



Strategic Place Planning

Report of Handling

Site Address:	Ground Floor, 13 Correction Wynd, Aberdeen, AB10 1HP
Application Description:	Change of use of road to provide an external seating area with 3 seating pods
Application Ref:	211339/DPP
Application Type:	Detailed Planning Permission
Application Date:	15 September 2021
Applicant:	Red Robin Cafe
Ward:	George Street/Harbour
Community Council:	City Centre
Case Officer:	Dineke Brasier

RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site is a rectangular area measuring c.14m² located immediately opposite 13 Correction Wynd. The site forms part of the carriageway of Correction Wynd and is currently occupied by three timber 'pods', which have been placed there as part of 'Spaces for People' social distancing measures by the applicant, acting as additional seating area for their café Red Robin Records at 13 Correction Wynd.

The timber pods measure c.2m by c1.2m with an overall height of c.1.9m. They have two opening doors facing out onto the pavement, and high-level windows in the side and rear elevations. The 'pods' are finished in a painted graphic design incorporating the logo of the café.

The site lies within the City Centre Conservation Area, and is located between the curtilage of the A-listed St Nicholas churchyard and category B and C-listed buildings along Correction Wynd.

Relevant Planning History

200787/DPP – Change of use of pavement to provide an external seating area outside the premises with 3 associated enclosures – Withdrawn;
171510/LBC and 180161/DPP – Installation of flue to rear wall and roof – Approved on 15th February and 29th March 2018;
161374/LBC – Alterations to interior and front of building – Approved on 18th November 2016;
161373/ADV – Erection of 1no. non-illuminated projecting sign and 1 no. non-illuminated hanging board – Approved on 18th November 2016; and
161372/DPP – Change of use from clinic (class 2) to mixed use café/record shop (classes 3 and 1) and associated alterations to shopfront doorway and window arrangements – Approved on 17th

November 2016;

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for a change of use of part of the carriageway to an external seating area and the installation of three timber pods on the carriageway of Correction Wynd, immediately adjacent to the pavement and opposite to 13 Correction Wynd which currently trades as 'Red Robin Records'. The pods are constructed of timber and painted in various colours, have a mono-pitched roof and measure c.2m by c.1.2m by a height varying between c.1.7m and c.1.9m.

The application is retrospective and permission is sought for a period of five years.

Amendments

None.

Supporting Documents

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

CONSULTATIONS

ACC - Roads Development Management Team – Objection. It is noted that this is an existing seating area. Street Occupation Team has been consulted, who, in accordance with views from colleagues in Roads Development Management also noted the following concerns:

- The structures were granted temporary permission to facilitate social distancing measures, which are due to be removed by 22nd January 2022. Questions why the pods are still required as social distancing measures are being phased out;
- Correction Wynd is a 20mph road, and a visibility splay of 2.4m by 25m should be achieved from the end immediately to the north of the application site. From the submitted information it does not appear that this visibility splay can be achieved. This is why, historically, this section of carriageway was not available for on-street parking;
- The upcoming Indoor Market demolition will close Hadden Street/ East Green, which will increase vehicular movements of not only residential vehicles but also waste/ deliveries within Correction Wynd/ St Nicholas Lane area;

ACC - Environmental Health – No objection. To protect the residential amenity of residential property near the proposed location from noise, it is recommended that a condition prohibiting music in the outdoor area; and that the outdoor area is not used after 22:00hrs is attached.

City Centre Community Council – None received

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the

Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

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

National Planning Policy and Guidance

Scottish Planning Policy (SPP)

Historic Environment Policy for Scotland (HEPS)

Aberdeen Local Development Plan (2017)

D1: Quality Placemaking by Design

D4: Historic Environment

NC1: City Centre Development - Regional Centre

NC2: City Centre Retail Core and Union Street

T2: Managing the Transport Impact of Development

Supplementary Guidance

Transport and Accessibility

Proposed Aberdeen Local Development Plan (2020)

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

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

The foregoing can only be assessed on a case-by-case basis.

D1: Quality Placemaking

D2: Amenity

D6: Historic Environment

VC1: Vibrant City

VC4: City Centre and Retail Core

T2: Sustainable Transport

T3: Parking

Other Material Considerations

City Centre Conservation Area Character Appraisal (Draft)

EVALUATION

Principle of Development

The site is located within the City Centre Boundary and falls within the City Centre Retail Core. Policies NC1 (City Centre Development – Regional Centre) and NC2 (City Centre Retail Core and

Union Street) apply. Both policies are aimed at ensuring that the city centre remains a vibrant and viable location for retail and other visitor attracting uses. Given the proposal would not comprise a change of use of a retail unit to a different use, but is concerned with the creation of an outdoor seating area serving an existing business, it is considered that these policies are not directly relevant in the determination of this application.

Impact on residential amenity

The upper floors of buildings along Correction Wynd contain numerous flats, and as such any impact on their residential amenity in relation to noise arising from the pods should be considered. Colleagues from Environmental Health have commented on the application, and subject to the use of suitably worded condition in relation to opening hours and an informative on the use of amplified music, did not raise any objections to the application. As such, it is considered that they would not have a significant detrimental impact on the residential amenity subject to these conditions.

Impact on the historic environment

Policy D4 (Historic Environment) sets out that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP (now HEPS) and its own Supplementary Guidance and Conservation Area Character Appraisals. High quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings and conservation areas will be supported. Scottish Planning Policy further sets out that proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.

The site is in a sensitive location as it falls within the City Centre Conservation Area, and is immediately adjacent to the curtilage of the category A-listed St Nicholas churchyard (including boundary walls), and category B and C listed properties along Correction Wynd. This street and the adjacent churchyard both fall in the 'Marischal Street, the Green etc' character area as defined in the draft City Centre Conservation Area Character Appraisal. A positive key characteristic for this area is the streetscape and the use of high quality materials in key areas. Correction Wynd itself is surfaced in granite setts and the entire surrounding area, including the high boundary wall to the St Nicholas Churchyard, and therefore makes a positive contribution to this key characteristic.

The proposal is in relation to a change of use of carriageway to an external seating area and the retention of three timber pods measuring c.2m by c.1.2m by a height of c.1.9m for a period of five years on the carriageway of Correction Wynd. The timber pods were installed as part of Spaces for People following the introduction of social distancing measures as a result of the Covid-19 pandemic in 2020. Due to their use of modern, low quality materials and finishes they have a utilitarian design. Even though considered acceptable as a short-term solution during the pandemic (for which there was a suspension of 'normal' planning controls), it is considered that the requested period of five years would see these become a more permanent feature within the streetscape. A recent decision by the Council's City Growth and Resources Committee set out that the current temporary relaxation of controls for external seating areas will end on 24th January 2022, and thus permission will be required for the pods after this time. The proposed period of five years would see a significantly longer period of use, and it can thus not be considered that these are purely required to enable additional seating during social distancing measures and have to be assessed as a more permanent intervention. As such, their impact on the character and appearance of the City Centre Conservation Area should be considered.

The seating pods are considered to have a detrimental impact on the character and appearance of this part of the City Centre Conservation Area, and will detract from the special character of this street. In addition, due to their close proximity to the category A-listed St Nicholas Churchyard, the listing of which includes the boundary walls onto Correction Wynd, and the category B and C-listed buildings along Correction Wynd, the pods are also considered to have a detrimental impact on the setting of these listed buildings. As such, the proposal is considered to be contrary to policies D1

(Quality Placemaking by Design) and D4 (Historic Environment) of the 2017 Aberdeen Local Development and relevant sections in Scottish Planning Policy and Historic Environment Policy for Scotland.

Parking and Access

The pods are located on the carriageway of Correction Wynd c.3.5m to the south of a narrow pend leading to a parking/service area serving business and flats on Correction Wynd. Correction Wynd is a narrow, cobbled street, with some on-street parking bays and is subject to a 20mph speed limit. Even though not a through route for cars, it is used by service and refuse vehicles, and people using the pend to the rear of buildings on Correction Wynd. Prior to social distancing restrictions, there were no parking bays at the application site, immediately in front of 13 Correction Wynd as it was considered that parked cars would severely restrict visibility when exiting the pend. As a result, the nearest on-street parking bay is further along the street in front of 15 Correction Wynd. It is therefore considered that the pods would severely restrict visibility for cars emerging from the pend, and that the required visibility splay of 2.4m x 25m cannot be achieved. The applicant has not provided any evidence otherwise.

In addition, the upcoming demolition of the indoor market will close Hadden Street/ East Green, which will increase vehicular movements, not only of residential vehicles, but also for waste and servicing within the Correction Wynd/St Nicholas Lane area, which would further compound concerns in relation to visibility.

As such, the proposal is considered to have a detrimental impact on local highway conditions, especially in relation to roads safety, is subject to an objection from colleagues in Roads Development Management, and is contrary to requirements of policy T2 (Managing the Transport Impact of Development) and Supplementary Guidance on Transport and Accessibility.

Proposed Aberdeen Local Development Plan

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

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

That the change of use of part of the public road carriageway to form an external seating area including the installation of three timber pods for a period of five years is considered to have a detrimental impact on the character and appearance of the Union Street Conservation Area and the setting of various adjacent category A-, B-, and C-listed buildings and their curtilages due to the design, materials, and finishes of the pods. The development is thus contrary to policies D1 (Quality Placemaking by Design) and D4 (Historic Environment), of the 2017 Aberdeen Local Development Plan, policies D1 (Quality Placemaking), D6 (Historic Environment) of the 2020 Proposed Local Development Plan; the draft City Centre Conservation Area Character Appraisal and relevant sections of Scottish Planning Policy and the Historic Environment Policy for Scotland (HEPS).

That the proposed siting of the pods would obstruct driver visibility both along Correction Wynd and from the pend serving the parking /servicing area to the rear of Correction Wynd, impacting on safety. The development is thus contrary to policy T2 (Managing the Transport Impact of Development) of the 2017 Aberdeen Local Development Plan, and policy T2 (Sustainable

Transport) of the 2020 Proposed Local Development Plan; and Supplementary Guidance on Transport and Accessibility.