avoid any adverse harm to the character and architectural interest of the historic environment. The proposal would therefore comply with policies H1, D1 and D4 of the ALDP and the Managing Change Guidance.

Amenity

The proposed camera has been fitted to a pole on an existing outbuilding. The installation of these works is not considered to impact the use of any neighbouring properties or impact upon the general amenity of the sites or daylight received by the neighbouring gardens.

Matters relating to the infringement of privacy resulting from the recorded video and audio resulting from the operation of the camera do not constitute a planning consideration and have

therefore not been assessed as part of this application. These matters are covered by the Data Protection Act 2018.

Representations

The proposed works have been assessed against their impact on the appearance of the surrounding area and conservation area. All other matters relating to the operation and intended use of the CCTV do not constitute planning matters and have therefore not been considered in the assessment of this application.

National Planning Framework 4

In line with Policy 14 (Design, Quality and Place), the proposed works have been designed to be consistent with the 6 qualities of successful places and does not have an adverse impact on the amenity of the surrounding area, as per Policy 14(b) and 14(c) of NPF4. Policy 16 (Quality Homes) of NPF4 determines that as the proposed camera does not have a detrimental impact on the character or environmental quality of the site and surrounding area nor on any neighbouring properties, the proposed development is in accordance with Policy 16(g). Policy 7 (Historic Assets and Places) determines that the proposed camera would be minimally visible as to avoid any adverse impact on the character and appearance of the conservation area as per Policy 7(c) and 7(d).

Proposed Aberdeen Local Development Plan

The relevant PALDP policies substantively reiterate those in the adopted ALDP and therefore the proposal is acceptable in terms of both plans for the reasons previously given.

RECOMMENDATION

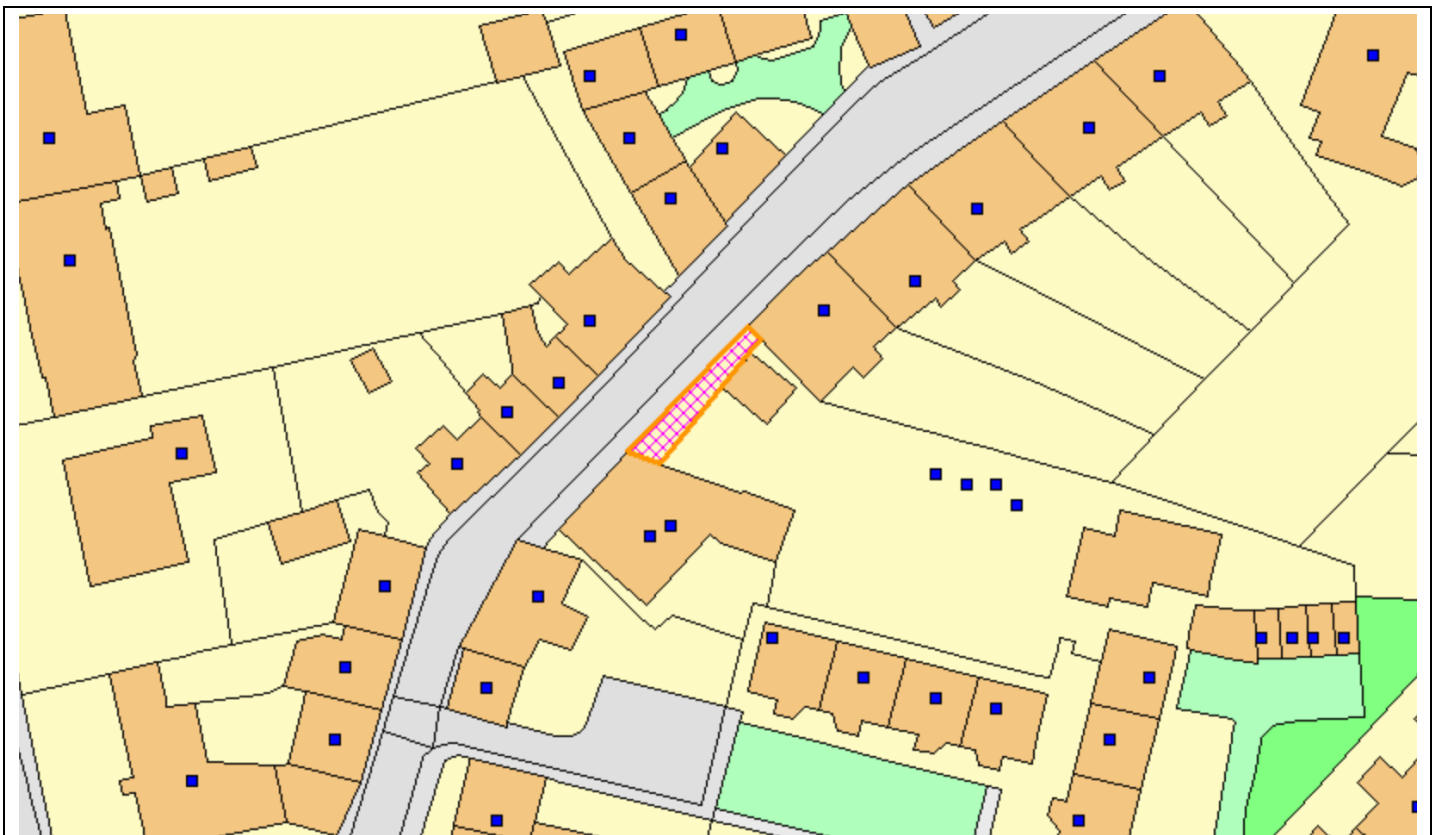
Approve Unconditionally

REASON FOR RECOMMENDATION

The proposed CCTV camera has been adequately designed to avoid having any adverse impact on the character, appearance or setting of the Albyn Place/Rubislaw Conservation Area. The camera has been appropriately located to avoid any adverse impact on the architectural interest or fabric of any historic building. The material finish used for the works are considered appropriate for use in the conservation area and in keeping with the surrounding area. The proposal is therefore considered to comply with Policy H1 (Residential Areas), Policy D1 (Quality Placemaking by Design) and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017, Policy H1 (Residential Areas), Policy D1 (Quality Placemaking by Design), Policy D2 (Amenity) and Policy D6 (Historic Environment) of the Proposed Aberdeen Local Development Plan 2020, Historic Environment Policy for Scotland, Managing Change in the Historic Environment: External Fixtures. The proposal is also considered acceptable against relevant policies (7, 14 and 16) of National Planning Framework 4.

 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;">Committee Date: 20 April 2023</p>
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Site Address:	34 Don Street, Old Aberdeen, Aberdeen
Application Description:	Complete demolition of fence
Application Ref:	221540/CAC
Application Type	Conservation Area Consent
Application Date:	23 December 2022
Applicant:	University of Aberdeen
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Old Aberdeen
Case Officer:	Sam Smith



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RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a plot of land with an outbuilding sitting 2.2m back from the south eastern side of Don Street. Bar the outbuilding, the rest of the site is covered with grass. The site is bounded by a row of terraced residential properties to the northeast and a residential property to the southwest all of which are Category C listed buildings. There is an existing timber fence and gate, to which this application relates, measuring between 1.86m and 1.93m in height sited on the northwest boundary of the site which fronts directly onto Don Street. The existing fence and gate are in a poor condition, having partly fallen and been boarded up with temporary railings. The site sits in a residential area within the Old Aberdeen Conservation Area.

Relevant Planning History

None

APPLICATION DESCRIPTION

Description of Proposal

Conservation Area Consent is sought for the demolition of the existing timber fence on the northwest boundary of the site. The submitted plans identify the intention to erect a wrought iron fence and gate measuring 1.85m in height.

Amendments

The proposed boundary treatment has been amended from an iron fence to a wrought iron fence with an altered design.

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=RN5012BZMH900>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because an objection has been made by Old Aberdeen Community Council and therefore falls outwith the Scheme of Delegation as per point 1. iv. The application has also received seven timeous letters of representation that express objection to the proposal as per point 1. v.

CONSULTATIONS

Historic Environment Scotland (HES) – has considered the information received and do not have any comments to make on the proposals. The decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance

with national and local policy on listed building/conservation area consent, together with related policy guidance.

Old Aberdeen Community Council – Old Aberdeen Community Council have raised an objection to the proposal for the following reasons:

- The proposed fence that would replace the existing would expose the site behind it and be detrimental to visual amenity.
- The site should not be made visible as it is not regularly tended to.

REPRESENTATIONS

Seven representations have been received in objection to the proposal. The matters raised can be summarised as follows –

- The erection of a metal fence would allow the outhouse and site to be seen from the street and a wooden fence would hide the view of the site.
- The site behind is an eyesore.
- Timber would be more appropriate for the site and in keeping with the conservation area.
- The metal fence is impractical for the wind that goes down this street and rubbish that is blown with it.
- Planning permission is required for a new fence on this site.

MATERIAL CONSIDERATIONS

Legislative Requirements

Under Sections 59(1) and 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the determination of an application for demolition of a building in a Conservation Area shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest it possesses. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application is –

- Policy 7 (Historic Assets and Places)

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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policy is relevant –

- D4 (Historic Environment)

Proposed Aberdeen Local Development Plan 2020

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policy is relevant –

- D6 (Historic Environment)

Other National Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)
- Managing Change in the Historic Environment: Setting
- Managing Change in the Historic Environment: Boundaries
- Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (CACG)

Other Material Considerations

- Old Aberdeen Conservation Area Character Appraisal

EVALUATION

Policy D4 of the ALDP indicates that the Council will protect, preserve and enhance the historic environment and expects that high quality design be applied in the conservation area and for adverse development impacts to be avoided.

Character and Appearance of the Conservation Area

Developments which have a special architectural or historic interest are considered worthy of protection within the historic environment. The existing fence is finished in dark brown timber with timber gates painted black. A large section of the fence has come down in the middle which has been covered up with temporary steel barriers to prevent access onto the site. The remaining section of the fence is in a poor condition, with holes, chips and stains to the wood. Due to the poor condition and heavy damage to the fence, it is considered that it currently presents a negative impact on the siting and appearance of the existing street scene and this area of the conservation area. Therefore, it is considered to have little contribution to the character and appearance of the historic environment. Furthermore, the structural condition of the fence is questionable, and if it was the case that the fence contributed to the character of the Conservation Area, it is unlikely that it could be retained and/or refurbished in its current form. The Planning Service would therefore not require that the fence be refurbished as opposed to being demolished due to its appearance and lack of special interest in the context of the historic environment. It is therefore considered that the principle of demolition would be acceptable.

Following the demolition of the existing fence the site would be left displaying an open site of grass and the existing outbuilding that is currently partially screened by the timber fencing. Due to the existing condition of the site, the removal of the fence would not significantly change the

appearance of it from the street as it can already been seen through the temporary screening. The removal in itself would therefore not have a significant visual impact on the area.

Proposal Once Demolition is Completed

The HES Setting guidance expects development to not impact the setting of any historic assets, which in this case includes not just the conservation area but also a number of listed buildings, which not only bound the site, but can also be found along Don Street. As such, a new fence in this location could, if not of an appropriate finish, impact the special architectural interest of the historic properties and the surrounding area. The current fence is of a poor condition and is finished in multiple materials, presenting a harmful visual impact on the street scene and historic environment. The proposed replacement boundary treatment is formed of a wrought iron fence and gate, painted black across the width of the site to enclose it. The fence would measure 1.85m in height, sitting 80mm below the height of the existing fence and therefore be of a suitable scale in the context of the existing site.

There is numerous metal fencing and gates fronting onto Don Street, notably at Bede House Court, the entrance to 35 – 41 Don Street and 29 Don Street directly opposite the application site. The Old Aberdeen Conservation Character Appraisal also notes the use of cast ironwork for railings and gates in the conservation area, specifically in the Old Aberdeen Heart. The principle of a proposed wrought iron fence would therefore be in keeping with the style of the surrounding area and would be of a high quality and traditional material for sitting in the conservation area. Planning permission would not be required for a boundary fence measuring no greater than one metre in height and any subsequent application for a fence greater than one metre in height would be assessed on its merits in the context of the site and its impact on the neighbouring properties, rather than what it may screen.

The removal of the existing fence would be acceptable as it is in a poor condition and has little architectural interest in the context of the conservation area. The site boundary remaining vacant would also not present an adverse visual impact on the area. The anticipated proposed iron railing is considered to be of a high quality that would avoid any adverse impact to the neighbouring Category C listed buildings and respect the character of the Old Aberdeen Conservation Area. The proposal would therefore comply with Policy D4 of the ALDP and the Managing Change guidance for Setting and Boundaries.

Matters raised in Representations

The development has been assessed on the impact it would have on the appearance of the surrounding area and Old Aberdeen Conservation Area. The removal of the existing fence would not present an adverse visual impact on the area if the site boundary remained vacant. An iron fence is considered traditional and in keeping with the style of the conservation area and screening the site with a high timber fence is not considered in keeping with the conservation area and would not present a positive visual contribution to the area.

National Planning Framework 4

Policy 7 (Historic Assets and Places) determines that an acceptable design for redevelopment has been proposed to replace the existing fence and the demolition of the existing would therefore be acceptable in line with Policy 7g).

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. The relevant PALDP policies substantively reiterate those in the adopted ALDP and therefore the proposal is acceptable in terms of both plans for the reasons previously given.

RECOMMENDATION

Approve Unconditionally

REASON FOR RECOMMENDATION

The existing boundary treatment is in poor condition and has no architectural or historic interest to the Old Aberdeen Conservation Area. The demolition of this fence would therefore not present a negative impact on the character or appearance of the historic environment. The intention for the site is to replace the existing fence with a wrought iron fence and gate which are considered to be traditional and in keeping with the character of the conservation area. The proposal therefore complies with Policy D4 - Historic Environment of the Aberdeen Local Development Plan 2017, and Policy D6 - Historic Environment of the Proposed Aberdeen Local Development Plan 2020, Historic Environment Policy for Scotland, Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent and Managing Change in the Historic Environment: Setting and Boundaries. The proposal is also considered acceptable when assessed against Policy 7 of National Planning Framework 4.

ADVISORY NOTES FOR APPLICANT

Planning permission shall be required for the erection of a new fence greater than one metre in height in line with the criteria under Class 7 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992.