

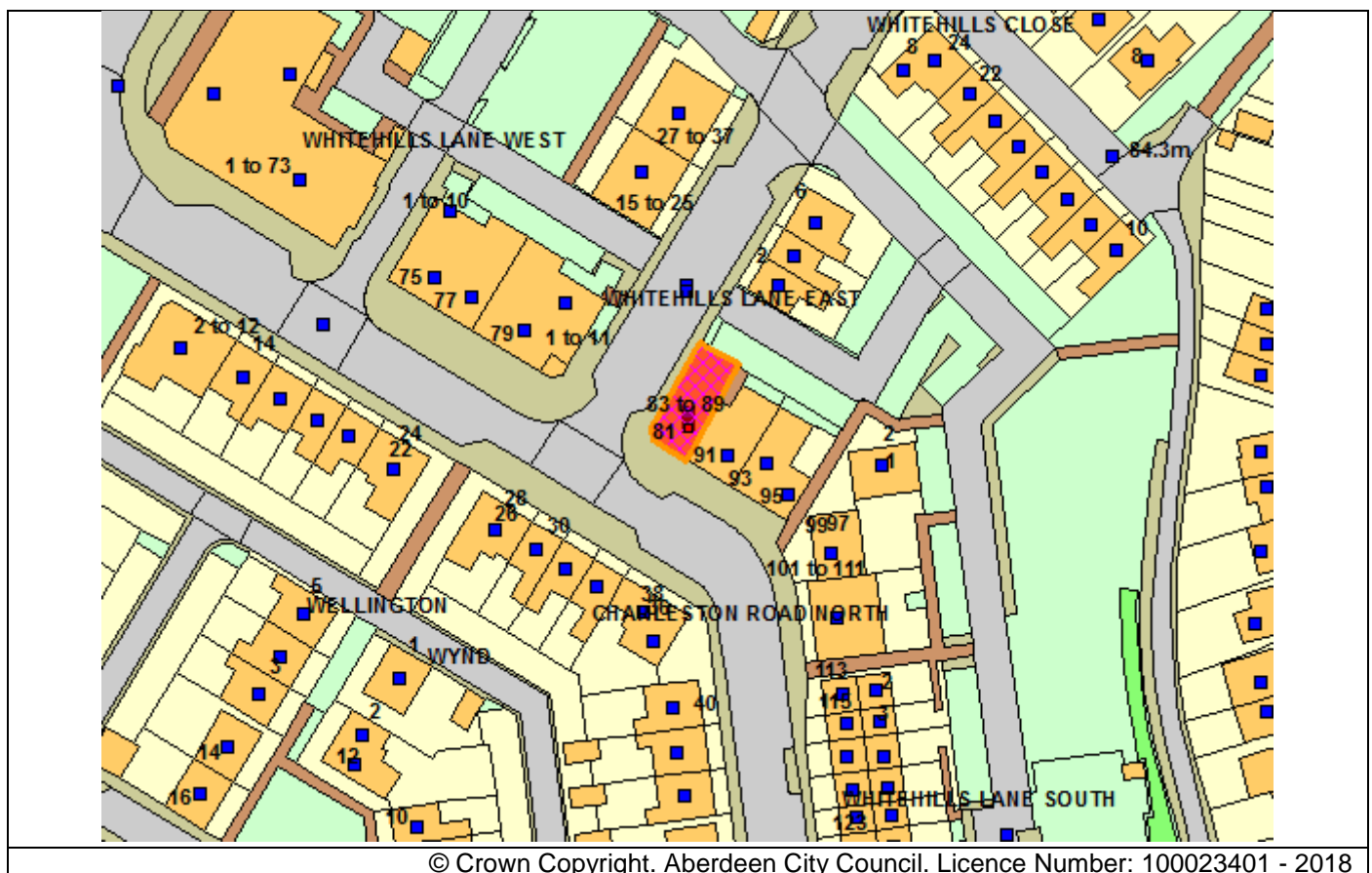


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 22 April 2021

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| Site Address: | 81 Charleston Road North, Aberdeen, Aberdeen City, AB12 3SZ |
| Application Description: | Change of use from class 3 (food and drink) to hot food takeaway (sui generis) and installation of extract duct |
| Application Ref: | 201397/DPP |
| Application Type | Detailed Planning Permission |
| Application Date: | 12 November 2020 |
| Applicant: | 5 Loon's Ltd |
| Ward: | Kincorth/Nigg/Cove |
| Community Council: | Cove and Altens |
| Case Officer: | Alex Ferguson |



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a commercial unit that occupies part of the ground floor of a three-storey mixed-use building situated on the northern side of Charleston Road North, on the eastern corner of its junction with Langdykes Avenue. The building contains the application property (a vacant unit last in use as a café) and a retail unit at ground floor level, with residential flats on the upper floors. A hair and beauty salon occupies the ground floor of an adjoining two storey building to the east. The café premises incorporate a glazed shop frontage and signage that wraps around the building's south-western corner, giving it an active frontage onto both Charleston Road North and Langdykes Avenue. The commercial unit also occupies a single storey flat-roofed rear outshot that has windows facing west onto Langdykes Avenue, extending to a rear parking court. A kitchen extract duct for the café is sited on the eastern wall of the rear outshot, facing onto a walkway serving the rear communal access door for the upper floor flats. The site lies within the residential suburb of Cove but within a section of Charleston Road North which sees multiple commercial units (predominantly retail) occupy the ground floors of buildings on the northern side of the street, resulting in a commercial hub in this newer western part of Cove.

Relevant Planning History

110065 – Detailed planning permission was approved in 2012 for the development of 229 residential units and 18 commercial/retail units on land to the east of Wellington Road. The majority of the development has now been built out and the commercial unit at 81 Charleston Road North was one of those consented in 2012.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the change of use of the unit from Class 3 (food & drink) to a hot-food takeaway and for the installation of a kitchen extract duct. It is intended to operate the unit as a fish & chip shop.

The kitchen extract duct would comprise a c. 500mm x 500mm metal duct that would vent out of the roof of the premises' single storey rear extension, directly above the kitchen, and would run along the rooftop of the extension before terminating at the northern end of its flat roof.

Amendments since original submission

The rooftop-mounted kitchen extract duct was added to the proposals after being recommended as an appropriate mitigation measure for dealing with cooking odours in the applicant's Odour Assessment.

The applicant has also submitted an updated Supporting Statement, which includes an expanded waste management regime, to include the provision of a portable litter bin positioned outside the premises during operational hours (and taken inside / emptied when premises are closed).

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=QJOV1YBZM2O00>

- Supporting Statement
- Noise Impact Assessment
- Odour Assessment
- Odour Assessment Addendum
- Manufacturer Details – Noise Silencer
- Manufacturer Details – Air Purifier (and operation information)
- Letter in support of the application from the premises' landlord

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than five representations have been received which express objection or concern about the proposal.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. It is noted that the associated parking provision requirement for the proposed use is less than that of the existing use (café), therefore would be a betterment in terms of the availability of spaces. The site is served by a communal car park to the rear with unallocated spaces which serves the customers of the existing and new uses, which is acceptable.

ACC - Waste and Recycling – No objection. Provide general comments and advice for the applicant to be aware of. These have been added as an advisory note for the applicant.

ACC - Environmental Health – No objection. The findings of the applicant's Noise and Odour Assessments are accepted and, subject to the implementation of the recommended mitigation measures set out in both, the proposed change of use would not cause undue harm to the amenity of any neighbouring properties.

The recommended mitigation measures include the installation of a kitchen extract duct that would run along the rooftop of the single storey rear extension, terminating at its northern end (farthest away from the neighbouring upstairs flats), as well as the installation of a noise silencer within the duct.

Cove and Altens Community Council – Do not object, but do raise several concerns that they wish to be taken into consideration in the assessment of the application:

Parking & Road Safety

- The proposed use could exacerbate existing parking issues.
- Customers may park on double yellow lines outside the premises, posing a road safety risk.

Litter

- The proposed use could add significantly to a local litter problem.
- There is no proposed provision of litter bins. If approved, this should be included as a condition of approval.

Noise & Smell

- Noise and odour from the new use could harm residential amenity, as could noise from

customers.

Public Safety

- Residents entering their dwellings from their rear door may be subject to blasts of hot air and possible particles ejected via the extract system which at present exhausts at approximately head height, giving rise to possible eye/face injury.

Other

- Potential issues regarding disposal of waste products for example blocked drains which could cause problems for the drains from the flats.

REPRESENTATIONS

A total of 411 representations have been received, 404 of which are supportive of the proposals and 7 of which either object to the application or raise concerns in relation to the proposed development. The comments made are summarised as follows:

In support:

- The takeaway would be an excellent addition for the local community;
- The development would reduce private vehicle trips outwith the area as locals currently have to drive further afield for good quality fish and chips (to Torry, Portlethen, the city centre or Dyce);
- The 'Sea, Salt and Sole' business is reputable, with a branch in Dyce that is used by Cove residents;
- Cove does not have a good fish & chips takeaway at present and would benefit from more varied takeaway options;
- The business would boost the local economy, providing further support for the existing shops and services in the area;
- The takeaway would create employment opportunities for locals (estimated potential of up to 20 new jobs);
- The Sea, Salt and Sole shop in Dyce does not have litter outside, is clean and there are no adverse odour emissions;
- The takeaway would be far better than a vacant commercial unit;
- There is ample car parking in the area for customers, including the area behind Sainsbury's which is available for use by all retail units in the area;
- The unit is within walking distance for many potential customers in Cove;
- The current / previous café use has never experienced any odour control issues; and
- Due to the nature of a hot-food takeaway, parking spaces are likely to be occupied for a shorter period of time than they would have for the previous café use;

Concerns raised:

- There is a lack of parking in the area;
- The proposed development could have a detrimental impact on road safety;
- Teenagers are likely to gather outside the takeaway, resulting in anti-social behaviour;
- The takeaway would lead to excess littering in the area;
- There would be an increase in traffic;
- Local school children would be encouraged to eat unhealthy food during their lunch breaks;
- The takeaway doesn't fit in compared to the local businesses surrounding it;

- The takeaway would encourage seagulls to visit the area;
- There would be increased noise pollution;
- There is an existing chip shop in Cove and no demand / need for another;
- A takeaway would be inappropriate in a residential area;
- There isn't 40+ car parking spaces available as claimed by the applicant. The area behind the building comprises private parking for residents only, with some spaces already used by the neighbouring commercial units, limiting parking available to residents;
- The extraction system terminates onto a pedestrian walkway into a residents' stairwell. The kitchen extract for a hot food takeaway should be re-routed;
- Residents were informed when buying their house that the commercial units would never be used for the sale of fast food; and
- Odour from the premises will adversely affect the amenity for neighbouring properties.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Aberdeen Local Development Plan 2017 (ALDP)

- H1: Residential Areas
- D1: Quality Placemaking by Design
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- T5: Noise
- R6: Waste Management Requirements for New Development

Supplementary Guidance

- Transport and Accessibility
- Harmony of Uses
- Noise

Proposed Aberdeen Local Development Plan (PALDP)

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. The PALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies of the PALDP

are relevant to the assessment of this application:

- H1 (Residential Areas)
- D1 (Quality Placemaking)
- D2 (Amenity)
- R5 (Waste Management Requirements in New Development)
- T2 (Sustainable Transport)
- T3 (Parking)
- WB3 (Noise)

EVALUATION

Principle of Development

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

Within existing residential areas, proposals for non-residential uses will be refused unless:

- 1. they are considered complementary to residential use; or*
- 2. it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.*

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

It is thus considered that although the proposed hot-food takeaway would provide a service for residents in the surrounding area, the use itself cannot be considered to be complementary to residential use. Thus the proposed development does not comply with criterion 1 of Policy H1 as set out above and it is instead required to assess the proposals against criterion 2.

Impact on residential amenity

The Harmony of Uses SG states:

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

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

It is not usually considered acceptable to locate a hot food shop, liquor licensed premises, amusement centre, amusement arcade or casino directly adjacent or beneath residential properties.

Applications within close proximity to residential units will be refused where it is

considered that there may be significant adverse impacts on residential amenity in terms of noise, vibration, odour, traffic disturbance, litter or hours of operation as a result of the proposed premises.'

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

Noise & Opening Hours

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

In addition to noise from within the premises from kitchen equipment, staff and customers, it is noted that the off-site consumption nature of hot-food-takeaways can see a high frequency of customer arrivals and departures, particularly during peak periods (typically in early evenings). It is not considered, however, that noise levels from customer activity would be significant and it is also pertinent to note that although the site lies in a Residential Area as zoned in the ALDP Proposals Map, the commercial unit is one of several that form a mini high-street of ground-floor commercial units on the northern side of Charleston Road North. In this respect, this section of the street is more mixed-use in nature than that of a typical, wholly residential street and this arrangement seeks to create a commercial core with shops and services available for residents of the immediate area and the adjacent older parts of Cove. There is existing activity, traffic and general ambient noise in the immediate locality as a result and it is considered that any noise from customer activity would not have any significant impact beyond the existing situation.

Nevertheless, it is acknowledged that the activity generated by the regular arrival and departure of customers could have a detrimental impact on the amenity of neighbouring properties if the takeaway were to be operational during late evening and early morning hours, which are more sensitive in terms of residential amenity.

It is thus considered necessary and appropriate to attach a condition to any granting of consent for the change of use, restricting the operational hours of the takeaway to between the hours of 9am and 10pm on any given day. Such a condition would thus ensure that there would be no activity during the more sensitive night-time period. It is considered that the activity associated to the new use during the permitted opening hours would not have any undue impact on residential amenity.

Vibration

It is considered that vibration from cooking equipment is unlikely to be an issue. The kitchen area and all cooking ventilation / extraction equipment would be sited within & atop the single storey rear extension portion of the unit, which is not directly below any residential properties. It is thus considered that, subject to the implementation of the mitigation measures recommended in the

Odour

The applicant's Odour Assessment acknowledges that the proposed fish & chip shop use would, without any mitigation measures, result in a detrimental impact on the amenity of neighbouring

residential properties as a result of cooking odours from the existing kitchen extract system.

As a result, the Odour Assessment recommends the incorporation of a kitchen extract duct, which would take cooking odours from the kitchen area and expel them at the northern end of the existing single storey flat-roofed rear extension. The Odour Assessment considers that this solution would maximise the distance between the termination of the extract duct and the windows of the neighbouring upstairs residential flats (as well as the communal rear entrance door serving those flats).

The findings and recommended mitigation measures of the Odour Assessment have been accepted by the Council's Environmental Health Service, who are satisfied that, subject to a suspensive condition requiring the implementation of the mitigation measures, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring uses.

Traffic disturbance

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

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

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

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

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

The application site lies at the north-western edge of the residential suburb of Cove. There are hundreds of residential properties within walking distance of the premises and the entire suburb of Cove is within relatively easy cycling distance. The premises also lie within 80m of bus stops on either side of Charleston Road North, used by the 21A service that serves Cove. As a result, it is anticipated that a proportion of customers would likely travel to the takeaway to collect food either on foot or by bike, with the option of accessing the site on public transport also available. The site is therefore considered to be suitably located such that it could be accessed by sustainable and active modes of travel, in accordance with ALDP Policy T3 (Sustainable and Active Travel).

Nevertheless it is acknowledged that, as per the Harmony of Uses SG, hot food shops tend to attract a high proportion of car users and short stay customers. In this regard, it is noted that there are dozens of unallocated off-street car parking spaces available and dedicated to visitors and users of the commercial units on Charleston Road North, located to the rear of the Sainsbury's retail unit approximately 100m to the north-west of the proposed takeaway. It is anticipated that the other commercial units on the mini high-street are most likely to see the majority of their customers arrive throughout the day, whilst takeaway customers are more likely to arrive in the early evening. As

such, it is considered that the proposed takeaway would not likely compete with the other commercial uses for customer car parking availability.

There is an off-street parking courtyard immediately to the rear of the building which, it is understood, is predominantly used by residents of the upper floor flats and other surrounding residential properties. It is considered, however, that whilst some customers may utilise these spaces whilst collecting food from the takeaway, given the 'fast-food' nature of a hot-food takeaway, they would be unlikely to stay for any significant length of time, thus there should not be any significant long-term impact on the parking availability as there would perhaps for the previous use of the unit as a café, where customers are likely to stay for longer periods of time.

It is also acknowledged that hot-food takeaways can often see instances of indiscriminate car parking by customers whilst collecting food, for example on double-yellow lines and pavements, where there is insufficient off-street parking availability. In this regard, as noted above, there is ample off-street parking available within 100m of the site. Nevertheless, should customers choose to park or wait immediately outside the premises it is noted that both Charleston Road North and Langdykes Avenue have double-yellow lines within the vicinity of the application site. The double yellow lines should ensure that most customers arriving by car choose to park lawfully in the visitor spaces to the rear of the larger commercial units to the north (Sainsbury's).

It is also noted that on Charleston Road North and Langdykes Avenue in particular, the road carriageways are of a sufficient width to ensure that in most places any waiting cars would not cause any disruption to the free flow of traffic. Outside the premises on Langdykes Avenue, the road carriageway is approximately 11.2m wide, which provides ample room for two-way traffic even with cars parked on either side. As such, it is considered that the proposed change of use would not have any adverse impact on road safety.

Policy T2 (Managing the Transport Impact of Development) of the ALDP states:

'Commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.'

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

For the reasons noted above, it is considered that the siting of the takeaway within a residential area would maximise the opportunities for customers to access it utilising sustainable and active travel, with sufficient off-street car parking available for those who would seek to drive. As referenced in some third party representations, some locals drive to takeaways some distance away in Torry and Portlethen and it is therefore considered that an increase in takeaway choice in the area would likely result in a decrease in longer distance private vehicle trips. The proposals are thus considered to be compliant with Policy T2 of the ALDP.

Litter

The Harmony of Uses SG states:

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

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

The provision of some seats inside would allow customers who wish to eat straight away to do so within the premises, with internal bins to be provided.

The Planning Service considers that due to the takeaway nature of the proposed use, with a level of immediate off-site consumption anticipated, there could be a risk of external littering by customers in the vicinity of the premises that could impact on the amenity of the area. As such, an updated waste management plan was sought from the applicant, incorporating the provision of an external litter bin on the pavement immediately outside the premises. The portable bin would be provided by the applicant during the hours of operation of the use and taken inside / emptied overnight.

Therefore, subject to a condition requiring the waste management plan to be implemented, the Planning Service is satisfied that the risk of littering in the immediate vicinity of the property would be minimised.

It is important to note that any external litter from customers would be dealt with under separate environmental legislation and the Planning Service understands that the applicant would have a duty of responsibility to ensure that areas within the vicinity of the unit would be kept clear from litter. Any persistent littering problems associated to the use would be the subject of enforcement under separate legislation.

Opening Hours

As noted above, it is considered necessary and appropriate to attach a condition to any granting of consent for the change of use, restricting the operational hours of the takeaway to between the hours of 9am and 10pm on any given day, in order to protect the amenity of the neighbouring residential properties.

Summary

To summarise it is considered that, for the aforementioned reasons and subject to conditions, the proposed change of use of the premises to a hot-food takeaway would not have a significant adverse impact on the amenity of any neighbouring properties, in accordance with the Council's Harmony of Uses supplementary guidance and Policy H1 (Residential Areas) of the ALDP.

Waste management

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

The applicant advises in their supporting statement that the intention is to utilise the existing communal bin store area (to the rear of the building) for the storage of waste. This is considered to be acceptable and there would be adequate space for the storage and collection of waste, in accordance with Policy R6 of the ALDP.

Impact on visual amenity & the character of the area

The only external alteration proposed to the premises is the installation of a new metal kitchen extract duct, to be mounted atop the existing single storey flat-roofed rear extension. The extension has a c. 400mm high parapet on the north-east and north-west elevations and, combined with the proposed routing of the duct relatively centrally within the roof, it is considered that the duct would

not be prominently visible from street level. The extension is also to the rear of the main building and faces onto a parking courtyard. Therefore, even if the duct would be partly visible from public viewpoints it would not cause any significant harm to the visual amenity or character of the area. The proposals are thus considered to be compliant with Policy D1 (Quality Placemaking by Design) of the ALDP.

Proposed Aberdeen Local Development Plan

In relation to this particular application, policies H1, D1 R5, T2, T3 and WB3 in the Proposed Aberdeen Local Development Plan (PALDP) substantively reiterate policies H1, D1, R6, T2, T3 and T5 in the adopted Local Development Plan and the proposal is acceptable in terms of those policies in both Plans for the reasons previously given.

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

Concerns raised by the Community Council

The concerns raised by the Cove and Altens Community Council can be addressed as follows:

Parking & Road Safety

Parking and road safety matters are addressed in the foregoing evaluation. It is considered that there is sufficient off-street parking available within the vicinity (particularly behind Sainsbury's) that could be used by customers and that the proposed use would not pose a risk to road safety.

Litter

- The proposed use could add significantly to a local litter problem and there is no proposed provision of litter bins. If approved, this should be included as a condition of approval.

The applicant has submitted an updated waste management plan and now proposes to provide an external litter bin to the front of the premises which would be taken inside overnight. A condition is attached to ensure that the bin is provided as per the applicant's waste management plan.

Furthermore, any external litter from customers would be dealt with under separate environmental legislation.

Noise & Smell

- This will affect residents entering from the door at the rear of the premises to access their dwellings from the residents' car parking area.

The Council's Environmental Health Service have accepted the findings of the applicant's Noise and Odour Assessments and consider that, subject to the implementation of the recommended mitigation measures, the development would not cause undue harm to the amenity of any neighbouring properties in terms of noise and odour.

- This will be an area where persons may congregate and may give rise to possible noise issues affecting the residents in the dwellings not only above the premises but at neighbouring homes on the opposite sides of the street.

This is addressed in the foregoing evaluation. A condition is attached restricting the opening hours of the premises to ensure that there is no impact on amenity between 10pm and 9am the following day but otherwise it is considered the impact on amenity will not be significant.

Public Safety

- Residents entering their dwellings from their rear door may be subject to blasts of hot air and possible particles ejected via the extract system which at present exhausts at approximately head height giving rise to possible eye/face injuries.

Although it was initially proposed to use the existing kitchen extract vent on the rear extension's eastern side elevation (adjacent to the communal rear entrance door for the upstairs flats), the plans have since been amended and it is now proposed to run a new duct through the roof of the rear extension, terminating at the northern end of the extension's rooftop. As a result, there would be no risk to public safety from kitchen extract duct emissions.

- Vehicles parked on both sides of the road, at present illegally, will narrow the vehicular movement as it is now and vehicles travelling North from Cove Road could encounter a blind spot created by traffic parking on the highway at the house on the corner opposite iCandy Hair salon. This is more obvious when HGVs are in the area. It should be noted that also this is a bus route.

The road carriageways immediately outside and adjacent to the application site are double-yellowed, which prevents the legal parking of vehicles that may otherwise pose a road safety risk. The potential for indiscriminate, illegal parking of vehicles on double-yellow lines would be a matter covered by separate legislation and is not a material planning consideration.

- With Lochside Academy being close to hand and with the opening hours this will be a magnet for pupils from Lochside Academy and being aware of the high spirits generated by the youth of today there may be the risk of a child being involved in a Road Traffic Collision.

There is not considered to be any increased risk to road / pedestrian safety as a result of the implementation of the proposed use. The pavement outside the premises is of ample width, sufficient to ensure that safe pedestrian movement would not be hindered even in the event of the congregation of customers outside the takeaway.

Other

- Potential issues regarding disposal of waste products for example blocked drains which could cause problems for the drains from the flats.

It is anticipated that waste would be disposed of appropriately. Failure to do so may be subject to action by the Council's Environmental Health service but is not a material planning consideration.

Matters raised in representations

Concerns raised in respect of parking, road safety, noise, odour, litter and amenity are addressed

in the foregoing evaluation. The remaining matters raised in representations can be addressed as follows:

- Teenagers are likely to gather outside the takeaway, resulting in anti-social behaviour

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

- There would be an increase in traffic;

It is possible that there would be an increase in localised traffic within the Cove area as a result of customers frequenting the takeaway. However, the potential increase in traffic is likely to be relatively minimal and, given the limited number of alternative takeaway options in Cove, it is possible that the number of longer-distance trips outwith the area for residents seeking hot-food takeaways may be reduced.

- Local school children would be encouraged to eat unhealthy food during their lunch breaks;

Although promoting social objectives can be a material consideration, and in this case the promotion of healthy eating is a relevant material consideration, it is not considered that much weight can be applied in this case. The site, although walkable by school children, is not sufficiently close to the school to promote easy access, being 1 km distant. There are also other food businesses closer to the school which supply arguably equally unhealthy food, which could be of equal attraction to school children. Therefore the availability of such food is unlikely to be sufficiently curbed by the refusal of this application, and therefore little weight can be attached to this aspect as a material consideration.

- The takeaway doesn't fit in compared to the local businesses surrounding it;

There are no existing takeaways on Charleston Road North and as a result there would be no clustering of that type of use. There is no planning policy requirement or preference for an alternative use based on compatibility with the existing commercial offering.

- The takeaway would encourage seagulls to visit the area;

This is not a material planning consideration. Nevertheless, the applicant would provide an external bin outside the premises during operational hours, which would reduce the risk of littering.

- There is an existing chip shop in Cove and no demand / need for another;

There is no planning policy or supplementary guidance restriction on the number of hot-food takeaways permitted within Cove. Furthermore, a significant number of representations have been received in support of the application which demonstrate, at least in part, some level of local demand for the proposed use.

- The extraction system terminates onto a pedestrian walkway into a residents' stairwell. The kitchen extract for a hot food takeaway should be re-routed;

As noted above, the kitchen extract system has been amended to flue through, and terminate atop, the existing rear extension.

- Residents were informed when buying their house that the commercial units would never be

used for the sale of fast food.

There are no Planning conditions or restrictions that prevent the premises from being operated as a hot-food takeaway. Title deed restrictions or private contractual arrangements are not a material planning consideration.

Stop the Clock

The applicant was requested to submit a Noise and Odour Impact Assessment on 1 December 2020. The information was not submitted until 14 April 2021, therefore the application clock has been stopped to cover the intervening period of time.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

Subject to conditions requiring the implementation of appropriate mitigation measures including the installation of a new kitchen extraction duct, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring properties, thus the proposals are acceptable in accordance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 (ALDP). The Council's Harmony of Uses supplementary guidance states a general presumption against permitting hot-food takeaways within the same building as residential properties, unless it is considered that there would be no significant detrimental impact on the amenity of those properties. The Planning Service is satisfied that although there would likely be some impact on amenity resulting from the new use, the impact would not be significant, thus the proposals are compliant with the Harmony of Uses supplementary guidance.

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

The new kitchen extract duct would be positioned on the flat-roofed rear extension and would not be prominently visible, thus preserving the visual amenity and character of the area, in accordance with Policy D1 (Quality Placemaking by Design) of the ALDP.

There is sufficient off-street car parking available in the surrounding area (including designated spaces for the commercial units on Charleston Road North) to ensure that customers visiting the premises by car would be able to park without detriment to the parking availability for residents or to road safety. The site lies on the periphery of a residential area, in close proximity to a bus route and the use would be accessible by sustainable and active travel, in accordance with ALDP Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) and the Council's Transport and Accessibility supplementary guidance.

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

CONDITIONS

(1) OPERATIONAL HOURS

The hereby approved use shall operate between the hours of 9am and 10pm only on any given day in the week, and at no other time whatsoever.

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

(2) NOISE MITIGATION

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Noise Impact Assessment (Reference: Project Number: P8322, Issue 4.0, Date: 14 April 2021) have been implemented in full. These must include:

- a) The installation of a local Extract Ventilation (LEV) fan with a sound power level across the frequency spectrum which complies with that detailed within section 4.0 Table 1 (and appendix 2 page 18)
- b) The installation of a fan silencer with sound attenuation across the frequency spectrum at least equivalent to that of the 80/1200 model detailed within section 4.0 Table 2 (and appendix 2 page 17).
- c) The termination point for the LEV aligns with the position detailed within the report.

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

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

(3) ODOUR MITIGATION

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Odour Assessment (Reference: Project Number: P8332.02, Issue 3.0, Date: 14 April 2021) have been implemented in full. These must include:

- a) The ventilation requirements detailed within section 4.7.1
- b) The odour mitigation requirements detailed within section 4.7.2
- c) Installation of the rooftop kitchen extract duct shown on hereby approved drawing no. 102 Rev B

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

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

(4) LITTER BIN PROVISION

The hereby approved use shall not commence unless internal and external litter bins are provided by the operator during hours of operation, in accordance with the details set out in

the 'Customer Waste' section of the hereby approved Supporting Statement (ref: 201397-01 Rev A). Thereafter litter bins shall be provided in accordance with the agreed details and shall remain in place for the duration of the use.

Reason: In order to minimise the risk of litter from customers and to preserve the amenity of the area.

ADVISORY NOTES FOR APPLICANT

(1) WASTE MANAGEMENT

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

General tips for site

The following is needed:

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

For further independent guidance about waste and recycling provision, storage and collection please refer to the following document:

http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste_000.pdf and additional Trade Waste information can be found in the Waste Supplementary Guidance available at <http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=74584&SID=14394>

(2) ODOUR MANAGEMENT

The Council's Environmental Health Service would recommend strict adherence to the managerial controls detailed within section 4.7.3 (Odour Management Plan) of the approved Odour Impact Assessment, to reduce risk of malodour and statutory nuisance going forward.