

# Public Document Pack



To: Councillor McRae, Convener; Councillor Bouse, Vice Convener; and Councillors Alphonse, Boulton, Clark, Cooke, Copland, Farquhar, Lawrence, Macdonald, Radley, Thomson and Tissera.

Town House,  
ABERDEEN 02 November 2023

## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS)**

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS)** are requested to meet at the Town House reception at **9.00am on Wednesday, 8 November 2023** for a site visit and will then reconvene in the **Council Chamber - Town House**.

JENNI LAWSON  
INTERIM CHIEF OFFICER – GOVERNANCE (LEGAL)

### **BUSINESS**

#### **MOTION AGAINST OFFICER RECOMMENDATION**

- 1.1 Motion Against Officer Recommendation - Procedural Note (Pages 3 - 4)

#### **DECLARATION OF INTERESTS AND TRANSPARENCY STATEMENTS**

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

#### **GENERAL BUSINESS**

#### **WHERE THE RECOMMENDATION IS ONE OF APPROVAL**

- 3.1 Detailed Planning Permission for the change of use from class 4 (business) to class 1A (shops and financial professional and other services) and class 3 (food and drink) with covered outdoor seating area including demolition of existing lean to extension and erection of single storey extension; alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated car parking and other associated works - former Cults Railway Station (Pages 5 - 28)

Planning Reference – 230772

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

[Link.](#)

Planning Officer: Gavin Clark

- 3.2 Detailed Planning Permission for the retention of takeaway food kiosk and outdoor seating area with decking including change of use (temporary for 12 months) - former Cults Railway Station (Pages 29 - 40)

Planning Reference – 230922

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

[Link.](#)

Planning Officer: Gavin Clark

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

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Lynsey McBain on 01224 067344 or email [lymcbain@aberdeencity.gov.uk](mailto:lymcbain@aberdeencity.gov.uk)

# Agenda Item 1.1

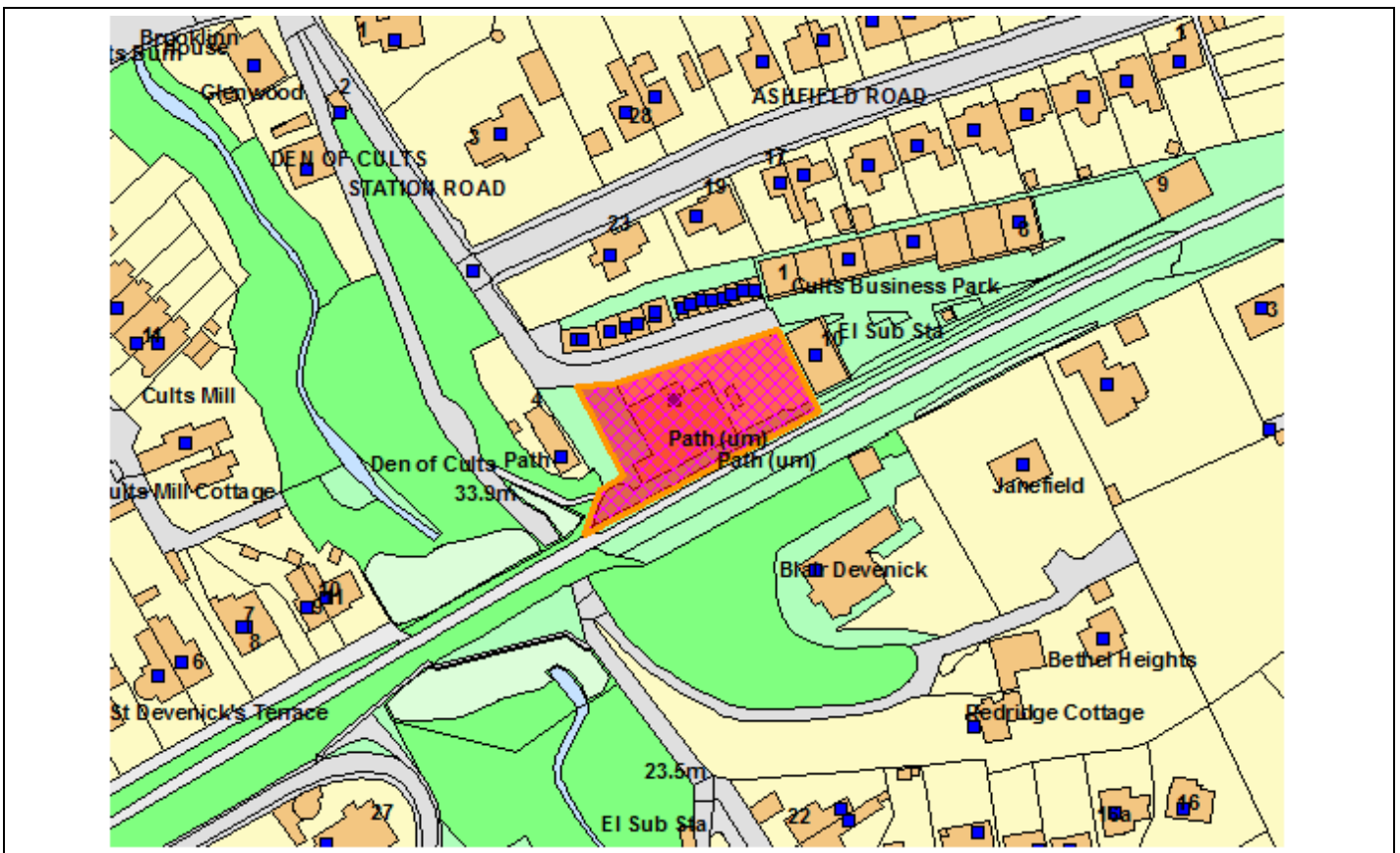
Members will recall from the planning training sessions held, that there is a statutory requirement through Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 for all planning applications to be determined in accordance with the provisions of the Development Plan unless material 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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 <p><b>ABERDEEN</b> 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;"><b>Committee Date: 2<sup>nd</sup> November 2023</b></p>
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<b>Site Address:</b>	Former Cults Railway Station, Station Road, Cults, Aberdeen, AB15 9NP
<b>Application Description:</b>	Change of use from class 4 (business) to class 1A (shops and financial professional and other services) and class 3 (food and drink) with covered outdoor seating area including demolition of existing lean to extension and erection of single storey extension; alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated car parking and other associated works
<b>Application Ref:</b>	230772/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	27 June 2023
<b>Applicant:</b>	JJ's Food & Drink Co Ltd.
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bieldside and Milltimber
<b>Case Officer:</b>	Gavin Clark



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## **RECOMMENDATION**

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site, which extends to approximately 1700m<sup>2</sup>, is the former Cults Railway Station, located on the southern side of Station Road, at a distance of some 125m south of North Deeside Road. The part of the site is currently being utilised as a cycle repair business and comprises the original late 19th century single storey station building (which has seen a number of extensions over the years and has a resulting footprint of some 380m<sup>2</sup>), the station platform, an area of land to the site which is currently occupied by a catering kiosk and associated facilities and areas of hardstanding which are utilised for car parking.

The original station building design is typical of the Scottish station style of the mid 1800's, being single storey with timber cladding and a hipped slated roof, with the more recent development to the rear (north) in the form of a lean-to extension which had served as workshop space for the joinery and cycle repair businesses and is largely finished in timber cladding with metal sheet roofing. The building is not listed and it lies just outwith the Pitfodels Conservation Area.

The site is bound to the south by the Deeside Way, and to the south of this by mature trees lining the rear curtilage of a residential property which forms part of the boundary of the Pitfodels Conservation Area. To the west and at a distance of some 7.5m from the site boundary is a residential property (No 4 Station Road), whilst to the east and beyond the station yard is the Cults Business Park. To the north the site faces across Station Road towards a number of commercial properties and lock-up garages, beyond which are the rear gardens of residential properties along Ashfield Road.

### **Relevant Planning History**

An application for planning permission (Ref: 210140/DPP) was refused by the Planning Development Management Committee in October 2021 for a change of use to class 3 (food and drink) with outdoor seating area including alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated works. This application related to the former station building and immediately surrounding land, including the area that is the subject of the current application. No appeal was submitted against this refusal. The reasons for refusal of the application were that the proposal was considered contrary to Policy H1 due to the scale of development impacting on residential amenity and contrary to Policy T3 due to the absence of a segregated footway access from North Deeside Road.

An application for planning permission (Ref: 220922/DPP) is currently pending consideration (and is due to be considered at the meeting of the Planning Development Management Committee) for the retention of takeaway food kiosk and outdoor seating area with decking including change of use (temporary for 12 months).

Planning permission (Ref: 211587/DPP) was approved by the Planning Development Management Committee on the 17th February 2022 for the installation of takeaway food kiosk and outdoor seating area with decking including change of use (partly retrospective) (Temporary for 18 months). This permission expired on the 31st July 2023.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

The proposal seeks detailed planning permission for the re-development of the site involving a change of use of the premises from its consented Class 4 (Business) use to form a mixed-use retail unit (cycle shop – Class 1A) and café (Class 3) with associated outdoor seating area. The works include the demolition of the existing lean-to extension and the erection of a single storey extension; alterations to building including the installation of a shop front, doors and rooflights along with the provision of car parking and cycle parking facilities.

Internally, the existing building would be split into the two uses, which would include the cycle shop/ repair workshop, to be located in the north western section of the building and the café elements with associated facilities such as the kitchen and seating areas provided in the southern and eastern sections of the building. The proposals would be served primarily by separate access points, the cycle shop from a new entrance on the northern elevation off Station Road and the café from the southern elevation, off the former platform. To the east approximately 150 sqm of a seating area associated with the proposed Class 3 element is proposed. Ancillary staff accommodation is proposed in the south western projection of the building. The bin store would be located within the northern section of the building and the proposal include two separate areas for customer and staff toilet facilities, including provision of disabled facilities.

Externally, the proposal includes the provision of 16 parking spaces, which would include 3 disabled parking spaces, 2 EV charging spaces and a further 5 spaces which could be retrofitted with EV charging facilities. The proposals also include the provision of 28 cycle stands and a cycle repair station. Areas of outdoor seating would be provided to the front of the premises (on the former platform fronting the Deeside Way) and side of the premises (facing Cults Business Park) with areas of landscaping and planting provided through the site. Existing access to the Deeside Way would be provided to the west.

In terms of external alterations, the proposal includes the removal of the existing single storey extension to the rear of the building, and the erection of a replacement single storey extension on this northern elevation, which would include elements of larch cladding and glazing. A green roof is also proposed on the existing flat roof extension on the western side of the property.

The proposals also involve the erection of a “pergola” type structure within the eastern outdoor seating area. This would measure approximately 6m x 3.5m with an overall height of 2.3m and would be finished in a grey aluminium frame with retractable louvres on the roof. This would allow for sections of the external seating areas to be covered.

### **Amendments**

The proposal has been amended since the original submission, this has included the submission of further information in relation to the proposed pergola (which has replaced the proposed marquee), further clarification on the internal layout of the property, further details in regards to proposed landscaping and further information to address comments received from consultees.

### **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=RWUM54BZKTH00>

- Design Statement
- Planning Statement
- Roads Technical Note
- Bat Survey
- Noise and Odour Impact Assessment

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because more than six letters stating objection to the proposal were received (a total of 24), subsequently, the proposal falls outwith the Scheme of Delegation.

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – have no objection to the proposal following the submission of amended plans. Their response will be discussed in greater detail in the evaluation section of this report.

**ACC - Environmental Health** – have reviewed the submitted Noise and Odour Impact Assessment and are content with its findings. Their response will be discussed in greater detail in the evaluation section of this report. They have no objection to the principle of the development.

**ACC - Waste and Recycling** – have advised of the waste management requirements for the proposed development.

**Cults, Bieldside and Milltimber Community Council** – have provided comments on the application, noting the public comments received both in support and noting the comments received against the proposal in particular impacts on amenity. They have also provided the following comments:

1. Note the scale of the proposals is smaller scale than the previous application, which is more in line with the Community Council aspirations in 2021.
2. The extension on the northern side is a significant improvement on the previous proposals.
3. Concerns in regards to inaccuracies with the proposed hours of operation. Seek clarification that the information in the Noise Impact Assessment is incorrect and the hours of operation for the “private room” would be the same (and conditioned).
4. The impact on residential amenity should not be considered against the current situation, but on pre-pandemic levels, where the joinery workshop was closed earlier during the week and was quiet on Saturday afternoons and Sundays.
5. The Odour Impact Assessment should be updated, given the impact from the neighbouring property was assessed in December 2020, before the current uses were operational and the Noise and Odour Assessment assumes that noise is only generated at the outdoor seating to the East of the station building, whereas customers are free to move around the building.
6. Would like to see the planting of a more substantial hedge (1.8m high) along the North side of the open-air bench seating area and “informal grass seating area” to help mitigate any noise and light disturbance to residents in Ashfield Road, particularly their upper storeys.



7. Concerns in regards to the proposed “informal path” along the platform edge and suggest the installation of planters along the edge. Seek to ensure the public right of access is maintained and also note there is some inconsistency between the various impressions of the platform and “informal path” in the Design Statement.
8. Concerns relating to traffic management and pedestrian safety on Station Road, in particular in relation to delivery and waste vehicles. Concern that such vehicles stop outside neighbouring properties and the subsequent impact this has on residential amenity.
9. Concern about increase in traffic movements caused by motor bikes and couriers, which are not captured in the submitted analysis. Would prefer there to be no takeaway service, but not this is a common occurrence in many cafes. Collections should be restricted to normal working hours.
10. Construction working hours should be conditioned to restrict work to normal working hours and not evenings.

## **REPRESENTATIONS**

A total of 145 valid and timeously made representations have been received in relation to this application, 24 expressing objection or concern about the proposal and 121 expressing support. These submissions raise the following points:

### Objections:

#### Principle of Development/ Design

1. The proposals would have an adverse impact on neighbouring property in terms of noise, smell, privacy and that the proposed use is not compatible with the residential nature of the surrounding area, resulting in the proposals being contrary to Policy H1 of the ALDP 2023.
2. Would prefer for the situation to remain as it is, with the Boxcar café retained and that the provision of a retail use is also not acceptable in a residential area.
3. Comments that the proposal would have an adverse impact on similar uses in the surrounding area, there are too many similar uses in the surrounding area and noting that a café has previously been rejected on site.
4. Concerns raised with regards to the size of the proposed outdoor seating area. In addition, Concerns in relation to the proposed accesses to the site, including the proposed shared footway from North Deeside Road and the accesses from the Deeside Way.
5. Concerns about the access door on the western elevation, which would sit adjacent to the neighbouring property, and which contradicts the supporting statement, in which this would only be used for staff.
6. The proposal should be considered as a greenfield development rather than a brownfield development and concerns in relation to the scale of development proposed and whether the design of the alterations, as proposed, would respect the character of the original station building.

7. Concerns in relation to the provision of lighting around the building and the impact that this would have on neighbouring properties.
8. The submitted site plan is not accurate, as the platform area has not been included within the lease for the building.

### Traffic Concerns

9. Concerns in relation to traffic impacts as a result of the development, in terms of the increased vehicular movements, deliveries refuse collections and the parking of vehicles (both lack of parking and inappropriate parking) on surrounding streets and noting that the submitted swept path analysis was inadequate. Concerns in relation to food deliveries from the site, which will increase the number of vehicles visiting the site.
10. Concerns raised in regard to pedestrian access to the development, in particular from North Deeside Road. One of the comments also noted that there have been a number of accidents on the access road in the last two years.

### Environmental/ Amenity Concerns

11. Concerns in relation to the proposed hours of operation, with the premises proposing to open until 2330, with the outdoor seating area utilised until 2200 and the resulting impact on residential amenity. Comments also indicated opening hours should be restricted to 2000. Comments were also received in regards to conflicting statements in both the Noise Impact Assessment and Design Statement in regard to hours of operation.
12. Concerns that a menu has not been provided, and whether the proposals are for the formation of a café. In addition, the proposals would provide inadequate ventilation and filtration of cooking smells.
13. The proposals would increase the risk of anti-social behaviour.
14. Concerns in relation to health and safety and in particular any dangers associated with patrons utilising the platform areas and the platform area should form no part of the planning application.
15. Increase in litter pollution both on the site and in the surrounding area, which has included an increase in the amount of vermin found in neighbouring properties.

### Natural Heritage

16. Increase in light pollution and associated impact on species such as bats and that bats were housed in the existing structure.
17. Note the importance of biodiversity in the surrounding area, in particular on the station platform and the adverse works that have been undertaken in the area since the applicant took over the site.

### Planning History

18. Concerns in relation to previous breaches of planning control on site and that the development, if approved, would likely follow suit.

19. Note the planning history associated with Cults Business Park, which had a restriction on opening hours until 2000, to protect the residential amenity of the surrounding area. Note that the site should be covered by the same restrictions as the business park.

#### Other Matters

20. There is no adequate provision for safe disabled access, or child access.
21. Concerns that those who have written in support of the proposal do not live in the surrounding area and also in relation to the level of support for the proposal.
22. Concerns in relation to the leasing process associated with the advertising of the site by ACC Estates.
23. Concerns in relation to the licensing process and the sale of alcohol from the site.
24. Comments received in regards to rights of access to neighbouring properties.

#### Support:

1. The proposal is located in an ideal location, adjacent to the Deeside Way, no similar uses in such a location and that it is easy to access via walking and cycling (sustainable means) and a good place to meet friends and family. It was also noted that the proposal would encourage and support outside activity, health and exercise as well as being a tourist attraction for the city.
2. Note that the bike shop would be a good addition to the area.
3. Good to support a local business, which will provide a source of employment to the local area and provide a use that will be open/ easier to use all year round.
4. The re-development of the site will result in a vacant building being brought back into use, rather than falling into a state of disrepair; comments also received in regards to the design of the building and the positive impact that this would have.
5. The provision of a facility with toilets on the Deeside Way would be a welcome addition.
6. Comment on the early opening hours, which are beneficial to those out walking early in the morning.
7. Suggest that the road to Den of Cults should be made one-way to help traffic. Note that numerous vehicles already access the business park.
8. Note the larger provision for cycle parking and hope that these would be properly attached to the ground.
9. The proposals would reduce the risk of smells/ odours by having proper ventilation systems installed within the kitchen facilities.

## **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 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 20: Blue and green infrastructure
- Policy 30: Tourism

#### **Aberdeen Local Development Plan (2023)**

The following policies are relevant –

- WB2: Air Quality
- WB3: Noise
- NE2: Green and Blue Infrastructure
- NE3: Our Natural Heritage
- NE4: Our Water Environment
- D1: Quality Placemaking
- D2: Amenity
- D5: Landscape Design
- R5: Waste Management Requirements for New Development
- H1: Residential Areas
- VC10: Local Shop Units
- T2: Sustainable Transport
- T3: Parking

### **Interim Aberdeen Planning Guidance (APG)**

Aberdeen Planning Guidance is Interim Planning Guidance. The documents hold limited weight until they are adopted by the Council. The weight to be given to Interim Planning Guidance prior to its adoption is a matter for the decision maker. The following guidance is relevant –

- Outdoor Seating (Adopted)
- Noise
- Transport and Accessibility
- Natural Heritage
- Flooding, Drainage and Water Quality
- Waste Management Requirements for New Developments

## **EVALUATION**

### **Principle of Development**

The application site is located within a residential area, as identified by Policy H1 (Residential Areas) of the ALDP 2023. This policy advises that, amongst other matters, *“within existing residential areas, proposals for non-residential uses will be supported if: they are considered complementary to residential use; or it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.”*

In terms of the proposed development, consideration must be given to the potential impacts of the proposed change of use to provide retail facilities along with a café and associated outdoor seating area (along with all other associated alterations) and whether the works would be considered as complementary to the existing designated residential use or whether it can be demonstrated that the proposed use can be undertaken without having an adverse impact on the residential amenity of properties in the surrounding area. Compliance with Policy H1 is discussed further in the below evaluation.

The proposals also involve a partial change of use of the unit (the established use being Class 4 business) to provide elements of retail for the sale of bicycles and associated equipment. Policy VC10 (Local Shop Units) of the ALDP 2023 advises that *“proposals for changes of use from retail to non-retail outwith any of the centres identified in the network of centres will only be allowed if: the applicants/agents can demonstrate a lack of demand for continued retail use of the premises; the proposed new use caters for a local catchment; the proposed use creates or maintains an active street frontage and attractive shop frontage; and the alternative use does not conflict with the amenity of the neighbouring area.”*

In this case, it is noted that part of the building has been utilised for the repair of bicycles on site and the proposal seeks to expand this use for their sale on site with other associated merchandise (along with the café element). The Planning Service are therefore of the view that the proposals would cater for a local need, would provide an active shop frontage, which would provide access to the retail and café elements and for the reasons detailed elsewhere, and would have no adverse impact on the amenity of the surrounding area. The proposals would therefore not conflict with Policy VC10 of the ALDP 2023.

It is noted that the application site incorporates the station platform, which sits immediately to the south of the station building. This section of the site is zoned as Urban Green Space and Green Space Network, where Policy NE2 (Green and Blue Infrastructure) of the ALDP 2023 would apply. This advises that *“development proposals will seek to protect, support and enhance the Green Space Network”* and that *“we will protect, support and enhance the city’s Urban Green Space”*.

In respect of the current proposals, the submitted site plan indicates that an area of outdoor seating would be provided in this area, along with the planting of a hedge and other associated shrubbery and a wildflower grass area. In principle, it is considered that the proposed works would

enhance the green space network (from its current position) and urban green space and would comply with Policy NE2 in principle. Further compliance is discussed later in this evaluation.

Policy 9 (Brownfield, vacant and derelict land) of NPF4 advises that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. Given that the proposal relates to such a brownfield site, which would see the redevelopment of the site to provide a mixture of uses, the proposals would comply with Policy 9 of NPF4.

Policy 15 (Local Living and 20 minute neighbourhoods) of NPF 4 advises: *“development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods.”* The proposal would provide both a retail and café offering and would therefore contribute to the premise of a 20-minute neighbourhood, in compliance with Policy 15 of NPF4.

It is considered that, to an extent, the proposals could encourage tourism related activities, therefore Policy 30 (Tourism) of NPF4 is of relevance. This policy advises that *“proposals for tourism related development will take into account: the contribution made to the local economy; compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors; Impacts on communities, for example by hindering the provision of homes and services for local people; opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas; accessibility for disabled people; measures taken to minimise carbon emissions; and opportunities to provide access to the outdoor environment.”*

In relation to the above, the proposals, are anticipated to contribute to the local economy via the addition of a facility which would welcome members of the public to the area, would be of an acceptable scale without having an adverse impact on the surrounding area, would be accessible via sustainable transport needs, would be accessible for all abilities, would provide sustainable measures to minimise carbon emissions and would be adjacent to the Deeside Way, providing ease of access to the surrounding natural environment. The proposal would therefore comply with Policy 30 on NPF4 in principle.

The adopted Aberdeen Planning Guidance: Outdoor Seating advises that *“proposals for outdoor seating should consider both the immediate and wider context in which they would be situated. As a new addition to an area, the agent of change principle will be applied whereby the applicant is responsible for ensuring their proposals would not cause unnecessary harm to the existing amenity of the surrounding area.”*

In terms of the above, it is considered that the proposed outdoor seating area would be located sufficiently distant and could be adequately controlled (via the hours of operation) to ensure that the proposals would have no undue adverse impact on the amenity of the surrounding area. In addition, the outdoor seating area would be visible from the existing premises, would not prevent access to neighbouring properties, would respect the amenity of the neighbouring area (as discussed elsewhere), would have suitable waste arrangements and would have no unsociable hours (as controlled via condition). The proposal is therefore considered to be in general accordance with the aforementioned APG.

### **Impact on Residential Amenity**

Policy D2 (Amenity) of the ALDP 2023 advises that *“development will be designed to: make the most of any opportunities offered by the site to optimise views and sunlight through appropriate siting, layout and orientation; ensure that occupiers are afforded adequate levels of amenity in relation to daylight, sunlight, noise, air quality and immediate outlook; ensure that occupiers are*

*afforded adequate levels of amenity in relation to daylight, sunlight, noise, air quality and immediate outlook; have a public face to the street to ensure natural surveillance, and active street frontages; ensure that refuse and recycling facilities, cycle storage, low and zero carbon technology, plant and services are sensitively integrated into the design; ensure that external lighting minimises light spillage into adjoining areas and the sky”.*

In addition, Policy WB2 (Air Quality) of the ALDP 2023 advises “*development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed with the Planning Authority*” and Policy WB3 (Noise) of the ALDP 2023 advises that “*in cases where significant exposure to noise is likely to arise from development, a Noise Impact Assessment (NIA) will be required as part of a planning application.*”

The Planning Service remain of the view that the use of the site as a café, with associated retail use and other associated facilities would be broadly compatible with the residential nature and zoning of the surrounding area, given the site’s context in a relatively mixed use area adjacent to the Deeside Way with a mixture of residential properties and businesses located in close proximity to the application site. The proposals would also cater for both a local and wider need, given the Deeside Way serves as a well-recognised and popular route for walkers and cyclists (as has been evidenced in a number of the letters of support). The Planning Service do acknowledge that the proposed change would result in an increase in usage of the application site, with the potential for further noise and general disturbance to the surrounding area via the use of the outdoor seating areas, and the general re-use of the building, which would bring a number of patrons to the area.

The proposals would also introduce a cooking element to the site, which would also have potential for odour to emit to properties in the surrounding area. As a result of this the applicant has submitted a Noise and Odour Impact Assessment was submitted in support of the planning application. The assessment, which dates from the time of the original application but its contents remain relevant, recommends that a number of measures be implemented in association with the proposed use, including noise and roof insulation, along with the installation of an odour extraction system with appropriate maintenance and cleaning.

The assessment is based on specific opening hours for the café, with the internal space opening Sunday to Thursday from 8:00 to 23:00 hours and Friday to Saturday from 08:00 to 23:30 hours and the outdoor seating area opening Sunday to Thursday from 08:00 to 20:00 hours and Friday to Saturday from 08:00 to 22:00 hours. The report also states that refuse collection and food deliveries shall be restricted to Monday to Friday from 07:00 to 19:00 and Saturday from 08:00 to 13:00, with none on a Sunday. It is however noted that the café will not be opened for the timings associated with this assessment, with the applicants confirming that the opening hours for the café (Class 3) and outdoor seating area would be Monday to Thursday 08:00 – 19:00 and Friday to Sunday 08:00 – 20:00.

Colleagues in Environmental Health have reviewed the submitted assessment and consider the findings of the report to be acceptable provided the application of critical noise and odour mitigation measures achieving at least an equivalent effect of those measures contained within the assessment takes place, which must include:

- a) the noise insulation measures detailed within section 3.6 and the related Appendix C – ‘Wall and Roof Construction Detail’.
- b) the noise and odour control measures detailed within section 6.2 and the related Appendix A (A4 to A5) – ‘Kitchen Extraction System Details’.

- c) The proposed operating hours including the external area, detailed within section 6.3 (although as detailed above it is noted the opening hours will be less than as stated within the assessment).

They have also recommended strict adherence to the managerial controls detailed within section 4.14 and 6.3 and appendix K "Maintenance and Cleaning" to reduce the risk of malodour and statutory nuisance. A condition will be added to the consent in respect of the above and subject to the implementation in strict accordance with the statement there would be no conflict with Policy WB2 (Air Quality) or WB3 (Noise) of the ALDP 2023.

It is acknowledged that the proposed hours of operation were considered as part of the above assessment and its findings, which related to a potentially larger development area than that proposed, included the likely impact of noise from customers of the café and outdoor seating area, and the impact that this would have on amenity. It is noted that the outdoor area is significantly smaller than the previous application and the hours it would be in use would be less, with a maximum late opening hour of 2000 at weekends and plans and a condition will be added to ensure that the development is carried out in accordance with the submitted site plan. It is acknowledged that the development is still likely to have an impact on the amenity of the area, in particular later in the evening.

The Planning Service note that no lighting is proposed within the outdoor seating area, with this being limited to the western, northern and southern sections of the building. It is not unreasonable to assume that weather conditions will to some extent limit the day to day and year round use of an outdoor seating area, however it is accepted that where customers could be served until 20:00 hours on a Friday or Saturday, and until 19:00 for the remainder of the week, this could have some impact on those residents of properties lying at the westernmost end of Ashfield Road to the north of the site and on Station Road immediately to the west of the site, on the basis that these properties either back onto or overlook the site, albeit at a distance of some 30m for those lying to the north and 14m to the west. The timings proposed are therefore considered to be acceptable, which would ensure that there is no night-time noise from customers conversing etc in the outdoor areas that might adversely affect the amenity currently enjoyed by the closest residential properties.

Taking the above into account it is considered that the proposed change of use to café and retail use would suitably complement the residential use of the area and wider neighbourhood, and subject to conditions restricting the hours of operation and provision of appropriate ventilation the proposals would have no unacceptable impact on the existing character of the residential area, nor would such a use introduce a level of conflict or nuisance which would have a significant adverse impact on existing amenity.

It is noted that the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended) would allow the Class 1A retail area to be used as a Class 3 café as permitted development, thus increasing the floorspace of the café without planning permission. This is not considered to be acceptable in this case, accordingly a condition is proposed to limit the floorspace for each use class in line with what has been applied for. Having regard to the foregoing it is considered that the proposed change of use would suitably address the requirements of Policies D2 (Amenity) and H1 (Residential Areas) of the ALDP 2023.

## **Design and Scale**

Policy 14 (Design, quality and place) of NPF 4 states that *"development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale"* and *"development proposals will be supported where they are consistent with the six*



*qualities of successful places: healthy, connected pleasant, distinctive, sustainable, adaptable*” while Policy D1 (Quality Placemaking) of the ALDP 2023 advises that *“all development must ensure high standards of design, create sustainable and successful places”*, and also reiterates the Scottish Government’s six qualities of a successful place.

The proposals would see the refurbishment of the former Cults Railway Station, which comprises the main station building, which dates back to the mid-1800s and which fronts onto the Deeside Way, as well as the removal of the of the more recent flat roofed extensions to the north of the building and its replacement with a more modern extension to accommodate the uses proposed and provide a further entrance point to the building. Materials proposed within the extension would include vertical larch cladding and aluminium windows and doors with general repairs of the timber cladding to the existing station building also proposed. The works are considered to have been designed with due consideration for their context and would have no adverse impact on the character or the appearance of the surrounding residential area. A condition can be inserted on to the consent to seek samples of the proposed finishing materials prior to the commencement of development. There would be no conflict with either Policy 14 of NPF or with Policy D1 of the ALDP 2023 in this instance.

## Transportation

Policy T2 (Sustainable Transport) of the ALDP 2023 provides various guidance and seeks to *“minimise traffic generation, increase accessibility, encourage public transport and provide relevant infrastructure”* within the application site. Policy T3 (Parking) of the ALDP 2023 discusses matters such as parking within development and electric vehicle infrastructure. Policy 13 (Sustainable transport) of NPF4 provides similar guidance and advises that *“development will be supported where it has been designed in association with sustainable travel, provides direct links to local facilities, will be accessible by public transport, provide electric vehicle charge points, provide safe and convenient cycle parking and consider the needs of all users, as well as mitigate the impact of development on local transport routes”*.

The proposals have been reviewed by colleagues in Road Development Management (RDM), who have provided the following comments on the application:

In terms of walking and cycling, they note that the site is ideally located for users of the Deeside Way, but note that pedestrian and cycle access from the road-side is below modern standards, noting that it is 1.5m in width and that pedestrians would have to walk down the road for the final part towards the development site. They note that this is an existing situation for pedestrians accessing the Deeside Way, but that pedestrian footfall would increase as a result of the proposals. They note that there is limited scope for improving footway access to the development, given existing boundary treatments.

As part of the proposals, the applicants have proposed dropped kerbs on Station Road to provide a clear pedestrian crossing point, signage advising that “pedestrians are on the road ahead”, the provision of “slow” markings on the road at either side of the bend and a change in surfacing materials to delineate the pedestrian route on the western side of Station Road, until it joins the existing footway, which is also to be upgraded. These mitigation measures are considered to be acceptable to colleagues in RDM and whilst the works are outwith the development site, they are on a public road and therefore a condition can be added to ensure that the mitigation measures are installed prior to the implementation of the use.

In terms of public transport, it is noted that bus facilities are provided on both sides of North Deeside Road within 200m of the site.

In regards to parking, the maximum parking standards for the site would see the provision of 16 parking spaces, with 3 of these provided as accessible spaces. The spaces proposed are also of the required standards. The parking arrangements proposed by the applicants are therefore considered to be acceptable. In addition, the provision of 48 long stay and 8 short stay cycle parking spaces are considered to be well above requirements and therefore considered acceptable. The applicants have also proposed EV charging infrastructure within 1 accessible space and 2 general spaces, in addition 6 of the spaces would be provided with passive EV infrastructure to ensure they could be retrofitted in the future. Colleagues in RDM have also confirmed that on various site visits to the area, there have never been examples of excessive parking, with the majority of patrons likely to visit the site via sustainable modes of transport.

Colleagues in RDM also noted that, due to limited traffic generation, it would be unreasonable to seek any further road improvements other than those discussed above, with junction improvements to North Deeside Road/ Station Road likely to be difficult and not required for a development of this scale. The submitted TRICS (Trip Rate Information Computer System) assessment also supports the assumptions that the majority of trips to the site would be via foot/cycle, with less than 1 vehicle every 4 minutes predicted in the AM and PM peak hours. The applicants also undertook a road accident review, which indicated no accidents within the last 5 years.

In terms of other measures, the applicants will require to submit a Green Travel Plan for staff (which can be controlled via condition). Colleagues in RDM have confirmed that they have no objection to the development as proposed and as a result there would be no conflict with Policy 13 of NPF 4, Policies T2 and T3 of the ALDP 2023 or its associated Interim Aberdeen Planning Guidance: Transport and Accessibility.

## **Waste Management**

Policy 12 (Waste) of NPF4 advises that *“development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.”* Policy R5 (Waste Management Requirements for New Developments) of the ALDP 2023 advises *“all new developments should have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate”*.

In terms of waste proposals, it is noted that waste storage facilities would be provide in the northern section of the building and would be accessed via an external door. Colleagues in Waste Management have commented on the proposals and have raised no objection to the layout as proposed. There is no conflict with either Policy 12 of NPF 4 or with Policy R5 of the ALDP 2023 in this instance.

## **Natural Environment**

Policy D5 (Landscape Design) of the ALDP 2023 advises that *“development proposals will be designed with an effective, functional and attractive landscape framework supported by clear design objectives. The level of detail required will be appropriate to the scale of development.”* Policy NE3 (Our Natural Heritage) of the ALDP 2023 advises that *“development should not have a detrimental effect (directly or indirectly) on its own or in combination with other proposals on: sites, habitats, ecosystems or species protected by law or natural heritage designation.”*

It is noted that the southern section of the site, which incorporates the station platform, is zoned under Policy NE2 (Green and Blue Infrastructure) in the ALDP 2023 and as the Deeside Old Railway Local Nature Conservation Site. The submitted landscaping plan for this area shows the provision of an area for outdoor seating (with associated footpath and paving) and areas of soft

and hard landscaping including hedges, shrubs and wildflower planting along with the retention of the existing formal footpath.

The proposals have been assessed by colleagues in Natural Environment Policy (NEP), who are generally content that the proposed landscaping and maintenance plan are broadly acceptable and the areas of landscaping proposed would make a positive contribution in terms of biodiversity net gain. They suggested the provision of a green roof on the flat roof rear extension, which has now been provided by the applicant, which also provides biodiversity enhancement and reduces the potential for surface water run-off. They have also noted that the proposals would result in a general better quality, more functional and accessible area of open space being provided within the curtilage of the site.

In respect of protected species, the applicants have submitted a Bat Survey in support of the application. The survey noted that, whilst bats were found in the surrounding vicinity, no bats were found to be utilising the building for roosting, and therefore the re-development of the building would have no impact on the bat population and therefore no mitigation was deemed necessary. The proposals to reduce existing light pollution and light spill, as identified in the submitted Design Statement are generally considered to be acceptable.

The proposed works are considered to be acceptable in principle and would meet the requirements of Policies NE2, NE3 and D5 of the ALDP 2023.

### **Tackling the Climate and Nature Crises, Climate Mitigation and Biodiversity**

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate mitigation and adaptation) of NPF4 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. Policy 3 (Biodiversity) of NPF4 requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

The proposed development, which relates to a change of use of the existing premises with associated external alterations includes the provision of areas of landscaping and planting, and other proposals such as the provision of a green roof on the extension and wildflower planting to the front of the premises. The proposal is considered to be compliant with Policy 1, 2 and 3 of NPF4.

### **Matters Raised by Community Council**

1. Note the scale of the proposals is smaller scale than the previous application, which is more in line with the Community Council aspirations in 2021. *Response: comments noted.*
2. The extension on the northern side is a significant improvement on the previous proposals. *Response: comments noted.*
3. Concerns in regards to inaccuracies with the proposed hours of operation. Seek clarification that the information in the Noise Impact Assessment is incorrect and the hours of operation for the “private room” would be the same (and conditioned). *Response: the hours of operation would be as per the Design Statement and would be controlled via condition.*

4. The impact on residential amenity should not be considered against the current situation, but on pre-pandemic levels, where the joinery workshop was closed earlier during the week and was quiet on Saturday afternoons and Sundays. *Response: the impact on residential amenity has been discussed elsewhere in this report.*
5. The Odour Impact Assessment should be updated, given the impact from the neighbouring property was assessed in December 2020, before the current uses were operational and the Noise and Odour Assessment assumes that noise is only generated at the outdoor seating to the East of the station building, whereas customers are free to move around the building. *Response: the noise and odour information is relevant to the current application and has been deemed acceptable to colleagues in Environmental Health and no further or updated assessments were required.*
6. Would like to see the planting of a more substantial hedge (1.8m high) along the North side of the open-air bench seating area and “informal grass seating area” to help mitigate any noise and light disturbance to residents in Ashfield Road, particularly their upper storeys. *Response: the level of planting proposed is considered to be acceptable.*
7. Concerns in regards to the proposed “informal path” along the platform edge” and suggest the installation of planters along the edge. Seek to ensure the public right of access is maintained and also note there is some inconsistency between the various impressions of the platform and “informal path” in the Design Statement. *Response: it is noted that a degree of planting would be provided on the platform, which is considered to be acceptable. The informal path would be retained to ensure that the public right of way is maintained. The general layout is considered to be acceptable.*
8. Concerns relating to traffic management and pedestrian safety on Station Road, in particular in relation to delivery and waste vehicles. Concern that such vehicles stop outside neighbouring properties and the subsequent impact this has on residential amenity. *Response: the mitigation measures put forward by the applicant (discussed above) are considered to be adequate and colleagues have raised no objections to the delivery methods. The Planning Service cannot control where vehicles would turn on public or private roads.*
9. Concern about increase in traffic movements caused by motor bikes and couriers, which are not captured in the submitted analysis. Would prefer there to be no takeaway service, but not this is a common occurrence in many cafes. Collections should be restricted to normal working hours. *Response: transportation matters have been discussed elsewhere in this report. The Planning Service could not control the takeaway element adequately via condition. It is also anticipated that any deliveries would take place during the opening hours of the premises.*
10. Construction working hours should be conditioned to restrict work to normal working hours and not evenings. *Response: an informative is proposed in this regard and any breaches would be controlled under environmental legislation.*

## **Matters Raised in Representation**

### Support:

1. The proposal is located in an ideal location, adjacent to the Deeside Way, comments were also received that noted that no similar uses in such a location and that it is easy to access

via walking and cycling (sustainable means) and a good place to meet friends and family. It was also noted that the proposal would encourage and support outside activity, health and exercise as well as being a tourist attraction for the city and note the bike shop would be a good addition to the area. *Response: comments noted. The location of the building has been assessed in the above evaluation as well as the benefits associated with the use.*

2. Good to support a local business, which will provide a source of employment to the local area and provide a use that will be open/ easier to use all year round. *Response: comments noted.*
3. The re-development of the site will result in a vacant building being brought back into use, rather than falling into a state of disrepair; comments also received in regards to the design of the building and the positive impact that this would have. *Response: the redevelopment and refurbishment of vacant buildings is supported by planning policy.*
4. The provision of a facility with toilets on the Deeside Way would be a welcome addition. *Response: comments noted. Toilets are to be provided.*
5. Comment on the early opening hours, which are beneficial to those out walking early in the morning. *Response: the opening hours of the development have been discussed elsewhere and confirmed to be acceptable.*
6. Suggest that the road to Den of Cults should be made one-way to help traffic. Note that numerous vehicles already access the business park. *Response: this issue would be separate to the planning process and the existing access road to the site could not be made one way.*
7. Note the larger provision for cycle parking and hope that these would be properly attached to the ground. *Response: comments noted.*
8. The proposals would reduce the risk of smells/ odours by having proper ventilation systems installed within the kitchen facilities. *Response: comments noted.*

### Objections:

#### Principle of Development/ Design

1. The proposals would have an adverse impact on neighbouring property in terms of noise, smell, privacy and that the proposed use is not compatible with the residential nature of the surrounding area, resulting in the proposals being contrary to Policy H1 of the ALDP 2023. *Response: the impact on amenity has been discussed elsewhere within this report, the proposal is considered to be acceptable.*
2. Would prefer for the situation to remain as it is, with the Boxcar café retained and that the provision of a retail use is also not acceptable in a residential area. *Response: each application needs to be considered on its own merits and the proposals, as submitted, are considered to be acceptable.*
3. Comments that the proposal would have an adverse impact on similar uses in the surrounding area, there are too many similar uses in the surrounding area and noting that a café has previously been rejected on site. *Response: the development, as proposed, is considered to be acceptable.*

4. Concerns raised with regards to the size of the proposed outdoor seating area. In addition, Concerns in relation to the proposed accesses to the site, including the proposed shared footway from North Deeside Road and the accesses from the Deeside Way. *Response: the outdoor seating is considered to be of an acceptable scale, reduced in size from the original proposals. Access to the Deeside Way would also be retained and the shared footway, whilst not an essential requirement, is considered to be appropriate in this instance.*
5. Concerns about the access door on the western elevation, which would sit adjacent to the neighbouring property, and which contradicts the supporting statement, in which this would only be used for staff. *Response: the access door on the western elevation would provide access to the workshop area, which would only be utilised by staff, with customers using the main entrance.*
6. The proposal should be considered as a greenfield development rather than a brownfield development and concerns in relation to the scale of development proposed and whether the design of the alterations, as proposed, would respect the character of the original station building. *Response: the proposal relates to the redevelopment of a brownfield site and the scale of development is considered to be appropriate for the surrounding context.*
7. Concerns in relation to the provision of lighting around the building and the impact that this would have on neighbouring properties. *Response: the proposed lighting scheme, which would include downlights on the western elevation, and recessed downlights on the northern and southern elevation is considered to be appropriate and has been provided for health and safety purposes.*
8. The submitted site plan is not accurate, as the platform area has not been included within the lease for the building. *Response: the site plan is considered to be accurate and the submitted application form indicates that the Council, as landowner, have been notified of the proposed development.*

### Traffic Concerns

9. Concerns in relation to traffic impacts as a result of the development, in terms of the increased vehicular movements, deliveries refuse collections and the parking of vehicles (both lack of parking and inappropriate parking) on surrounding streets and noting that the submitted swept path analysis was inadequate. Concerns in relation to food deliveries from the site, which will increase the number of vehicles visiting the site. *Response: the increase in vehicular movements, refuse collection and parking of vehicles within the site has been discussed elsewhere. The swept path analysis has also been considered as appropriate. The control of delivery vehicles is difficult to restrict, but the applicant have proposed certain hours for this, which can set out in an advisory note on the permission.*
10. Concerns raised in regard to pedestrian access to the development, in particular from North Deeside Road. One of the comments also noted that there have been a number of accidents on the access road in the last two years. *Response: colleagues in RDM have raised no objections in this regard and the proposed mitigation measures are also been considered as acceptable.*

### Environmental/ Amenity Concerns

11. Concerns in relation to the proposed hours of operation, with the premises proposing to open until 2330, with the outdoor seating area utilised until 2200 and the resulting impact on residential amenity. Comments also indicated opening hours should be restricted to 2000. Comments were also received in regards to conflicting statements in both the Noise Impact Assessment and Design Statement in regard to hours of operation. *Response: The opening hours will be restricted by planning condition to 8pm, as suggested by the applicants in their design statement and not as suggested in the Noise Impact Assessment.*
12. Concerns that a menu has not been provided, and whether the proposals are for the formation of a café. In addition, the proposals would provide inadequate ventilation and filtration of cooking smells. *Response: there is no requirement for the applicants to provide a menu. Colleagues in Environmental Health consider the ventilation and filtration systems to be acceptable to ensure no adverse impact on surrounding amenity.*
13. The proposals would increase the risk of anti-social behaviour. *Response: this would be a matter for Police Scotland to deal with.*
14. Concerns in relation to health and safety and in particular any dangers associated with patrons utilising the platform areas and the platform area should form no part of the planning application. *The informal walking area would remain and a hedge would be provided on the platform to provide a buffer between the seating area and the platform edge. The redevelopment of this section of the site is considered to be acceptable.*
15. Increase in litter pollution both on the site and in the surrounding area, which has included an increase in the amount of vermin found in neighbouring properties. *Response: it is noted that the proposals have the potential for increased litter and it is proposed to add a litter management plan to the application via condition.*

### Natural Heritage

16. Increase in light pollution and associated impact on species such as bats and that bats were housed in the existing structure. *Response: this matter has been discussed elsewhere in the report, where no adverse impact on protected species found and the lighting management plan considered to be appropriate.*
17. Note the importance of biodiversity in the surrounding area, in particular on the station platform and the adverse works that have been undertaken in the area since the applicant took over the site. *Response: it is noted that works have taken place on the platform which did not require planning permission. The proposed enhancements put forward by the applicant are considered to be acceptable.*

### Planning History

18. Concerns in relation to previous breaches of planning control on site and that the development, if approved, would likely follow suit. *Response: a number of concerns have been highlighted to the Planning Service in recent years, there has either been found to be no breach of planning control or any breach has been rectified by the owner. The timing of the submission of the application is not within the control of the Planning Service and if there were to be any breaches of planning control in the future then these would be investigated by the Planning Service.*

19. Note the planning history associated with Cults Business Park, which had a restriction on opening hours until 2000, to protect the residential amenity of the surrounding area. Note that the site should be covered by the same restrictions as the business park. *Response: the hours of operation (which will be controlled via condition) will see the proposed café close at 8pm at the latest, which is considered to be acceptable.*

### Other Matters

20. There is no adequate provision for safe disabled access, or child access. *Response: acceptable accessibility has been provided, with two accesses to the building and disabled parking facilities. A disabled toilet would be provided within the building.*

21. Concerns that those who have written in support of the proposal do not live in the surrounding area and also in relation to the level of support for the proposal. *Response: anyone has the ability to comment on planning applications and all matters raised have been addressed in this report.*

22. Concerns in relation to the leasing process associated with the advertising of the site by ACC Estates. *Response: this is not a material planning consideration.*

23. Concerns in relation to the licensing process and the sale of alcohol from the site. *Response: this would be covered by the licensing process and is not a material planning consideration.*

24. Comments received in regards to rights of access to neighbouring properties. *Response: this would be a civil matter between the relevant parties and is not a material planning consideration.*

### **RECOMMENDATION**

Approve Conditionally

### **REASON FOR RECOMMENDATION**

The proposed use, subject to the implementation of appropriate conditions, would be appropriate for its setting and would not have an adverse impact on the character or amenity of the surrounding area. The development has been designed with due consideration for its context, it is well located and would be accessible by a variety of modes of transport. The levels of parking and access to the site are also considered to be appropriate. The levels of landscaping for the site are also considered to be acceptable and the measures proposed would have no adverse impact on protected species or the surrounding natural environment.

The proposals are therefore considered to comply with Policies 1: Tackling the climate and nature crises, 2: Climate mitigation and adaptation, 3: Biodiversity, 9: Brownfield, vacant and derelict land and empty buildings, 12: Zero waste, 13: Sustainable transport, 14: Design, quality and place, 15: Local living and 20-minute neighbourhoods, 20: Blue and green infrastructure and 30: Tourism of National Planning Framework 4 and Policies WB2: Air Quality, WB3: Noise, NE2: Green and Blue Infrastructure, NE3: Our Natural Heritage, NE4: Our Water Environment, D1: Quality Placemaking, D2: Amenity, D5: Landscape Design, R5: Waste Management Requirements for New Development, H1: Residential Areas, VC10: Local Shop Units, T2: Sustainable Transport and T3: Parking of the Aberdeen Local Development Plan 2023 as well as its associated Aberdeen Planning Guidance on Outdoor Seating.



## **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) NOISE IMPACT ASSESSMENT COMPLIANCE**

That the use hereby approved shall not take place unless all mitigation measures recommended in the approved Noise & Odour Impact Assessment (Reference: TTG 151120B) have been implemented in full. These must include:

- a) the noise insulation measures detailed within section 3.6 and the related Appendix C – ‘Wall and Roof Construction Detail’
- b) the noise and odour control measures detailed within section 6.2 and the related Appendix A (A4 to A5) – ‘Kitchen Extraction System Details’.
- c) The proposed operating hours including the external area shall terminate at 2000 hours.
- d) strict adherence to the managerial controls detailed within section 4.14 and 6.3 and appendix K “Maintenance and Cleaning”

Thereafter the mitigation measures, or similar as may be agreed in writing with the Planning Authority, shall remain in place for the duration of the use.

Reason: In order to preserve the amenity of neighbouring properties from noise and odour emissions from the proposed use.

### **(03) HOURS OF OPERATION**

That the use hereby approved shall not operate out with the following hours:

Café (Class 3) and Outdoor Seating Area: Monday to Thursday 08:00 – 19:00 and Friday to Sunday 08:00 – 20:00 and Bicycle Shop (Class 1A Financial, professional and other services): Monday to Sunday 09:00 to 17:00.

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

### **(04) LITTER MANAGEMENT**

That the use hereby approved shall not take place unless a litter and waste management plan for the site has been submitted to and agreed in writing by the planning authority, including detail on the provision of external litter bins for customer waste during hours of operation. Thereafter, the approved litter. waste management plan fully implemented in accordance with the agreed details and remaining in place for the duration of the use.

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

#### (05) PARKING, CYCLE PARKING AND EV CHARGING AS PER APPROVED PLANS

That the use hereby approved shall not occur unless all car parking, electric vehicle parking and cycle parking facilities have been constructed, drained, laid-out and demarcated and are available for use in accordance with approved drawing Site Plan 1012 Rev B, or such other drawing as may subsequently be submitted to and agreed in writing by the planning authority.

Reason: In the interests of public safety and provision of adequate car parking and the free flow of traffic.

#### (06) OUTDOOR SEATING AREA AS PER APPROVED PLAN

That the use hereby approved shall not occur unless the outdoor seating area has been provided in accordance with approved drawings (Richard Dingwall Architects) 1012 Rev B and 1017 Rev B. No additional seating areas shall be provided without the express granting of planning permission by the Planning Authority.

Reason: In the interests of residential amenity.

#### (07) PEDESTRIAN/ VEHICLE ACCESS UPGRADES

That the use hereby approved shall occur unless works for the upgrading of the pedestrian and vehicular access to the site along Station Road as detailed on approved drawing Richard Dingwall Architects 1013 Rev A and 146779/sk1004 Rev A (as contained within the approved Roads Technical Note dated 28<sup>th</sup> September 2023 on our website) or such other drawings as may subsequently be submitted to and agreed in writing by the Planning Authority, have been implemented in full and in accordance with the agreed scheme. For avoidance of doubt this should include the following:

- signage advising that “pedestrians are on the road ahead”
- the provision of “slow” markings on the road at either side of the bend; and
- a change in surfacing materials to delineate the crossing points/ pedestrian routes

Reason: In order to provide an appropriate standard of pedestrian access to the site and encourage the use of alternative and sustainable modes of travel.

#### (08) STAFF TRAVEL PLAN

That the use hereby approved shall not occur unless full details of a staff travel plan to include information on the accessibility of the site in terms of walking, cycling, and public transport have been submitted to and agreed in writing by the planning authority and thereafter the travel plan is displayed/distributed to all staff members in accordance with the approved details.

Reason: In order to encourage the use of alternative and sustainable modes of travel.

#### (09) LANDSCAPING AS PER APPROVED PLANS

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme (Richard Dingwall Architects drawing 1014 Rev B) and shall be completed during the planting season immediately following the commencement of the development or as otherwise agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being

severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

In addition, the use shall not take place unless the management and maintenance of the landscaping as shown on approved drawing Ref: 1014 Rev B is undertaken. Thereafter, all management and maintenance of the landscaped and open space areas shall be implemented, in perpetuity, in accordance with the approved programme.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the landscaping is managed and maintained in perpetuity.

#### (10) RESTRICTION OF USE CLASSES

That notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) the premises shall not be used for any other purposes other than Class 1A (Shops and Financial, Professional and Other Services) and Class 3 (Food and Drink) as shown on approved Richard Dingwall Architects Drawing No: 1016 Rev B and no change between Use Classes is permitted within the areas highlighted on the approved plan without a specific grant of planning permission by the Planning Authority.

Reason: To enable the Planning Authority to consider the implications of any subsequent change of use on the amenity of the area.

#### (11) MATERIALS

That no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed.

Reason: in the interests of visual amenity.

### **ADVISORY NOTES FOR APPLICANT**

#### NOISE FROM CONSTRUCTION WORKS

In order to protect the amenity of the occupants of neighbouring residential properties from noise resulting from development works, operations creating noise which is audible at the site boundary should not occur outside the hours of 07:00 to 19:00 Monday to Friday and 08:00 to 13:00 on Saturdays, or at any time on Sundays.

#### SERVICING

That service deliveries/uplifts to and from the property and refuse collection be restricted to occur only Monday to Friday between the hours of 07:00 to 19:00 and Saturday between 08:00 to 13:00, with none on a Sunday.

#### ODOUR MANAGEMENT

ACC Environmental Health officers recommend strict adherence to the managerial controls detailed within section 4.14 and 6.3 and Appendix K – 'Maintenance and Cleaning' of the

approved Noise & Odour Impact Assessment (Reference: Proposal Number 151120b, Revision 2, Date 22-01-21) to reduce risk of malodour and statutory nuisance going forward.

#### ROADS CONSTRUCTION CONSENT

It should be noted that proposed works to alter and upgrade pedestrian access along Station Road will require to be designed to Aberdeen City Council standards and subject to a Section 56 Roads Construction Consent procedure.

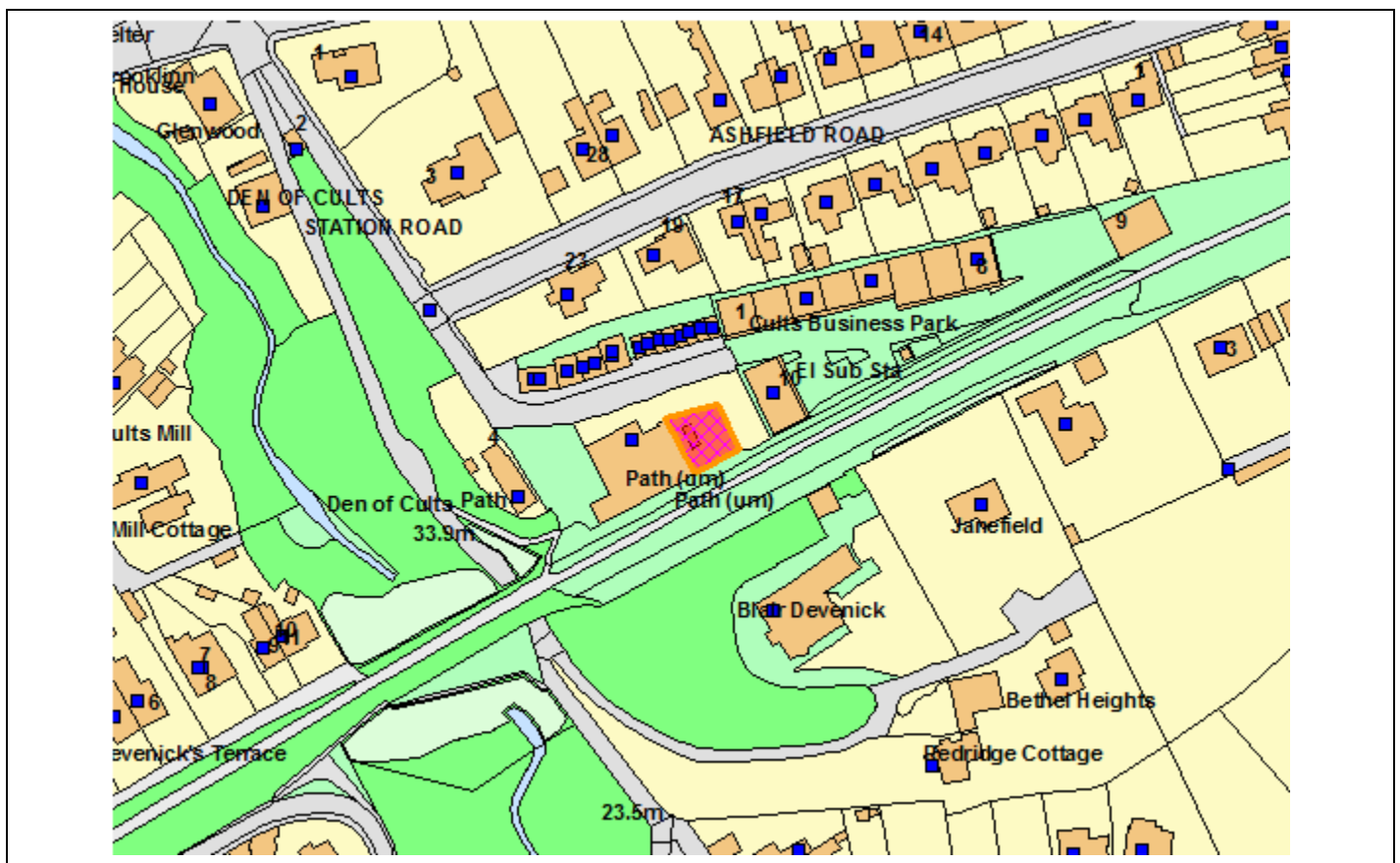


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 2<sup>nd</sup> November 2023**

<b>Site Address:</b>	Former Cults Station, Station Road, Cults, Aberdeen, AB15 9NP
<b>Application Description:</b>	Retention of takeaway food kiosk and outdoor seating area with decking including change of use (temporary for 12 months)
<b>Application Ref:</b>	230922/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	3 August 2023
<b>Applicant:</b>	JJ's Food & Drink Co Ltd
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bieldside and Milltimber
<b>Case Officer:</b>	Gavin Clark



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### RECOMMENDATION

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site, which extends to approximately 210 sqm, relates to an area of land to the immediate east of the former Cults Railway Station on the southern side of Station Road and approximately 125m to the south of North Deeside Road and currently incorporates a coffee/ food kiosk with associated facilities, including outdoor seating area.

The adjacent former station building is currently utilised as a cycle repair business operating under the consented use class of the premises, which was previously a joinery store and workshop (and is currently subject to a separate planning application 230772/DPP) to change its use from class 4 (business) to class 1A (shops and financial professional and other services) and class 3 (food and drink)), also to be considered by Committee.

To the immediate south of the site is the Deeside Way, and further south there are mature trees lining the rear curtilage of a residential property which forms part of the boundary of the Pitfodels Conservation Area (the application site is outwith the conservation area). The Station building itself is located to the immediate west of the application site, with a residential property located approximately 40m west (4 Station Road) of the site. To the north and east are a number of commercial units, the larger of which lie within Cults Business Park (to the east). Further north is a number of residential properties on Ashfield Road (approximately 28m north of the site boundary, behind the existing business units).

### **Relevant Planning History**

Planning permission (Ref: 211587/DPP) was approved by the Planning Development Management Committee on the 17<sup>th</sup> February 2022 for the installation of takeaway food kiosk and outdoor seating area with decking including change of use (partly retrospective) (Temporary for 18 months). This permission expired on the 31<sup>st</sup> July 2023.

An application for planning permission (Ref: 230772/DPP) is currently pending consideration (and is due to be considered at this meeting of the Planning Development Management Committee) for a change of use from class 4 (business) to class 1A (shops and financial professional and other services) and class 3 (food and drink) with covered outdoor seating area including demolition of existing lean to extension and erection of single storey extension; alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated car parking and other associated works. This application relates to the former station building and immediately surrounding land, including the area that is the subject of the current application.

An application for planning permission (Ref: 210140/DPP) was refused by the Planning Development Management Committee in October 2021 for a change of use to class 3 (food and drink) with outdoor seating area including alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated works. This application related to the former station building and immediately surrounding land, including the area that is the subject of the current application. No appeal was submitted against this refusal. The reasons for refusal of the application were that the proposal was considered contrary to Policy H1 due to the scale of development impacting on residential amenity and contrary to Policy T3 due to the absence of a segregated footway access from North Deeside Road.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

The proposal seeks detailed planning permission for the retention of the existing takeaway food kiosk and outdoor seating area with decking including change of use of the land for a further period of 12 months. The submitted site plan shows the existing kiosk building, which is located in the western section of the site and which measures 6m x 2.4m with an overall height of 2.7m; the area of decking measures 2m x 2.4m and is located approximately 0.27m above ground level. Existing timber fencing bounds the site. There are also cycle stands for 15 bicycles, a bin store located to the rear of the premises and three benches with associated seating areas east of the kiosk. Gated access is also provided to the Deeside Way. A gravel area used for parking is located to the north, outwith the application site on the southern edge of Station Road.

## **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=RyI3T7BZLVS00>

- Supporting Statement

## **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee as the proposal has been subject to six or more letters of objection. Subsequently, the proposal falls outwith the Scheme of Delegation.

## **CONSULTATIONS**

**ACC - Roads Development Management Team** – have no objection to the application. Their response will be discussed in greater detail in the evaluation section of this report.

**ACC - Environmental Health** – have provided advice in relation to environmental odour controls and operational hours for the building. Their response will be discussed in greater detail in the evaluation section of this report.

**ACC - Waste and Recycling** – have advised of the general waste management requirements for the proposed development.

**Cults, Bieldside and Milltimber Community Council** – no response received.

## **REPRESENTATIONS**

A total of 12 valid and timeously made objections have been received in relation to this application. The matters raised can be summarised as follows:

1. In relation to the planning process with the application, noting that the proposals were submitted after the original planning permission expired and further concerns in relation to breaches of planning control associated with the use including hours of operation, advertisements, cooking activities and the use of CCTV.

2. The hours of operation, noting that if permission were to be approved, then the hours of operation should reflect similar businesses found in Cults. Concerns were also raised in relation to the impact the proposals would have on similar businesses within the area. One comment also noted that there are no similar uses with access to the Deeside Way and within a residential area.
3. Road safety, in particular the access to the site, additional traffic on the road network, delivery vehicles accessing the site and parking associated with the facility.
4. Potential for litter, odour and noise associated with the facility
5. Overdevelopment of the site and associated impacts on the residential amenity of properties found in the surrounding area, being contrary to Policy H1 of the ALDP 2023.
6. Safety associated with the adjacent platform and access to the Deeside Way.
7. The relationship to the café/ restaurant, which is also being proposed by the applicant.
8. Potential for anti-social behaviour from the outdoor seating area associated with the use.
9. Restrictions which were put in place on Cults Business Park, when it was approved in the 1990s which, amongst other things restricted operations to 8am – 8pm Monday to Friday and 8am – noon on a Saturday, and that all consented uses should fall within Class 4 (Business) of the Use Class Order.
10. The route of leasing the premises from the Council to the applicant, and whether it was leased via the correct processes.

## **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 12: Zero waste
- Policy 13: Sustainable transport
- Policy 14: Design, quality and place

#### **Aberdeen Local Development Plan (2023)**

The following policies are relevant –

- Policy H1: Residential Areas
- Policy WB2: Air Quality
- Policy WB3: Noise
- Policy D1: Quality Placemaking



- Policy D2: Amenity
- Policy T2: Sustainable Transport
- Policy T3: Parking
- Policy R5: Waste Management Requirements for New Development

### **Interim Aberdeen Planning Guidance**

Aberdeen Planning Guidance is Interim Planning Guidance. The documents hold limited weight until they are adopted by the Council. The weight to be given to Interim Planning Guidance prior to its adoption is a matter for the decision maker. The following guidance is relevant –

- Transport and Accessibility
- Temporary Buildings
- Noise
- Outdoor Seating (Adopted)

### **EVALUATION**

#### **Principle of Development**

In terms of the principle of development, the application site is located within a designated residential area where Policy H1 (Residential Areas) of the ALDP 2023 applies. H1 advises that within such areas, proposals for non-residential uses will be refused unless they are considered complementary to residential use or it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

The Planning Authority must therefore consider the continued impact of the kiosk and associated works and whether the retention of the building/ use would be complementary to the surrounding uses, which are a mix of commercial and residential in nature, and whether it can be demonstrated that the use would have no adverse impact on residential amenity. Compliance with Policy H1 of the ALDP 2023 will be discussed further below.

#### **Impact on Residential Amenity**

A number of residential properties in the surrounding area have objected to the proposed development in terms of its impact on residential amenity. There are a number of residential properties in the surrounding area, to the north on Ashfield Road, located approximately 28m from the application site boundary, a dwellinghouse to the west at 4 Station Road, which is located beyond the existing station building at a distance of approximately 42m. It is also noted that the properties on Ashfield Road sit at a higher level than the former station area, and there are existing business uses and garages which sit between the application properties and these rear boundaries. The dwellinghouse to the south lies around 40m away, with trees and bushes on its northern boundary.

The retention of the café kiosk for a further temporary period is considered acceptable given the context of the surrounding area, which is mixed use in nature with nearby residential properties and a number of business and commercial uses in the immediate surrounds, with the immediate context being associated with the business park and the adjacent cycle repair business. The location of the site adjacent to the Deeside Way also brings a number of users to the site via that access and allows the proposal to cater for both a local and wider pool of users, with walkers and cyclists being able to utilise the facility, without the requirement to necessarily access the site via road from North Deeside Road.

It is clear that the proposals would have some impact on residential amenity, as has been highlighted in a number of the representations, although the impact is not considered to be to a significant degree that would warrant refusal of planning permission, due to the relatively small scale of the operations, along with the hours of operation (which are to be controlled via condition). The kiosk does not undertake cooking of foods on site, rather the reheating and provision of foods such as paninis and toasties, and colleagues in Environmental Health remain content with this aspect of the proposal, and if any further complaints were to be received in relation to these matters then these would be investigated under the appropriate legislation. The hours of operation as proposed remain acceptable to colleagues in Environmental Health, with a condition proposed to be applied to the permission in this regard.

Considering the above, given the nature of the proposal, subject to appropriate restrictions, the proposed cooking operations, and the hours of operation, the proposal would not have an adverse impact on residential amenity to such an extent that would warrant refusal of planning permission. The proposal is therefore considered to comply with Policy H1 (Residential Areas) and D2 (Amenity) of the ALDP 2023.

### **Outdoor Seating**

Also of relevant is the adopted Aberdeen Planning Guidance (APG) in relation to Outdoor Seating. This advises that advises that *“proposals for outdoor seating should consider both the immediate and wider context in which they would be situated. As a new addition to an area, the agent of change principle will be applied whereby the applicant is responsible for ensuring their proposals would not cause unnecessary harm to the existing amenity of the surrounding area.”*

In terms of the above, it is considered that the proposed outdoor seating area would be located sufficiently distant and could be adequately controlled (via the consented hours of operation for the kiosk itself) to ensure that the proposals would have no undue adverse impact on the amenity of the surrounding area. In addition, the outdoor seating area would be visible from the existing premises, would not prevent access to neighbouring properties, would respect the amenity of the neighbouring area (as discussed elsewhere), would have suitable waste arrangements and would have no unsociable hours. The proposal is therefore considered to be in general accordance with the aforementioned APG.

### **Temporary Buildings**

Also of relevance is the Interim Aberdeen Planning Guidance (IAPG) in relation to Temporary Buildings.

This advises that *“The Council consider that in most circumstances three years is a reasonable timescale for portable buildings given their basic nature. Should a further period be required, a new planning application would be necessary and the Council would consider that on its merits. During this assessment the Council will consider whether:*

- *the buildings have been maintained in a satisfactory condition, and;*
- *the applicant can present a justifiable case for the continued use of a temporary building rather than the erection of a permanent replacement.”*

The proposal seeks to retain the existing kiosk for a further period of 12 months. From undertaking a site visit it is clear that the building has been maintained in a satisfactory manner. The applicants have also submitted a planning application for the wider site re-development to allow a permanent mixed use development, including a café use to be operated from the main former station building,

and the temporary building would be required for a further period of 12 months to allow for this to take place (should planning permission be granted for that proposal). In this instance the Planning Service are content that the proposals can be justified for a further period and the proposals would comply with the above guidance in this respect.

The IAPG also advises that such buildings should be appropriately located away from the principal elevation, avoid the loss of parking spaces, and avoid landscaped areas. The building is located to the side of the station building, does not utilise existing parking spaces and would not be sited within a landscaped area. As a result of the above, and subject to conditions controlling the temporary nature of the building, it is considered to comply with the Interim Aberdeen Planning Guidance: Temporary Buildings.

## **Design and Scale**

Policy 14 (Design, quality and place) of NPF 4 states that *“development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale”* and *“development proposals will be supported where they are consistent with the six qualities of successful places: healthy, connected pleasant, distinctive, sustainable, adaptable”* while Policy D1 (Quality Placemaking) of the ALDP 2023 advises that *“all development must ensure high standards of design, create sustainable and successful places”*, and also reiterates the Scottish Government’s six qualities of a successful place.

It is noted that in the assessment for the original coffee kiosk application the Planning Authority recognised that the proposal was relatively small scale when compared with the surrounding context; being seen against the backdrop of the station buildings and surrounding business uses. The building and associated structures, on the basis of a further temporary period, has been sited and design with due consideration for its context and would have no adverse impact on the character or amenity of the surrounding area, which includes a mixture of business uses as well as residential properties. The proposal is therefore considered to be in general compliance with both Policy 14 of NPF4 and with Policy D1 of the ALDP 2023.

## **Traffic/ Roads Impact**

Policy T2 (Sustainable Transport) of the ALDP 2023 provides various guidance and seeks to *“minimise traffic generation, increase accessibility, encourage public transport and provide relevant infrastructure”* within the application site. Policy T3 (Parking) of the ALDP 2023 discusses matters such as parking within development and electric vehicle infrastructure. Policy 13 (Sustainable transport) of NPF4 provides similar guidance and advises that *“development will be supported where it has been designed in association with sustainable travel, provides direct links to local facilities, will be accessible by public transport, provide electric vehicle charge points, provide safe and convenient cycle parking and consider the needs of all users, as well as mitigate the impact of development on local transport routes”*.

The proposal has been assessed by colleagues in Roads Development Management, who have noted that the proposals are essentially a renewal of 211587/DPP. They consider the levels of both cycle and car parking on site to be acceptable (with an increase in cycle parking provision) and consider the swept path for a 7.5 tonne vehicle to be appropriate in this instance. They have confirmed they have no objection to the proposals and subsequently there would be no conflict with either Policy 13 of NPF4 or with Policies T2 and T3 of the ALDP 2023.

## **Waste**

Policy 12 (Waste) of NPF4 advises that *“development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.”* Policy R5 (Waste Management Requirements for New Developments) of the ALDP 2023 advises *“all new developments should have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate”*.

The Supporting Statement indicates that waste facilities are enclosed to the rear of the kiosk, with one waste collection every two weeks from the roadside adjacent to the yard area, with swept path having been submitted to demonstrate how vehicles can access and exit the site. The proposals have been reviewed by colleagues in both Waste and Roads Development Management, who have raised no objections to the current arrangements. Subsequently, there is no conflict with either Policy 12 of NPF4 or with Policy R5 of the ALDP 2023.

## **Noise**

Policy WB3 (Noise) of the ALDP 2023 advises that *“in cases where significant exposure to noise is likely to arise from development, a Noise Impact Assessment (NIA) will be required as part of a planning application.”*

The proposals and associated supporting information has been assessed by colleagues in Environmental Health. As with the previous application they have noted that the premises does not have a suitable commercial Local Extract Ventilation (LEV) system, which is considered necessary for removal and capture of cooking emissions to control odour and for food hygiene purposes and as a result the premises are not considered suitable for unrestricted cooking activities due to the risk of an adverse odour impact on neighbouring residential properties. Based on the information contained within section 5.4 of the Design Statement colleagues in Environmental Health are satisfied with the provision of a suitably worded condition to restrict cooking activities which are more likely to give rise to odour emissions.

They have also noted that the Design Statement includes details of the hours of operation, which they also consider to be appropriate for the site. Opening hours are proposed to be seasonal, with the following proposed and considered to be acceptable: 08:00 to 19:00 Monday – Thursday, and 08:00 to 20:00 Friday to Sunday (April to September) and 08:00 to 17:00 Monday – Saturday and 09:00 to 17:00 on a Sunday (October to March). This is understood to be in line with the licence granted for the site, along with the hours granted under 211857/DPP.

Colleagues in Environmental Health have raised no objection to the application and as a result the proposed development would comply with Policies WB2 (Air Quality) and WB3 (Noise) of the ALDP 2023.

## **Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity**

Policy 1 (Tackling the Climate and Nature Crises) of NPF4 requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. Policy 2 (Climate mitigation and adaptation) of NPF4 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. Policy 3 (Biodiversity) of NPF4 requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

The proposed development, which relates the retention of a catering kiosk for a further temporary period of 12 months, is sufficiently small-scale such that it would not make any material difference to the global climate and nature crises nor to climate mitigation and adaptation, nor are there any opportunities to minimise greenhouse gas emissions given the nature of the proposals. Therefore the proposals are compliant with Policies 1 and 2 of NPF4. The proposed development would be small-scale and does not offer the opportunity for any biodiversity gain (which will be discussed in further detail in the associated planning application for the wider site) and the proposals are thus considered to be acceptable, despite some minor tension with Policy 3 of NPF4.

### **Matters Raised in Representation**

1. In relation to the planning process with the application, noting that the proposals were submitted after the original planning permission expired and further concerns in relation to breaches of planning control associated with the use including hours of operation, advertisements, cooking activities and the use of CCTV. *Response: the timing of the submission of the application was unfortunate, and the submission of the application took a number of reminders from the Planning Service to the applicant. That being said, correct procedures have been followed in this instance. It should also be noted that a number of potential breaches of planning control have been investigated on site (both by Planning and Environmental Health), with either no breaches found or the breach of planning control rectified.*
2. In relation to the hours of operation, noting that if permission were to be approved, then the hours of operation should reflect similar businesses found in Cults. Concerns were also raised in relation to the impact the proposals would have on similar businesses within the area. One comment also noted that there are no similar uses with access to the Deeside Way and within a residential area. *Response: the proposed hours of operation are in line with the previous approval on site and were considered to be acceptable to colleagues in Environmental Health. The impact on similar uses in the surrounding area is not considered to be significant and the fact that the proposal is the only such use on the Deeside Way is noted.*
3. In relation to road safety, in particular the access to the site, additional traffic on the road network, delivery vehicles accessing the site and parking associated with the facility. *Response: colleagues in Roads Development Management have raised no objection to this element of the proposal, with swept path analysis submitted and appropriate levels of parking provided within the curtilage of the site.*
4. With regards to litter, odour and noise associated with the facility. *Response: a Litter Management Plan was previously conditioned on site, and it is the intention of the Planning Authority to retain this condition for the duration of the planning permission.*
5. In relation to overdevelopment of the site and associated impacts on the residential amenity of properties found in the surrounding area, being contrary to Policy H1 of the ALDP 2023. *Response: the Planning Authority have considered the impact on residential amenity in the above evaluation and do not consider the impacts to be contrary to the aims and aspirations of the ALDP 2023.*
6. In relation to safety associated with the adjacent platform and access to the Deeside Way. *Response: the platform is outwith this site, but it is noted that safe access can be taken onto the Deeside Way to the west of the application site and station building.*

7. In relation to the café/ restaurant, which is also being proposed by the applicant. *Response: not relevant to the determination of this application.*
8. Anti-social behaviour from the outdoor seating area associated with the use. *Response: not a material planning consideration.*
9. In relation to restrictions which were put in place on Cults Business Park, when it was approved in the 1990s which, amongst other things restricted operations to 8am – 8pm Monday to Friday and 8am – noon on a Saturday, and that all consented uses should fall within Class 4 (Business) of the Use Class Order. *Response: the planning permission was granted in the 1990s and relates to the adjacent business park. It is not considered to be of direct relevance to the determination of this application.*
10. Concerns were raised in regards to the route of leasing the premises from the Council to the applicant, and whether it was leased via the correct processes. *Response: this is not a material planning consideration.*

## **RECOMMENDATION**

Approve Conditionally

## **REASON FOR RECOMMENDATION**

The retention of the takeaway food kiosk and outdoor seating area use for a further period of 12 months is considered to be an acceptable form of development, which is not considered to have an adverse impact on the character and amenity of the surrounding area. The building has been designed with due consideration for its context and is located in an accessible location, with an acceptable access, parking area and cycle parking facilities provided to the satisfaction of colleagues in Roads Development Management. The building is considered to be of a temporary nature and a related temporary permission is considered appropriate. The proposal is considered to comply with Policies 1: Tackling the climate and nature crises, 2: Climate mitigation and adaptation, 3: Biodiversity, 12: Zero waste, 13: Sustainable transport and 14: Design, quality of National Planning Framework 4 and with Policies H1: Residential Areas, WB2: Air Quality, WB3: Noise, D1: Quality Placemaking, T2: Sustainable Transport, T3: Parking and R5: Waste Management Requirements for New Development of the Aberdeen Local Development Plan 2023 and the adopted Aberdeen Planning Guidance: Outdoor Seating.

## **CONDITIONS**

### (01) TEMPORARY PERMISSION

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

Reason: To enable the impact of the temporary development on the amenity of the surrounding area to be reviewed and to ensure the appropriate restoration of the site.

(02) SITE CLEARANCE

That at least two months prior to the cessation date of 1<sup>st</sup> November 2024, full details of a scheme for the restoration of the application site shall be submitted to and approved in writing by the Planning Service. Prior to the cessation of this permission the site shall be restored in accordance with the approved restoration scheme.

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

(03) COOKING ACTIVITIES - RESTRICTION

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

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

(04) LITTER MANAGEMENT PLAN - COMPLIANCE

That the proposals hereby granted planning permission shall be undertaken in accordance with the details outlined in the Litter Management Plan (Section 5.8 of the approved Supporting Statement Ref: 230922-01 dated 28<sup>th</sup> July 2023).

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

(05) HOURS OF OPERATION

That the use hereby approved shall not operate outwith the hours of 08:00 to 19:00 Monday – Thursday, 08:00 to 20:00 Friday to Sunday (April to September) and 08:00 to 17:00 Monday – Saturday and 09:00 to 17:00 on a Sunday (October to March).

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

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