

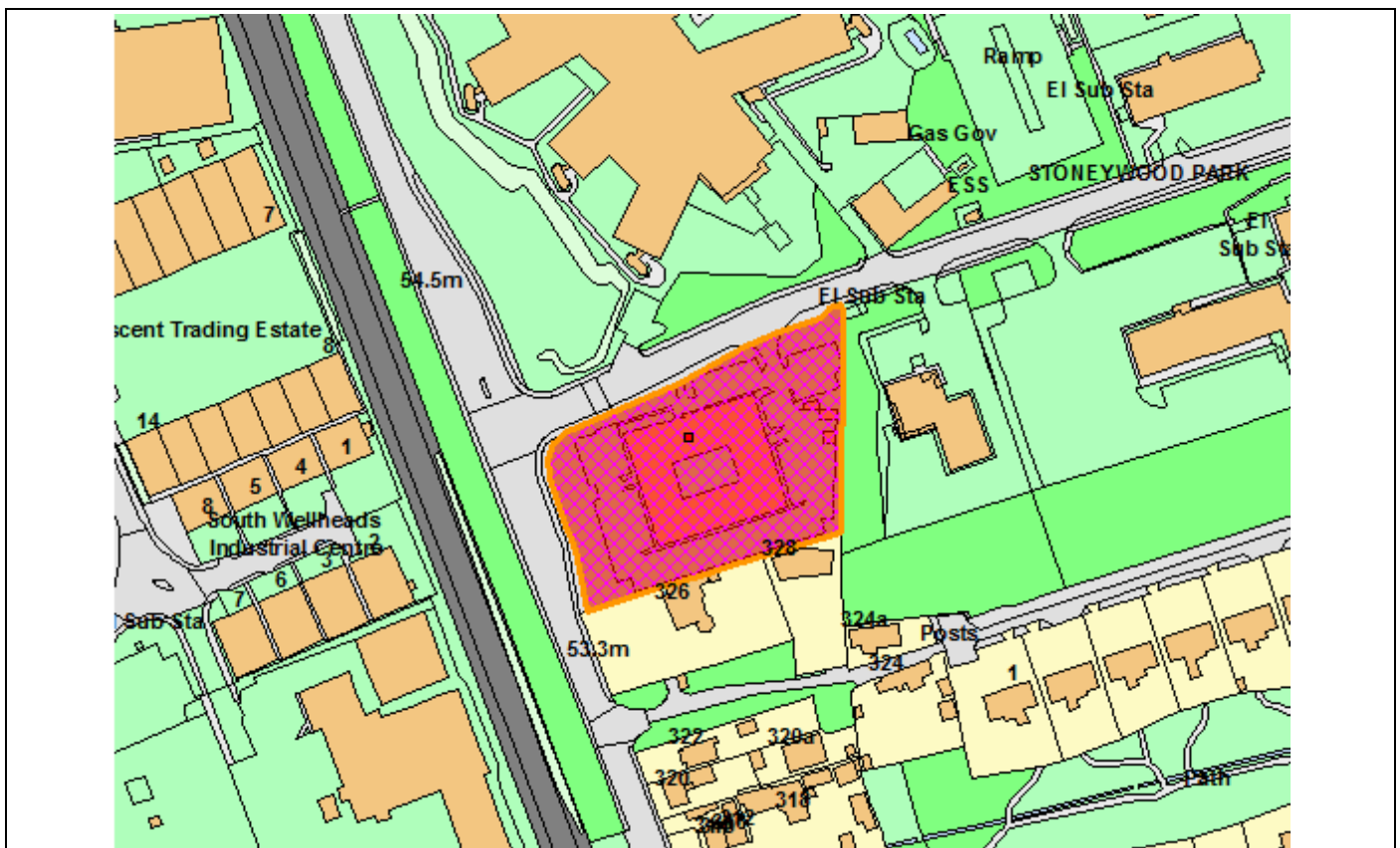


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 15 May 2024

<b>Site Address:</b>	Alba Gate, Stoneywood Park, Aberdeen, AB21 7DZ
<b>Application Description:</b>	Demolition of existing building and re-development of site to include change of use to form a mixed-use of 4 business units (class 4), 2 ancillary cafe/restaurant units (class 3) with drive thru takeaway (sui generis), electric vehicle charging hub, car parking, soft landscaping and associated works
<b>Application Ref:</b>	231422/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	18 December 2023
<b>Applicant:</b>	CoCity
<b>Ward:</b>	Dyce/Bucksburn/Danestone
<b>Community Council:</b>	Dyce and Stoneywood



## RECOMMENDATION

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The application relates to a commercial site at the western edge of the Stoneywood Park Industrial Estate, which accommodates an existing two-storey 1970's-built office building with a square footprint, set around an internal courtyard. The building is bound on all sides by the site's existing car parking provision. The site is accessed via a single in/out entrance on the northern boundary, taken off Stoneywood Park. There is a significant amount of existing landscaping, in the form of established trees and shrubs within and along all boundaries, including a landscaped buffer strip to Stoneywood Road along the western boundary. Significant mature trees line the eastern boundary within the curtilage of the neighbouring industrial use to the east. Those trees are protected by a Tree Preservation Order.

The site is bound by Stoneywood Park Road to the north with the BP Headquarters beyond, Stoneywood Road (A947) to the west, with the Aberdeen to Inverness railway line and Wellheads Industrial Estate beyond, residential properties immediately to the south and other business and industrial properties to the east, forming the Stoneywood Park Industrial Estate. South east of the application site is the recent residential development by Dandara within Stoneywood Estate. The site falls within a 'Business and Industrial Land' B1 zoning on the Aberdeen Local Development Plan 2023 (ALDP) Proposals Map.

### **Relevant Planning History**

<u>Application Number</u>	<u>Proposal</u>	<u>Decision Date</u>
200833/DPP	Re-development including the change of use and extension of the existing building to a mixed use unit which accommodates 50 residential units, co-working office space and cafe/bar and the erection of commercial unit to accommodate co-working and makers' space and a gym and associated works	03.09.2021  Status: Approved conditionally and with a legal agreement

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought for the redevelopment of the application site to include the following:

- Demolition of the existing office building;
- Installation of an electric vehicle (EV) charging 'hub', comprising 24 parking bays (including two disabled bays), each with a rapid EV charge point;
- Erection of two single-storey detached Class 3 café / restaurant buildings, one of which would incorporate a drive-through car lane (and thus also be a hot-food takeaway);
- Erection of a single storey building to contain four business (Class 4) units;
- Formation of associated internal road, car parking, bin stores and areas of soft landscaping, including tree planting.

## Amendments

The following amendments were made to the application following its initial submission:

- Various amendments were made to the site layout, including alterations to the internal road and car park layout, location of bin stores and soft landscaping; and
- The drive-through lane initially proposed for one of the Class 3 units was omitted from the plans and replaced with areas of outdoor seating and landscaping.

## 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=S42HP4BZHJ800>

- Planning, Design and Access Statement
- Town Centre First Assessment
- Transportation Statement
- Noise Impact Assessment
- Tree Survey and Arboricultural Impact Assessment
- Bat Potential Preliminary Roost Assessment
- Drainage Impact Assessment
- Pre-deconstruction audit
- Letters of support from P&J Live, Aberdeen & Grampian Chamber of Commerce and AGS Airports (owner of Aberdeen International Airport).

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee (PDMC) following agreement of a motion at the Full Council meeting of 17 April 2024 that the application should be considered by the PDMC, rather than being determined under delegated powers, in accordance with the Council's Scheme of Delegation.

## CONSULTATIONS

**Aberdeen International Airport** – No objection, but request that no more than 5% of the new trees and shrubs to be planted would be of a species set out on a prescribed list provided by the Civil Aviation Authority due to their potential to host or attract birds to the site, which could harm the safe operations of Aberdeen International Airport.

**ACC - Contaminated Land Team** – No objection.

**ACC - Roads Development Management Team** – No objection. The RDM team have reviewed the development proposal in terms of access, parking, accessibility with regards to sustainable and active travel, refuse storage and collection and impact on the local road network. Overall, following the submission of amended plans with an updated internal road and car parking layout, the RDM Team has advised that it is generally satisfied with the development and subject to conditions in relation to the provision of tactile paving at pedestrian crossings and the submission of a Travel Pack, it has no objection to the development. The RDM team has also reviewed and provided comment on the supporting Drainage Impact Assessment, with no issues being raised.

**ACC - Environmental Health** – No objection, subject to conditions:

#### Noise

The noise impact assessment (NIA) submitted by Grosle Environmental Services on 19.02.24 has been reviewed. A number of noise mitigation measures have been detailed in the report and all measures require to be implemented in order to achieve the noise criteria and protect the amenity of the nearby noise sensitive receptors.

As there are no tenants confirmed for the two café/restaurants a planning condition in relation to mechanical plant for Units One and Two will be required. In order to mitigate noise nuisance from the proposed development, the recommendations for the rating levels of the combined mechanical plant at 326 Stoneywood Road must not exceed the octave band levels detailed in 6.2.1 and 6.2.2 of the NIA.

For the purpose of the NIA, the proposed opening times of the café/restaurant units are 06:00 to 23:00 Monday to Saturday, and 07:00 to 23:00 Sunday. The proposed opening times of the starter units are 08:00 to 18:00 Monday to Sunday. These hours for the development should also be incorporated into a planning condition.

#### Odour

It is noted that there are currently no confirmed tenants for the café/restaurant units. Odour assessments will be required for each unit once the tenants have been confirmed.

#### Dust Management

Due to the location of the proposed development, there is potential for an adverse impact on the amenity of nearby existing residences due to dust associated with each phase of the proposed works (e.g. demolition and construction). To address this, conditions should be attached to any permission requiring the submission of an Air Quality (Dusk) Risk Assessment and a Dust Management Plan.

**ACC - Waste and Recycling** – No objection. The proposed development would be classified as commercial and would therefore receive a business waste collection. Additional general comments regarding commercial waste for the applicant to be aware of are provided in their response.

**Archaeology Service (Aberdeenshire Council)** – No objection. The route of the former Aberdeenshire Canal runs immediately adjacent to the eastern boundary of the site. However, taking into consideration the results of trial trenching undertaken in 2013 on the canal remains, no further archaeological works are required in relation to the proposed development.

**Health & Safety Executive** – No objection – Do not advise against granting planning permission for the proposed development.

**Scottish Water** – No objection. Scottish Water is unable to confirm capacity in the Invercarnie Water Treatment Works at present and the applicant should submit a pre-development enquiry to Scottish Water in this regard. There is sufficient capacity in the existing Persley wastewater treatment works to accommodate the proposed development. For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There are existing Scottish Water assets that

run through the application site (watermain, foul sewer and surface water sewer) and the applicant must identify any potential conflicts between the development and the existing water infrastructure with Scottish Water.

**Dyce and Stoneywood Community Council** – Support the application, for the following reasons:

The proposed development is consistent with Policy B1 (Business and Industrial Land) of the ALDP and would be far more suitable than the previously approved 'mixed-use community'. Further, the application shows that the existing building is derelict, uninhabitable and presents a safety hazard due to vandalism and arson attacks.

The design appears to be well thought-out and is consistent with Policies D1 (Quality Placemaking) and NE5 (Trees and Woodland) of the ALDP, with the majority of trees facing Stoneywood Road to be retained. The Planning Service should ensure that the southern boundary is suitably screened however, to ensure no negative effects on residential amenity.

The proposed land use is consistent with Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the ALDP because, in the Community Council's opinion, it caters for a catchment appropriate to the centre in which it is located and it does not conflict with the amenity of the neighbouring uses.

The proposal focuses on green transport and it is considered to be consistent with Policy T2 (Sustainable Transport). The proposals should ensure that as many of the EV charging points as possible are accessible to disabled and differently-abled drivers.

It is assumed that the development will be consistent with Policy CI1 (Digital Infrastructure), with high-speed wireless communications covering the whole site.

All local residents who responded to the application on the Community Council's Facebook page are supportive of the development.

## **REPRESENTATIONS**

15 representations have been received (7 in support, 6 objections and 2 neutral). The matters raised can be summarised as follows –

### Comments in support of the development:

1. The development would provide much-needed rapid EV-charging infrastructure in the area, to the benefit of the environment, the local community, businesses and passing traffic;
2. The development would represent a positive enhancement for the area compared to the existing derelict, vacant building which is undesirable and unattractive;
3. The provision of drive-through café facilities would be a very desirable and welcome addition;
4. The starter commercial units are proving popular around the city and should encourage local small business and help with the economic development within the area;
5. Welcome the opportunity to provide local jobs in the area;
6. The Aberdeen & Grampian Chamber of Commerce are fully supportive of the proposed development, noting that it has the potential to prove Scotland's largest EV hub, with associated sustainability benefits, whilst also including commercial units and drive-through facilities which would serve the surrounding residential population and make the EV charging hub financially viable;

7. 'Osprey Charging Network' – the operator lined up to install and run the EV charging hub, have written in support of the application, noting that the development would substantially increase the Ultra Rapid charging infrastructure in the north-east of Scotland, providing the first hub of 6+ chargers in the area, and the associated drive-through restaurants would support the EV charging hub customer base, providing amenities for drivers whilst charging;
8. The drive-through units would increase food & drink choice for local residents and workers;

Concerns raised:

9. The development would increase congestion, air pollution and noise for residents and walking/cycling commuters;
10. Despite the need for EV charging operators to have access to ancillary services such as drive-throughs, without commercial agreements in place with tenants, those buildings could remain unfinished and become an eyesore/magnet for increased anti-social behaviour;
11. Greater consideration should be given to the inevitable light pollution resulting from a 24 hour operation of this size and no details of lighting have been submitted;
12. The application cites a lack of EV charging in the local area and a growing demand for such facilities, but no evidence has been provided to support this (and there is a public EV point nearby at BP on Wellheads Road. There is a concern that the EV charging facility could sit unused, subject to a lack of maintenance and repair;
13. Policy 27 of NPF4 only supports drive-throughs where they are specifically supported in the local development plan. This discord has not been addressed by the applicant;
14. Why is the drive-through element necessary if the aim is to support the adjacent new business starter units?;
15. Why are business units proposed when the applicant states there is no interest in the continued business use of the existing building? Conditions are needed to ensure that the business units are in use before the drive-throughs are built, otherwise there is no guarantee they will ever be developed;
16. Similar planning applications were viewed as departures from the local development plan strategy, specifically 210015/DPP, which noted food & drink uses as not being in line with Policy B1;
17. The applicant hasn't justified the out-of-centre location, contrary to the town centre first approach advocated in NPF4. Have other 'in-centre' sites been considered?;
18. Hot-food takeaways with frying food would not be ok adjacent to the neighbouring houses.
19. The developers should limit the EV charging bays to cars only (not larger e-vehicles);
20. All, or at least some, of the EV charging bays should conform to PAS 1899 guidance on accessibility for those with disabilities.
21. The demand for drive-through restaurants is queried, with empty drive-through units available at the Haudagain retail site;
22. Is there any precedent or regulation of such a large-scale EV charging hub in close proximity to a residential area? The safety aspect is a concern;
23. There would be significantly more noise from vehicular and pedestrian traffic than experienced at present, to the detriment of residential amenity, and operating times and refuse collection are a concern;
24. The application would be more favourable if established dense evergreen planting tall enough to provide year-round screening to the neighbouring houses to the south were proposed;
25. There is a conflict between various drawings submitted in relation to which existing trees are to be retained and removed.

**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 (NPF4)

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 4 (Natural places)
- Policy 6 (Forestry, Woodland and Trees)
- Policy 7 (Historic Assets and Places)
- Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 22 (Flood Risk and Water Management)
- Policy 23 (Health and Safety)
- Policy 25 (Community Wealth Building)
- Policy 26 (Business and Industry)
- Policy 27 (City, Town, Local and Commercial Centres)

### Aberdeen Local Development Plan 2023 (ALDP)

- Policy B1 (Business and Industrial Land)
- Policy B3 (Aberdeen International Airport and Perwinnes Radar)
- Policy B6 (Pipelines, Major Hazards and Explosive Storage Sites)
- Policy D1 (Quality Placemaking)
- Policy D5 (Landscape Design)
- Policy D6 (Historic Environment)
- Policy NE3 (Our Natural Heritage)
- Policy NE4 (Our Water Environment)
- Policy NE5 (Trees and Woodland)
- Policy R2 (Degraded and Contaminated Land)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy R6 (Low and Zero Carbon Buildings and Water Efficiency)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC9 (Out of Centre Proposals)
- Policy WB2 (Air Quality)
- Policy WB3 (Noise)

## **Aberdeen Planning Guidance**

- Transport and Accessibility
- Noise
- Hierarchy of Centres

## **Other National Policy and Guidance**

- Historic Environment Policy for Scotland (HEPS)

## **Other Material Considerations**

- Scottish Government Chief Planner letter – February 2023 (Transitional arrangements for National Planning Framework 4)

## **EVALUATION**

### **Key matters for consideration**

The key matters for consideration in the assessment of this application are:

- Is the proposed development compatible with the Business and Industrial land use zoning of the site?
- Is the proposed drive-through café/restaurant/hot-food takeaway unit acceptable?
- Would the development have an unacceptable impact on either Aberdeen City Centre, or Dyce District Centre?
- Would the development contribute towards tackling the climate and nature crises and would it aid with climate mitigation and adaptation?
- Is the development otherwise acceptable in accordance with all other relevant policies and guidance?

### **Business and Industrial Land zoning**

The application site lies within an area zoned as Business and Industrial land in the Aberdeen Local Development Plan 2023 (ALDP) Proposals Map.

Policy 26 (Business and Industry) of NPF4 is supportive of business and industry uses on sites allocated for those uses in the LDP. It further states:

*c) Development proposals for business and industry uses will be supported where they are compatible with the primary business function of the area. Other employment uses will be supported where they will not prejudice the primary function of the area and are compatible with the business/industrial character of the area.*

*e) Development proposals for business and industry will take into account:*

- i. Impact on surrounding residential amenity; sensitive uses and the natural and historic environment;*
- ii. The need for appropriate site restoration at the end of a period of commercial use.*



Policy B1 (Business and Industrial Land) of the ALDP states that land zoned for business and industrial uses (Classes 4, 5 and 6) shall be retained for such uses and safeguarded from other, conflicting development types. It does however further note that other uses which may be suited to a business and industrial location shall be treated on their own merits, and that facilities that directly support business and industrial uses may be permitted where they enhance the attraction and sustainability of the city's business and industrial land, and are aimed at meeting the needs of businesses and employees within the business and industrial area, rather than the wider area. Policy B1 also notes that, where located beside residential areas, permissions will be restricted to Class 4 uses, with landscaped buffer zones and conditions restricting hours of operation etc potentially required, to safeguard residential amenity.

### Class 4 units

The four Class 4 units proposed to be sited in one new building on the eastern edge of the site are compliant, in principle, with the aims of Policies 26 and B1, representing continued business use of the site.

### EV Charging Hub

The 22 electric vehicle (EV) charging points to be installed alongside car parking bays at the northern edge of the site (plus two further adjacent EV disabled bays), in order to form an EV charging 'hub', would not comprise a use within Classes 4, 5 or 6, nor would the charging points be ancillary to the new Class 4 units. Policies 26 and B1 do not explicitly prohibit alternative, non-business and industrial uses in such areas but rather require alternative uses to be compatible with the business function and character of the area, whilst Policy B1 states that alternative uses will be assessed on their merits.

The provision of EV charging infrastructure is supported, in principle, by both NPF4 (Policy 13 – Sustainable Transport) and the ALDP (Policy T3 – Parking). Whilst the ALDP does not have any policies or guidance on where such infrastructure should generally be sited, the application site is considered to be in a good location for such a facility, being immediately adjacent to a main road (Stoneywood Road), in close proximity to a significant number of homes and businesses which could utilise the facility, and also relatively close to Aberdeen International Airport, P&J Live and the Aberdeen Western Peripheral Route (AWPR). The site is also a significant distance from the city centre, such that it would not encourage additional private vehicle trips into the city centre.

In summary, the application site is considered to be well suited to the provision of an EV charging hub, which could be used by employees of the various employment uses in the surrounding business parks and industrial estates in Dyce and Stoneywood, thus enhancing the attraction and sustainability of the business and industrial land use zoning, in accordance with the aims of Policies 26 of NPF4 and B1 of the ALDP, despite not being directly associated with a Class 4, 5 or 6 use.

### Class 3 café / restaurant & hot-food takeaway units and drive-through

The two café / restaurant & hot-food takeaway units, one of which would be a drive-through development, would be of a scale and layout such that it is anticipated that they would serve a wider catchment area of customers than solely the employees of the surrounding business and industrial area, as is generally permitted by Policy B1 of the ALDP (*facilities that directly support business and industrial uses*). As such, the two food & drink units, in terms of the site's zoning in the ALDP, are not compliant with, and would represent a departure from, the Local Development Plan if approved.

However, there are various material considerations which are relevant to the assessment of this application, in respect of the non-compliance of the food & drink uses with Policy B1 of the ALDP, as follows:

- Lack of demand for continued business/industrial use

Paragraph 12.1 of the ALDP states: *‘Maintaining a ready supply of employment land in the right places is vital to Aberdeen retaining its position as a competitive and sustainable business location. To accord with this, a phased, large allocation of employment land has been identified, to meet the diverse needs of different types and sizes of businesses.’*

Therefore, given the primary aim of Policy B1 of the ALDP appears to be the protection of employment land supply, it is pertinent to assess whether there is sufficient employment land across the city, and to consider what impact the loss of the existing office building would have on that supply.

As set out in the supporting Planning, Design and Access Statement, the building was vacated in early 2020 by its previous occupier (Helix Energy) and the property has been marketed from June 2019 to find a new tenant for the building for continued Class 4 office use, to no avail. The building was purchased by the applicant in early 2020 and although further marketing was undertaken there was no significant interest in leasing the building for office use. Commercial surveyors and letting agents advised in relation to the previous application for the site (200833/DPP) that, in 2020, the 1970’s building, constituted Grade ‘C’ office space for which there was little demand in Aberdeen at the time. Photographs of the interior of the building provided by the applicant demonstrate that in the intervening period, the building has become more derelict. Whilst lack of demand for the occupation of the building for its current (or most recent) use is not directly a material planning consideration, it is considered to be indirectly relevant as it demonstrates the wider situation in respect of the oversupply of offices in Aberdeen, predominantly due to the downturn in the oil & gas industry in recent years, combined with the rise in home working post-Covid 19 pandemic. The readily available supply of newer grade ‘A’ office space in a range of locations across the city and particularly within the City Centre has exacerbated the situation in that locations such as Alba Gate are not attractive to tenants.

- Employment land supply

The Aberdeen City and Shire Employment Land Audit (ELA) is prepared annually, with the aim of providing up-to-date and accurate information on the supply and availability of employment land in the region. The most recently prepared audit (with a base date of 1st April 2023) was published in February 2024. The 2023 ELA identifies an established employment land supply of 254ha in Aberdeen City, of which 192ha is identified as marketable and 42 ha immediately available. Furthermore, paragraph 3.14 of the ALDP highlights the healthy position in relation to the supply of employment land, which meant that no new employment land allocations were included in the 2023 ALDP.

The application site covers just 0.7ha. This indicates that the redevelopment of the site for some alternative, Class 3 uses, whilst also incorporating some Class 4 floorspace, would not result in a shortage of available employment land.

- Context and location of the site within the business and industrial area

Although the site is located within a Business and Industrial area, it is important to note that the site lies on the periphery of the Stoneywood Park Industrial Estate, at the southern entrance to the estate and adjacent to Stoneywood Road. As such, the site is not surrounded by industrial uses that would potentially be incompatible with the two Class 3 uses that would serve a wider catchment area (including customers arriving via sustainable modes of transport), as could be the case further into the estate along Stoneywood Park. The site is bound to the south by two residential properties and beyond by a wider residential area, with existing mature landscaping running along both the eastern and western edges of the site and the well-landscaped BP office headquarters to the north. It is therefore appropriate to acknowledge that the context of the site differs from that of a more typical industrial estate environment and any conflict between differing uses would be reduced as a result.

Consequently, the proposed Class 3 units would neither compromise other businesses' ability to operate in the manner to which they are accustomed, nor would they have any significant bearing upon the overall integrity of the industrial estate. Rather the proposed Class 3 units could see an underutilised area of brownfield land suitably repurposed within its context.

Therefore it is considered that, due to the high level of supply and the wider low level of demand for such business & industrial sites generally, in combination with the individual circumstances of the site and the proposal, the proposed Class 3 uses would be acceptable on balance (in relation to the land use zoning) as part of a larger mixed-use development, despite the tension with some elements of Policy B1 of the ALDP. The proposed Class 3 uses would not significantly undermine either the function or character of the land use zoning, in general accordance with the aims of Policy 26 of NPF4.

#### Residential amenity

A detailed assessment of the impact of the proposed development on residential amenity is set out later in the evaluation but to summarise in relation to the requirements of Policies 26 and B1, the proposed development would not adversely affect the amenity of the neighbouring residential properties to the south to any significant degree.

#### Landscaping

Policy B1 of the ALDP states a presumption in favour of retaining green, open and landscaped spaces. A detailed assessment of the impact of the proposed development on the existing green spaces within the site is set out further below in the evaluation but to summarise, the level of development proposed is considered to be acceptable, with the majority of existing green space and landscaping to be retained and supplemented with some additional green space, landscaping and tree planting. That aspect of the proposed development is therefore generally compliant with the aims of Policy B1.

#### Policy 26 of NPF and Policy B1 of the ALDP - Summary

To summarise, the proposed Class 4 starter units are fully compliant with the aims of Policies 26 and B1, whilst the EV charging hub is considered to be compatible with the business and industrial land use zoning. The two Class 3 uses (one of which would also have a drive-through) would serve a wider catchment area than just the employees of the surrounding business and industrial uses, therefore they would not be fully compatible with the requirements of Policy B1. However, there is an oversupply of business and industrial land in the city, therefore the loss of the existing office building is acceptable, and alternative uses on the application site would not have any significant impact, if any, on the supply and availability of business land in the city. Furthermore, the location

of the site within the business and industrial area is considered to be generally appropriate for Class 3 uses, which could also serve employees, thereby enhancing the attractiveness of the surrounding business and industrial area. The proposed Class 3 uses (without the drive through element, that is considered in detail below) are therefore considered to be acceptable, on balance, despite not being fully compliant with the aims of Policy B1. The proposed development would be appropriately landscaped, both retaining a significant amount of existing landscaping and supplementing it with new tree planting and landscaping, whilst also preserving residential amenity. As such, the proposed development is considered to be generally acceptable in accordance with the aims of Policies 26 and B1, despite some tension with the proposed Class 3 uses.

### **Drive-through café / restaurant (sui-generis / Class 3)**

Café / restaurant unit no. 2 (southernmost) is proposed to incorporate a 'U'-shaped drive-through lane that would surround the building's northern, southern and western elevations. The occupier of the proposed unit is not known at this stage, but the drive-through lane would allow for food and/or drink (potentially including hot food), to be ordered by, and served to, customers in vehicles, who would not be required to leave their cars or to enter the unit to sit in the café or purchase takeaway goods.

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

*d) Drive-through developments will only be supported where they are specifically supported in the LDP.*

The ALDP does not have any policies specific to drive-through developments, nor is there any reference made in the document to such developments, or any land allocated for such uses on the Proposals Map. As such, the proposed café / restaurant drive-through at Unit 2 is contrary to Policy 27(d) of NPF4.

Whilst there is no reasoning given in NPF4 for the presumption against drive-through developments set out Policy 27(d), the text in relation to Local Development Plans associated with Policy 27 states that LDPs should consider and, if appropriate, identify areas where drive-through facilities may be acceptable, where they would not negatively impact on the principles of local living or sustainable travel. Further, the 'Policy Intent' of Policy 27 is: *'To encourage, promote and facilitate development in our city and town centres, recognising they are a national asset. This will be achieved by applying the Town Centre First approach to help centres adapt positively to long-term economic, environmental and societal changes, and by encouraging town centre living.'*

The [Chief Planner's letter of February 2023](#) seeks to provide further clarity on the matter, stating that Policy 27(d) of NPF4 is not a 'ban' on drive-throughs, but rather requires planning authorities to give careful consideration to where they may or may not be acceptable. The letter states:

*'In applying policy 27(d) and whether such developments are supported, planning authorities may regard wider uses that are compatible with the drive through function to be included, as there is no single class of development that this relates to and may sometimes be considered as sui generis. Suitable locations may include for example those allocated for Class 1 shops or Class 3 Food and drink, depending on the nature of the proposal involved in each case. In looking at the potential impact of the development as a whole, as always, decisions will depend on the facts and circumstances of each individual case and regard should be given to wider policies within NPF4, including those relating to reducing emissions that contribute to climate change and to wider policies that aim to improve town centres and support local living.'*

Whilst the Class 3 units would, for the reasons set out in the Transport and Accessibility section of the evaluation below, be accessible by sustainable and active modes of transport, and would be located within a 20 minute walk or cycle of a significant number of residential properties in Dyce and Stoneywood, thus complying with the aims of Policy 15 (Local living and 20 minute neighbourhoods) of NPF4, the proposed incorporation of a drive-through lane for one of the units demonstrates that the intention would be for a potentially significant number of customers to access the site by car.

Whilst it is likely that a portion of customers for the proposed Class 3 uses may already be passing the site, thus not generating any new vehicular trips, it is reasonable to assume that the Class 3 uses would also attract customers who would access the site by car, as a destination in itself. Additionally, whilst some customers of the two Class 3 units may access the site by electric vehicle, and purchase food & drink whilst waiting for their car to charge, it is clear that such customers would neither need, nor be likely, to use the drive-through lane given their car would be charging for a period of between approximately 20 and 40 minutes. Therefore, it is anticipated that the vast majority of cars using the drive-through lane would likely be either petrol or diesel powered.

The provision of a drive-through lane would encourage people to access the site by car, contrary to the aims of Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP. Furthermore, the increase in private vehicle trip generation associated to the drive-through, combined with the likelihood of cars idling when queued at peak times, would not minimise lifecycle greenhouse gas emissions or encourage development that addresses the global climate emergency and nature crises, contrary to the aims of Policies 1 (Tackling the climate and nature crises) and 2 (Climate mitigation and adaptation) of NPF4. It is also considered that the proposed Class 3 units could operate (and support the useability and viability of the proposed EV charging hub) without requiring a drive-through lane.

Therefore, the proposed drive-through lane is not compliant with the aforementioned policies and there are no material considerations that would otherwise warrant the approval of the drive-through aspect of the proposals, which is contrary to Policy 27(d) of NPF4.

### **Impact on the City Centre and Dyce District Centre**

The application site does not lie within any defined commercial centre, being 7km from the city centre and approximately 800m to the south of the Dyce District Centre on Victoria Street. The relatively small scale of the development is such that the Class 3 units would not serve a regional catchment area, therefore they are not required to be sequentially located in the city centre, and their operation would not detract from the vitality or viability of the city centre. Additionally, the Class 4 units and EV charging hub are acceptable and compatible with the business and industrial land use zoning and would not be expected to be located in a commercial centre. However, the two Class 3 units would be of a scale that would serve the surrounding Dyce and Stoneywood areas and their impact on the Dyce District Centre, and consideration as to whether they could be located in that centre, requires to be assessed.

In this regard, Policy 27 (City, Town, Local and Commercial Centres) of NPF4 promotes a Town Centre First approach to help commercial centres to adapt positively to long-term economic, environmental and societal changes. It states:

*b) Development proposals will be consistent with the town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces:*

- i. will be supported in existing city, town and local centres, and*
- ii. will not be supported outwith those centres unless a town centre first assessment demonstrates that:*
  - all centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable;*
  - the scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre; and*
  - the impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.*

Policy VC9 (Out of Centre Proposals) of the ALDP takes a similar approach to Policy 27 of NPF4, noting that 'all significant footfall generating development appropriate to designated centres, when proposed on a site that is out-of-centre, will be refused planning permission if it does not satisfy all of the following requirements:

- 1. no other suitable site is available or likely to become available in a reasonable time in a location that is acceptable in terms of the sequential approach;*
- 2. there will be no significant adverse effect on the vitality or viability of any existing centres in the network of centres;*
- 3. there is in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed;*
- 4. it would be easily and safely accessible by active travel and regular, frequent and convenient public transport services which link with the catchment population and would not be heavily dependent solely on access by private car;*
- 5. it would have no significantly adverse effect on travel patterns and air pollution; and*
- 6. there would be no adverse environmental concerns due to the proposal.*

The proposed Class 3 uses are assessed against each of the criteria set out in Policies 27(b) and VC9 as follows:

*All centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable*

In accordance with the requirements of Policy 27, the applicant has submitted a Town Centre First Assessment undertaken by a local chartered surveyor. The assessment advises that other locations closer to the centre of Dyce were explored but ultimately no suitable opportunities were identified, with various sites discounted for several reasons, including insufficient site size, being currently occupied, and not being as accessible or visible to passing traffic.

The Planning Authority acknowledges that the majority of commercial units in the Dyce District Centre are both occupied at present and would nevertheless be too small to host the intended Class 3 uses in any case (largely comprising very small units on the ground floor levels of buildings of a domestic scale). However, the Planning Authority is aware of a vacant former bank (Class 1A) unit at 99 Victoria Street which would appear to be capable, with conversion, of hosting a Class 3 use of the approximate size (248sqm) proposed for the application site.

*The scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre*

As above, the Planning Authority is aware of a vacant former bank premises at 99 Victoria Street, which is of a similar footprint to the Class 3 units proposed and would appear to be capable of conversion to such a use. The vacant unit at 99 Victoria Street also has a private off-street car

parking area to the rear where an EV charging hub could potentially be sited, providing charging facilities for a reasonable number (c. 10 to 15) of electric vehicles. A charging hub in this location, at the heart of the commercial centre, would also allow for potential spin-off passing trade to other commercial uses in the area.

It is acknowledged, however, that even with appropriate conversion to Class 3 use, 99 Victoria Street would neither be able to host an EV charging hub with as many spaces as the application site (24), nor would it be able to host two Class 3 units of the size proposed for the application site. It would not be possible to incorporate a drive-through lane at 99 Victoria Street, given the constrained nature of the site, but since the drive-through aspect of the proposals is not considered to be acceptable it is not necessary to ensure that it could be provided within the Dyce District Centre.

*The impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.*

Although, as noted above, the Planning Service considers that there is one vacant unit in the Dyce District Centre which would appear to be capable of hosting one of the two Class 3 units proposed for the application site, with some reasonable alterations, it is also pertinent to assess what impact the proposed development would have on the Dyce District Centre, if approved. In this regard, it is noted that there is just one existing food & drink use (or hot-food takeaway) situated within the Dyce District Centre, as defined in the ALDP Proposals Map: the Dunavon House Hotel – which has a licenced bar and restaurant. The vast majority of commercial uses are in Class 1A (including Tesco, Premier, Aberdein Considine, Costcutter and Dickies Pharmacy).

It is considered that although the tenants have not yet been confirmed for the two proposed Class 3 units on the application site, it is likely that given the nature of the units, they would provide a different food & drink offering to that of the Dunavon House Hotel, and would thus not be likely to result in any significant reduction in custom for the hotel's restaurant. Given the absence of any other food & drink uses or hot-food takeaways in the Dyce District Centre, the Planning Authority is satisfied that the harm caused to the vitality and viability of the centre, were the application to be approved, would be minimal.

Whilst there is a Greggs (Class 1A and 3) and a Dominos (hot-food takeaway) situated in a converted former bank building on Burnside Road, those premises are not within the Dyce District Centre.

*No other suitable site is available or likely to become available in a reasonable time in a location that is acceptable in terms of the sequential approach*

As above.

*There will be no significant adverse effect on the vitality or viability of any existing centres in the network of centres*

As above.

*There is in qualitative or quantitative terms, a proven deficiency in provision of the kind of development that is proposed*

As above, there are no food & drink uses in the Dyce District Centre other than the Dunavon House Hotel restaurant, which would likely provide a different offering to the two Class 3 units proposed. Although there is a Greggs and Dominos nearby on Burnside Road, they do not lie within the defined

centre and those uses (Dominos in particular) are also likely to provide a different type of food & drink offering to the proposed units. There is a general lack of Class 3 uses in both the Dyce District Centre and the surrounding area.

*It would be easily and safely accessible by active travel and regular, frequent and convenient public transport services which link with the catchment population and would not be heavily dependent solely on access by private car*

The proposed development would be easily and safely accessible by active travel and by frequent bus services along Stoneywood Road. The development would not be heavily dependent solely on access by private car, although the drive-through lane would encourage car use as per the foregoing section of the evaluation.

*It would have no significantly adverse effect on travel patterns and air pollution*

The proposed development would not be likely to have any significant adverse effects on travel patterns although as noted above, the drive-through lane aspect of the proposals would encourage car use, which would not minimise greenhouse gas emissions.

*There would be no adverse environmental concerns due to the proposal.*

The application site is a brownfield site and its proposed redevelopment does not raise any adverse environmental concerns (in relation to trees, protected species and natural heritage). As such, the proposals do not conflict with Policy VC9 of the ALDP.

#### Summary of impacts on Dyce District Centre

Although the applicant has submitted a Town Centre First Assessment, in accordance with Policy 27 of NPF, and its findings are generally accepted by the Planning Service, it is considered that there is one vacant unit in the Dyce District Centre that could potentially be converted to host one of the two Class 3 units proposed for the application site. However, it is acknowledged that even with the repurposing of that site, it would not be capable of hosting an EV charging hub of the scale proposed, nor the two Class 3 units proposed, which the applicant advises are necessary to make the EV charging hub viable. As such, and combined with the general absence of existing food & drink uses within the centre that could otherwise be adversely affected by the proposed development, it is considered that the proposed Class 3 units would not adversely affect the vitality and viability of the Dyce District Centre to any significant degree, in general compliance with the aims of Policy 27 of NPF4 and Policy VC9 of the ALDP. The development would also provide new food & drink options for a significant number of potential customers (residents and businesses) within a 20-minute walk of the application site, which is consistent with the aims of Policy 15 of NPF4 in relation to local living and 20-minute neighbourhoods.

#### **Re-use of brownfield land and empty buildings**

Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 is supportive of the sustainable reuse of brownfield land, including vacant and derelict buildings, with demolition regraded as the least preferred option, given the need to conserve embodied energy. Policy 12 (Zero Waste) of NPF4 notes that development proposals will be supported where they reuse existing buildings and infrastructure, minimise demolition and salvage materials for reuse.

The proposed development would include the demolition of the existing modern (c. mid-to-late 20<sup>th</sup> century) office building, which has lain vacant for several years and as a result, the building has



deteriorated over time and is no longer fit for use unless it were to be fully refurbished and modernised at substantial cost. However, even if the building were to be retained and refurbished to allow its previous Class 4 office use to resume, as mentioned above, there is very little demand in Aberdeen for office space at present and the costly refurbishment of the building for office use would thus come with significant risk to the owner.

As such, the owner of the site has explored various different options for the redevelopment of the site, including the retention and conversion of the existing building for residential-led mixed use, for which planning permission was granted in 2021 – but market conditions have meant that permission has not been implemented. Taking into consideration the lack of viable new uses for the existing building, even if refurbished to a modern standard, combined with the ability of the owner to demolish the building utilising permitted development rights, it is considered that whilst not the preferred and sustainable approach as set out in Policy 9 of NPF4, the requirement to demolish the existing building has been appropriately justified.

Although the applicant proposes to demolish the building, they have advised that they are committed to salvaging and either reusing or recycling as much of the materials in the existing building as possible and they have evidenced this in a Pre-Deconstruction Audit. The audit concludes that approximately 8% of the building's materials could be reused or recycled, which is considered appropriate given the makeup of the building, which largely consists of the concrete foundations and floor slabs. The intention to reuse and recycle downtaken materials is welcomed, in accordance with the aims of Policy 12 of NPF4.

### **Tackling the climate and nature crises, and climate mitigation & adaptation**

Policy 1 (Tackling the Climate and Nature Crises) and Policy 2 (Climate Mitigation and Adaptation) of NPF4 require significant weight to be given to the global climate and nature crises when considering all development proposals and require development proposals to be sited and designed to minimise lifecycle greenhouse gas emissions.

The proposed demolition of the existing derelict office building and the erection of new buildings on the site, whilst not the preferred approach in relation to addressing climate change, is nevertheless considered to be acceptable, on balance, for the reasons set out in the above section of the evaluation on "Re-use of brownfield land and empty buildings". Although the embodied carbon in the existing building would be lost and new carbon emitted in the construction of the new buildings, the new buildings would at least be constructed to meet the current, more stringent, building regulations and, including the incorporation of low & zero carbon technology (if approved), the new buildings could suitably minimise lifecycle greenhouse gas emissions in relation to heating and cooling.

However, as set out above, it is considered that the proposed incorporation of a drive-through lane for one of the Class 3 units would not sufficiently reduce and minimise traffic generated – particularly unsustainable private vehicle trips in predominantly fossil-fuel powered cars – contrary to the aims of Policies 13 of NPF4 and T2 of the ALDP. It is reasonable to expect that the drive-through lane would result in an increase in private vehicle trips to the Class 3 use to which it would be associated, when the site is otherwise accessible via sustainable and active modes of transport. Such an increase in private vehicle trips (and vehicles idling while queued) would increase carbon emissions and would not minimise lifecycle greenhouse gas emissions as required by Policy 2 of NPF4. The increase in emissions during the operation of the proposed use (which could function without a drive-through lane) would thus also be contrary to Policy 1 of NPF4, the policy intent of which is: *'To encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.'*

## Community wealth building

Policy 25 (Community Wealth Building) of NPF4 is supportive of development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities. This can include increasing spending in communities and local job creation.

The proposed development would redevelop the existing vacant office site to form four new Class 4 business units and two new Class 3 food & drink units, all of which would create or sustain jobs in both the demolition/construction process and the operational phase. The proximity of the site to local businesses and housing would also likely result in increased spending within the Dyce and Stoneywood communities and the proposals are therefore compliant with the aims of Policy 25 of NPF4.

## Impacts on amenity

In addition to the aforementioned requirements of Policies 26 and B1 in relation to the protection of residential amenity from new uses in business and industrial areas, Policy 23 (Health and Safety) of NPF4 and Policy WB3 (Noise) of the ALDP both state a presumption against noise generating developments where they would cause significant harm to the amenity of noise sensitive uses such as housing.

In relation to noise, the applicant has submitted a Noise Impact Assessment (NIA) which assesses the impacts of the various types of noise emissions that would arise during the operational phase of the proposed development, which could impact upon the amenity of the two residential dwellings which lie immediately to the south of the application site. The NIA highlights that noise emissions from mechanical plant for the new buildings, from customers of the Class 3 / drive-through units, and from the customer order intercom for the drive-through could cause disturbance to residential amenity and thus require to be mitigated. The NIA does note, however, that the application site lies within an area that already experiences a relatively high level of ambient background noise, particularly due to passing road traffic on Stoneywood Road, and passing air traffic both taking off and landing at Aberdeen International Airport (the site lies within the noise contours for the airport). It is also anticipated that there would not be any significant noise emissions resulting from the operations of the four Class 4 units. Whilst the occupiers of those proposed units are not known, Class 4 uses are, by definition, uses *'which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.'*

The Council's Environmental Health Service have reviewed the NIA and accept its findings, subject to the implementation of the mitigation measures recommended within it. The Environmental Health Service also note that due to no end-users of the Class 3 / drive-through units having been identified at this stage, a condition would be necessary to ensure that the noise emissions of the mechanical plant equipment for those units would not exceed the octave band levels detailed in sections 6.2.1 and 6.2.2 of the NIA. Such measures would ensure protection of residential amenity from any new plant equipment.

The Environmental Health Service also request that, in the event that the application is approved, a condition is attached which restricts the operation of the Class 3 / drive-through units to between 6am and 11pm Monday to Saturday and 7am and 11pm on Sunday, with the Class 4 units restricted to between 6am and 6pm, seven days a week.

In relation to external lighting, no details have been submitted by the applicant. However, it is

considered that, were the application to be approved, a condition could be attached to any permission which would require the submission of external floodlighting details for the development. It is also considered likely that, subject to details, an appropriate scheme for the artificial lighting of the development during hours of darkness could be achieved, without detriment to the amenity of the two neighbouring residential properties to the south. In this regard it is noted that there are existing floodlighting columns positioned along the mutual boundary and that the retention of existing southern boundary landscaping, complemented with some new tree planting, would provide some additional screening between the properties.

The Planning Service is not supportive of the application for the aforementioned conflicts with other relevant policies, therefore no conditions are required, but it is considered that if the application were to be approved, relevant conditions could be attached to any permission in relation to the application of the various mitigation measures set out in the NIA, details of the plant equipment, lighting and the opening hours of the new uses.

### Other impacts on amenity

Aside from noise emissions, the proposed development would not have any other significant impacts on residential amenity, with all of the new buildings proposed to be single storey in height and would be set a reasonable distance (at least c. 15m) away from the mutual southern boundary which is shared with the curtilages of two residential dwellings. All existing trees adjacent to the southern boundary would be retained and supplemented with additional trees and shrubs to be planted in an enlarged green buffer space between the southern boundary and the proposed car parking area. As such, the proposed development would result in a net betterment compared to the existing situation, in terms of the proximity and scale of buildings and the provision of boundary soft landscaping and visual screening.

In relation to cooking odours from the two food & drink units, the Environmental Health Service have advised that odour assessments will be required for each of the units once tenants have been confirmed, in order to demonstrate that the cooking odours could be adequately filtered and dispersed without detriment to residential amenity. As with the noise mitigation measures, were the application to be approved then appropriately worded conditions could be attached requiring the submission of such assessments prior to operation.

The Environmental Health Service have also requested conditions in relation to dust management and control during the demolition and construction phases of the development. Again, such conditions could be attached to any permission, if granted.

Therefore, were the application to be approved, it is considered that the proposed development would not have any significant adverse impacts on the amenity currently enjoyed by the two neighbouring residential properties to the south, subject to the application of conditions in respect of noise and odour mitigation, opening hours and dust management. The proposals are thus acceptable in accordance with Policies 23 and 26 of NPF4 and B1 and WB3 of the ALDP.

### **Design and placemaking**

Policies 14 (Design, Quality and Place) of NPF4 and D1 (Quality Placemaking) of the ALDP both seek to ensure that all new development is of a high quality design, appropriate for its context, and requires development to comply with the six qualities of successful places (Healthy, pleasant, connected, distinctive, sustainable and adaptable).

The existing building on the site is not of any particular architectural merit and it does not contribute

positively to the streetscape or the visual amenity of the surrounding area. Its removal and replacement with three new smaller, single-storey buildings, albeit of a largely utilitarian design (particularly the Class 4 units), would have a relatively negligible impact on the character and visual amenity of the surrounding area and could result in a net betterment. The retention of the majority of the existing established trees and soft landscaping along the western boundary to Stoneywood Road, combined with additional new tree planting and soft landscaping elsewhere in the site, would also ensure that the site would maintain a healthy and pleasant outward appearance. The proposed development is generally compliant with the majority of the six qualities of successful places, although it would not particularly promote active travel and reduce car dependency, as required by the 'connected' quality. Furthermore, the drive-through lane would surround the Unit 2 Class 3 building with tarmac (and vehicles, when in use) on three sides. The drive-through lane would take up space within the site that could otherwise be used to create a more welcoming, attractive and less car-dominated layout (i.e. for outdoor seating, additional pavement space and/or areas of soft landscaping). Nevertheless, on balance the proposed development is considered to be generally compliant with the aims of Policies 14 of NPF4 and D1 of the ALDP, despite some tension in relation to the drive-through lane aspect of the proposals.

### **Transport and accessibility**

Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP are both supportive of developments that would be accessible via sustainable and active modes of transport, whilst Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 is supportive of development proposals that would contribute to local living, creating connected and compact neighbourhoods where people can meet the majority of their daily needs within reasonable distance of their home, preferably by sustainable and active modes of travel. Policy 13 of NPF4 and Policy T3 (Parking) of the ALDP are also supportive, in principle, of proposals for electric vehicle charging infrastructure.

The site lies in a sustainable and accessible location, at the northern edge of Stoneywood and within relatively easy walking and cycling distance of the majority of Dyce. The site also lies immediately adjacent to Stoneywood Road, which is served by frequent public transport (bus) services, with the nearest bus stops within 100m of the site. The site is also well connected in terms of pedestrian infrastructure, with the adopted footpath network running alongside Stoneywood Road, connecting the site with significant amounts of housing to both the north and south, along with business and industrial uses to the east on Stoneywood Park.

The proposed development would therefore be capable of being accessed sustainably, including by a significant number of local residents in the Dyce and Stoneywood areas, which is compliant with the aims of Policies 15 of NPF4 and T2 of the ALDP. The proposed formation of an EV charging hub, which the applicant advises would be fuelled by renewable energy, is also fully compliant with the aims and requirements of Policies 13 of NPF4 and T3 of the ALDP.

However, the proposed development would, in addition to the EV charging hub, incorporate a reasonable amount of car parking, as well as a drive-through lane for one of the Class 3 units. For the aforementioned reasons set out above, the incorporation of the drive-through lane would encourage customers of the Class 3 / drive-through unit to access the site by car and would not sufficiently minimise the amount of traffic generated, thus the proposed drive-through is contrary to the aims and requirements of Policies 13 of NPF4 and T2 of the ALDP.

Aside from the drive-through, the Council's Roads Development Management (RDM) team have reviewed the proposals and are satisfied that sufficient car parking would be provided, and also that, following revisions by the applicant including the removal of the drive-through lane for

Café/restaurant unit 1, the internal roads layout would be satisfactory in terms of roads and pedestrian safety. The applicant's Transport Assessment notes that the proposed development would result in some increase in traffic during the AM and PM peak hours compared with the existing, authorised use for the site, however the increase would be relatively minor, with an estimated additional vehicle using the site access every 77 seconds. As such the development would not have any significant net detriment on the existing road network in terms of traffic at peak times. The RDM team have requested that, should the application be approved, conditions are attached requiring the incorporation of tactile paving at all pedestrian crossings within the site, to safeguard visually impaired pedestrians, and requiring the submission and approval of a Travel Plan, to encourage staff members to access the site sustainably.

## **Drainage**

Policy 22 (Flood Risk and Water Management) of NPF4 and Policy NE4 (Our Water Environment) of the ALDP both require new developments to not be at any significant risk of flooding, and to ensure that they would be appropriately drained, thus not increasing the risk of flooding to adjacent properties.

The site is located approximately 450m to the west of the River Don, on higher ground, and SEPA's flood maps demonstrate that the application site is not at any significant risk of flooding (river, coastal or surface). The applicant has submitted a Drainage Impact Assessment (DIA) which notes that the new roads, footpaths and roof areas would be drained via private surface water drains and gullies to attenuation storage systems comprising of on-site underground geocellular crates.

The foul drainage associated to the Class 3 and Class 4 buildings would be connected into the existing Scottish Water foul sewer in the southern portion of the site. Scottish Water have confirmed there is sufficient capacity in the existing foul water sewer system to accommodate the development.

The Council's Roads Development Management team have reviewed, and accept the findings of, the applicant's DIA. As such, the development would neither be at any significant risk of flooding, nor would it increase the risk of flooding to any neighbouring properties, in accordance with the requirements of Policies 22 of NPF4 and NE4 of the ALDP.

The applicant has also taken care to ensure that there is no built construction either directly above, or in close proximity to, existing Scottish Water infrastructure that runs on an east-west axis through the southern portion of the site.

## **Historic Environment**

Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland and Policy D6 (Historic Environment) of the ALDP all require new development to either preserve or enhance the historic environment, including archaeological remains. Whilst the application site is neither situated within a conservation area, nor contains any listed buildings, the route of the former Aberdeenshire Canal runs immediately adjacent to the eastern boundary of the site. However, the Council's Archaeology Service have advised that, taking into consideration the results of trial trenching undertaken in 2013 on the canal remains, no further archaeological works are required in relation to the proposed development. The proposals are therefore acceptable in accordance with Policies 7 and D6, as well as HEPS.

## **Trees and soft landscaping**

Policy 6 (Forestry, Woodland and Trees) of NPF4 and Policy NE5 (Trees and Woodland) of the

ALDP both seek to protect existing forests, woodland and trees, with the impacts of development on existing trees required to be avoided where possible and mitigated where adverse impacts are unavoidable. Policy D5 (Landscape Design) of the ALDP requires developments to be designed with an effective, functional and attractive landscape framework.

The proposed development has predominantly been designed and sited with due consideration for the presence of existing trees such that the majority of trees on the site at present would be retained and their long-term health not significantly affected by incursions into their root protection areas. Although some established trees are proposed for removal, a significant amount of replacement planting is proposed, along with other soft landscaping, including the formation of new areas of grass and shrubs where there is hard-landscaped car parking. On balance, whilst there would be some trees removed, the majority of the established trees which contribute towards the character and visual amenity of the area would be retained, and the proposals are thus considered to be compliant, on balance, with the aims of Policies 6 of NPF4 and NE5 of the ALDP. The new areas of tree planting and soft landscaping are also generally acceptable in accordance with the aims of Policy D5 of the ALDP and whilst care would need to be taken to ensure that any new planting would be of an appropriate species to avoid attracting birds, which could harm the safe operations of the nearby airport, such details could be conditioned, were the application to be approved.

### **Biodiversity**

Policy 3 (Biodiversity) of NPF4 requires development proposals to minimise impacts on existing biodiversity, nature networks and the natural environment through careful planning and design, and requires proposals for local development to conserve, restore and enhance biodiversity, with measures taken to be proportionate to the nature and scale of development.

Although some new tree planting and other soft landscaping is proposed, this would largely be to mitigate against the removal of existing, established trees on the site. In order to ensure that there would be a net gain (enhancement) of localised biodiversity on the site, further proposals incorporating benefits for nature should be provided as part of a detailed landscaping schedule and maintenance plan but these could be secured by condition, if the application were to be approved. As such, the proposals are considered to be generally compliant with the aims of Policy 3 of NPF4.

### **Natural heritage**

Policy 4 (Natural Places) of NPF4 and Policy NE3 (Our Natural Heritage) of the ALDP both see to ensure that any impacts on protected species resulting from new development would be minimised and mitigated wherever possible. Due to the proposals to demolish the existing building and to fell several existing established trees, the applicant has submitted a Preliminary Bat Roost Assessment, in order to ascertain whether there are any bats or bat roosts present on the site that may be affected by the proposed development.

The Bat Roost Assessment found no evidence of bats in either the existing building or the trees proposed for removal, with both considered to have negligible bat roost potential. The assessment has been reviewed and its findings accepted by the Council's Environmental Policy team. No other protected species are known to be present on the site. As such, the proposals would not adversely affect any protected species, in accordance with Policies 4 of NPF4 and NE3 of the ALDP.

### **Waste Management**

Policy 12 (Zero Waste) of NPF4 and Policy R5 (Waste Management Requirements for New Developments) of the ALDP both require suitable provision in new developments for the appropriate

storage and collection of many waste and recyclables generated by the development.

Designated bin stores are proposed within the site for the Class 4 business units and the two Class 3 restaurant / hot-food takeaway units. The internal road layout is considered to be acceptable to the Roads Development Management team and they are satisfied that any bins stored on the site would be capable of collection by private business waste contractors. As such, the proposals are compliant with the requirements of Policies 12 of NPF4 and R5 of the ALDP.

### **Health and safety – major hazards**

Policy 23 (Health and Safety) of NPF4 states:

- i) Any advice from Health and Safety Executive, the Office of Nuclear Regulation or the Scottish Environment Protection Agency that planning permission or hazardous substances consent should be refused, or conditions to be attached to a grant of consent, should not be overridden by the decision maker without the most careful consideration.'*

Policy B6 (Pipelines, Major Hazards and Explosive Storage Sites) of the ALDP states:

*'Where certain types of new development are proposed within the consultation zones of pipelines, major hazards and explosive storage sites, or within 1 kilometre of an operational quarry, the Council will consult the Health and Safety Executive (HSE) to determine the potential risk to public safety. The Council will take full account of the advice from the HSE in determining planning applications.'*

The majority of the application site lies within the 'outer' HSE consultation zone for the Calor Gas site situated approximately 200m to the west, on Wellheads Place, with the westernmost portion of the application site lying within the 'middle' consultation zone.

Following consultation with the Health and Safety Executive via their online planning advice web app, HSE do not advise against the granting of planning permission for the proposed development. The proposals are therefore acceptable in accordance with the requirements of Policies 23 of NPF4 and B6 of the ALDP.

### **Aberdeen International Airport**

The application site lies approximately 400m to the east of the eastern boundary of Aberdeen International Airport, and 600m to the east of the main runway. Policy B3 (Aberdeen International Airport and Perwinnes Radar) of the ALDP requires consultation with the airport for any development within safeguarded areas identified on the airport safeguarding map or the Perwinnes Radar safeguarding map.

Whilst the proposed development would be sufficiently small-scale in terms of height to ensure that the new buildings would not affect aircraft safety or radar operations, the airport were consulted due to the potential for new soft landscaping to attract birds to the site, which could pose an increased risk of bird strikes to aircraft. The airport does not object to the application but has requested that no more than 5% of the total number of new shrubs and trees to be planted would be of a species listed on a prescribed list produced by the Civil Aviation Authority (CAA) – in order to minimise the risk of bird strikes. The proposed landscaping scheme has been reviewed and is found to be acceptable in accordance with the CAA guidance, therefore the proposals would not affect the safe operations of the airport and are acceptable in accordance with Policy B3 of the ALDP.

### **Contaminated Land**

Policy 9 (Brownfield, vacant and derelict land and empty buildings) of NPF4 and Policy R2 (Degraded and Contaminated Land) of the ALDP both require land known or suspected of being contaminated to be appropriately remediated and made safe and suitable for any new use. The Council's Contaminated Land team advise that the site was undeveloped until the erection of the existing office building and associated car park in the mid-to-late 20<sup>th</sup> century. As such, the current use is commercial rather than industrial, which is unlikely to have resulted in any significant contamination of the land. The proposed use of the site following redevelopment would also be commercial, rather than residential, therefore it would be less sensitive to the presence of any contamination. No conditions are considered to be necessary in this instance, although were the application to be approved then the Contaminated Land team have requested an advisory note for the applicant to be aware of, requesting that the developer contact the Planning Authority as soon as possible should any ground contamination be discovered during the development. As no significant contamination is anticipated, the proposals are acceptable in accordance with Policy 9 of NPF4 and R2 of the ALDP.

### **Low and zero carbon buildings & water efficiency**

Policy R6 (Low and Zero Carbon Buildings and Water Efficiency) of the ALDP requires that all new buildings must meet a proportion of the carbon emissions reduction standard applicable at the time of the application through the installation of low and zero carbon generating technology, and that water saving technologies are introduced to reduce the pressure on water abstraction from the River Dee. Information evidencing compliance with Policy R6 for the new buildings could be conditioned were the application to be approved, therefore it is considered that the proposals are compliant with Policy R6 of the ALDP.

### **Air Quality**

Policy 23(d) (Health and Safety) of NPF4 states that development proposals that are likely to have significant adverse effects on air quality will not be supported, whilst Policy WB2 (Air Quality) of the ALDP states that 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.

The proposed development would be accessible by car, and would have 42 parking spaces, in addition to 24 EV charging bays, as well as the drive-through lane associated to Unit 2. As set out in the applicant's Transport Assessment, there would be an increase in the number of vehicular trips associated to the development compared with the authorised office use of the site, particularly in the early afternoon periods (based on café use). However, whilst there would be an increase in vehicular trips (and idling of cars whilst queued for the drive-through), with associated exhaust emissions which could be harmful to air quality, the following factors are relevant in this instance:

- The application site does not lie within, or in close proximity to, an air quality management area and would thus not exacerbate existing localised air quality issues; and
- The EV charging bays would all be used by electric vehicles, which would not produce exhaust emissions linked to air quality issues as is the case for petrol and diesel vehicles.

Therefore, although the proposed development would likely result in some increase in vehicular emissions compared with the existing situation, it is considered that any such increase would not be sufficient to result in any significant impact upon localised air quality, particularly given the site and surrounding area do not currently experience any significant air quality issues at present. The proposed development is thus generally compliant with the requirements of Policies 23(d) of NPF4



and WB2 of the ALDP.

### **Community Council comments**

The Dyce and Stoneywood Community Council are supportive of the application and consider it to be compliant with Policies B1, D1, NE5, VC8, T2 and C11 of the ALDP. They did request that the southern boundary of the site is suitably screened to minimise any negative impacts on residential amenity and this has been secured, via the retention of existing trees and the incorporation of new tree planting and other landscaping to the southern boundary in amended plans. The Community Council also requested that as many of the EV charging bays as possible are accessible for disabled drivers. Two purpose-built disabled bays would be provided out of the 24 in total, which is considered by the Roads Development Management team to be acceptable.

### **Matters raised in representations**

The comments made in representations received in support of the application (1 to 8) are noted and addressed in the foregoing evaluation.

In relation to the concerns raised in comments 9 to 25, these are addressed as follows:

9. *The development would increase congestion, air pollution and noise for residents and walking/cycling commuters*

Response: These matters are addressed in the foregoing sections of the evaluation.

10. *Despite the need for EV charging operators to have access to ancillary services such as drive-throughs, without commercial agreements in place with tenants, those buildings could remain unfinished and become an eyesore/magnet for increased anti-social behaviour;*

Response: The potential for the new buildings to be constructed and then sit vacant, to the detriment of the area and with potential ramifications for increased anti-social behaviour, is not a material planning consideration. Nevertheless, it is unlikely that the buildings (particularly the Class 3 units) would be constructed without any end-users lined up.

11. *Greater consideration should be given to the inevitable light pollution resulting from a 24 hour operation of this size and no details of lighting have been submitted;*

Response: Whilst no details of artificial external lighting have been submitted, were the application to be approved then such details could be required by condition and it is considered likely that any external lighting could be designed and sited to ensure no significant adverse impact to residential amenity. Similarly, were the application to be approved, then a condition would also be attached restricting the hours of operation of the development (to no later than 11pm on any given day).

12. *The application cites a lack of EV charging in the local area and a growing demand for such facilities but no evidence has been provided to support this (and there is a public EV point nearby at BP on Wellheads Road. There is a concern that the EV charging facility could sit unused, subject to a lack of maintenance and repair.*

Response: The provision of EV charging facilities is acceptable, in principle, in accordance with multiple policies of NPF4 and the ALDP as set out in the foregoing evaluation, and the EV charging hub is considered to be generally acceptable in accordance with the character

of the B1 land use zoning of the ALDP. There is no policy requirement in relation to overprovision of EV charging facilities or assessing existing provision nearby. Reference to the charging hubs sitting unused, with subsequent maintenance and repair issues, is not a material consideration.

13. *Policy 27 of NPF4 only supports drive-throughs where they are specifically supported in the local development plan. This discord has not been addressed by the applicant;*

Response: This is addressed in the above evaluation.

14. *Why is the drive-through element necessary if the aim is to support the adjacent new business starter units?;*

Response: The drive-through lane is proposed to be associated to one of the Class 3 (food & drink) units, and would not have any relationship with the proposed Class 4 business units.

15. *Why are business units proposed when the applicant states there is no interest in the continued business use of the existing building? Conditions are needed to ensure that the business units are in use before the drive-throughs are built, otherwise there is no guarantee they will ever be developed.*

Response: There is no interest in the continued or resumed business use of the existing office building for a multitude of reasons, not least the age, condition and scale of the building and the current low level of demand for office accommodation in the city. The proposed Class 4 units would be much smaller and would target a different scale and type of business use – particularly small independent businesses and start-ups, most likely for non-office use. In relation to the need for conditions to require the business units to be constructed prior to the Class 3 units, there is no planning reason or necessity for the business units to be delivered prior to the Class 3 units (or indeed at all), therefore such a condition would not meet the requirements of the six tests for planning conditions and would not be competent.

16. *Similar planning applications were viewed as departures from the local development plan strategy, specifically 210015/DPP, which noted food & drink uses as not being in line with Policy B1.*

Response: The proposed Class 3 uses, as with the proposed Class 3 / drive-through uses approved in planning permission 210015/DPP, would constitute a departure from the site's B1 zoning in the ALDP, if approved.

17. *The applicant hasn't justified the out-of-centre location, contrary to the town centre first approach advocated in NPF4. Have other 'in-centre' sites been considered?*

Response: This is addressed in the foregoing evaluation.

18. *Hot-food takeaways with frying food would not be ok adjacent to the neighbouring houses*

Response: The end-users of the proposed Class 3 units are not known at the time of writing. However, as per the Council's Environmental Health Service's comments, were the application to be approved then Odour Impact Assessments would be required for each unit, in order to ensure that any cooking activities would not harm the amenity of nearby residents

in terms of malodours. Given the separation distance between the properties it is considered likely that sufficient odour mitigation measures could be secured by condition.

19. *The developers should limit the EV charging bays to cars only (not larger e-vehicles)*

Response: Any use of the EV charging bays by larger vehicles would be a matter for the applicant / operator to address and not a specific planning matter but nevertheless, the design and layout of the EV charging hub should ensure that it would be unlikely to be used by larger vehicles.

20. *All, or at least some, of the EV charging bays should conform to PAS 1899 guidance on accessibility for those with disabilities*

Response: Three of the EV charging bays have been designed for use by those with disabilities, which is acceptable to the Roads Development Management Team. Any further statutory requirements for disabled EV charging bays (if applicable) would be addressed through the building warrant process.

21. *The demand for drive-through restaurants is queried, with empty drive-through units available at the Haudagain retail site*

Response: There is no policy requirement for existing provision, or overprovision, of drive-throughs in the surrounding area to be assessed.

22. *Is there any precedent or regulation of such a large-scale EV charging hub in close proximity to a residential area? The safety aspect is a concern.*

Response: The potential safety aspects of EV charging hubs are covered by separate legislation and are not a material planning consideration.

23. *There would be significantly more noise from vehicular and pedestrian traffic than experienced at present, to the detriment of residential amenity, and operating times and refuse collection are a concern.*

Response: Whilst it is appreciated that there would likely be an increase in noise generated by vehicles and customers compared to the existing situation, with a long-term vacant office building, the nature of the proposed uses is such that the Planning Service is satisfied that noise emissions would not be a significant issue, particularly given no Class 5 or 6 uses are proposed. It is also noted that with the proximity to Aberdeen International Airport, Stonewood Road and the nearby railway line, there is already a high level of background noise in the area, such that any new noise generated by the new development would not significantly alter the existing character of the area in relation to noise. The opening hours could be restricted, to avoid conflict with the more sensitive late evening and early morning periods, were the application to be approved.

24. *The application would be more favourable if established dense evergreen planting tall enough to provide year-round screening to the neighbouring houses to the south were proposed;*

Response: Following amendments to the proposed site layout and landscaping, the existing soft landscaping along the southern boundary is largely proposed to be retained and supplemented with some new tree and shrub planting, which would enhance the existing

level of natural screening along the mutual boundary shared with the neighbouring dwellings.

25. *There is a conflict between various drawings submitted in relation to which existing trees are to be retained and removed.*

Response: There were discrepancies between the drawings initially submitted in relation to which existing trees are proposed to be retained and removed. These matters were addressed, however, via the subsequent submission of amended plans.

## **Conclusion**

The demolition of the existing building, whilst not the preferred approach in terms of sustainability, is considered to be acceptable, on balance, and the erection of a new building to accommodate several Class 4 (Business) units is compliant with the business and industrial land use zoning, as per Policies 26 (Business and Industry) of NPF4 and B1 (Business and Industrial Land) of the ALDP. The proposed EV charging hub is also generally compatible with the business and industrial land use zoning, and is considered appropriate in this location, adjacent to the A947 transport corridor.

The two Class 3 (food & drink) units proposed are not compatible with the requirements of Policy B1 and their approval would thus constitute a departure from the Local Development Plan. However, taking into consideration the oversupply of business and industrial land in the City and Shire as a result of significantly reduced demand for office space in recent years, the context of the site and the scale and form of development proposed, the Planning Service is satisfied that the Class 3 uses (without drive-throughs) could be supported, on balance, as a departure.

It is also considered, again on balance, that the proposed development would not have any significant impact on the vitality and viability of either the City Centre or the Dyce District Centre (being the nearest local commercial centre to the site).

However, the incorporation of a drive-through lane for one of the proposed Class 3 units is contrary to criterion (d) of Policy 27 (City, town, local and commercial centres) of NPF4 which states that drive-through developments will only be supported where they are specifically supported in the Local Development Plan. The Aberdeen Local Development Plan 2023 (ALDP), adopted more recently than NPF4, does not incorporate any policies, land zoning or other guidance in relation to drive-through developments. As such, the drive-through aspect of the proposed development is contrary to Policy 27 of NPF4. In addition to non-compliance with Policy 27 of NPF4, the drive-through would also encourage customers to travel to the site by private car, most likely fossil-fuel powered, and that aspect of the proposed development would thus also not sufficiently minimise travel to the site by private car and would therefore also not minimise greenhouse gas emissions, contrary to the aims and requirements of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation) and 13 (Sustainable transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP.

The applicant states that the Class 3 units are required in order to support the viability of the adjacent EV charging hub (by providing facilities that could be used by customers whilst their cars charge). However, whilst that may be the case, the Planning Service questions that justification in relation to the drive-through aspect of the proposals, given that customers of the EV charging hub would clearly not be able to, nor need to, utilise the drive-through lane whilst their cars are charging. The Planning Service thus considers that the proposed development would be able to successfully function without the inclusion of the drive-through lane, which is contrary to the aforementioned policies.

Therefore, whilst the majority of the proposed development is considered to be generally acceptable in accordance with the relevant policies or, in the case of Policy B1 of the ALDP, on balance despite constituting a departure, the proposed drive-through Class 3 unit is contrary to Policy 27 of NPF4, and it would not minimise private vehicle trips and greenhouse gas emissions, nor encourage sustainable and active travel. The development would be able to function without the drive-through aspect and there are no material considerations that would otherwise warrant a departure from Policies 1, 2, 13 and 27 of NPF4, and Policy T2 of the ALDP. The application is therefore recommended for refusal.

### **RECOMMENDATION**

Refuse

### **REASON FOR RECOMMENDATION**

The proposed development would incorporate a drive-through lane associated to one of the Class 3 units. Policy 27 (City, town, local and commercial centres), criterion (d) of National Planning Framework 4 (NPF4) states that drive-through developments will only be supported where they are specifically supported in the Local Development Plan. The Aberdeen Local Development Plan 2023 (ALDP) has no provision for drive-through developments, therefore the proposed drive-through aspect of the proposed development is contrary to Policy 27 of NPF4.

Furthermore, the proposed drive-through would encourage customers to travel to the site by car, rather than by more sustainable and active modes of transport. Whilst there would likely be a proportion of custom arising from passing trade captured by the drive-through, it is reasonable to expect that the new food & drink drive-through use would also generate new vehicular trips in itself. As such, and given customers of the adjacent EV charging hub would be unlikely to utilise the drive-through lane (instead entering the premises on foot whilst their cars charge), it is considered that the drive-through lane would not be necessary to support the viability of the EV charging hub, would not sufficiently minimise travel to the site by private car and would therefore also not minimise greenhouse gas emissions, contrary to the aims and requirements of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation) and 13 (Sustainable transport) of NPF4 and Policy T2 (Sustainable Transport) of the Aberdeen Local Development Plan 2023.