

## Comments for Planning Application 161455/DPP

### Application Summary

Application Number: 161455/DPP

Address: 1 Desswood Place Aberdeen AB25 2EE

Proposal: Change of use of pavement area to seating area

Case Officer: Alex Ferguson

### Customer Details

Name: Mrs Frederica Stephens

Address: 4 Desswood Place Aberdeen

### Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We live opposite the proposed "street cafe" at 1 Desswood Place, ref : 161455/DPP.

We would appreciate the Planning authority taking into account our desire for the requested change of use to be refused. We believe it will impact detrimentally on:

- use of the pavement,
- residential amenities (in particular loss of privacy, restriction on ability to park, increased inappropriate road use and inappropriate parking, increased noise, litter and smells)
- the Conservation area (in particular as adjacent to a listed building), especially given its advertising role (thus left out when poor weather will make sitting out untenable but still of benefit as attracts attention)

If it is decided that the cafe should be allowed we would ask that conditions such as restricting the size of the street cafe, periods of use (both hours, days and weather), and type of use (not to be used for smoking nor parties/entertainment/events) be imposed to help minimise detrimental impact.

Materially we would note that:

A - the cafe is using internal rooms (2) for which permission has not been sought for use as a cafe. See 111438/DPP, validated 27/9/11, granting change of use from retail to cafe for a defined area & 120324/DPP granting a cooker. Thus the cafe described by roads in 2011 "as quite a modest development" and Environmental Health as having a "restricted menu" has changed significantly and now serves more than the local community.

- in respect of these grants, conditions were imposed in relation to:
  - "adapted sound attenuation" (so that <45 dB during the day & <35dB during the night) for which there is no record to show that the work was carried out. [We are aware that the residential property above experiences particular frustration from the repetitive tapping out of coffee material. We have been advised that normally a cafe would not be appropriate under residential property in

the control of another person.]

- "refuse" to be kept on premises, which has been flouted but in the last few weeks has improved. (I would note that we have been advised of a rat outside our property (opposite the cafe).)

- "filtration extraction" which has not always operated smoothly, as the filters must be cleaned, but has caused significant distress (and bad smells) to the residential property above as it is venting onto their roof garden.

Further, any works carried out were presumably limited to the area for which change of use was obtained. Thus with the expansion of the cafe (without permission) works would at least need extending. We are aware that conversations in the street cafe during the summer could be heard in the above property and such would appear to be in breach of the conditions.

B - when in operation (against Planning requirements) in excess of 28 days the street cafe failed to follow the provisions of the "Aberdeen Pavement Cafes on the Public Footway". Further compliance with certain requirements in any event appears difficult (in particular overseeing of area - no line of sight from cafe).

C - the area is residential not retail. It appears more appropriate to have larger cafes and a lively environment, that can be seen as promoted by a street cafe, in a retail area but such is inappropriate to a residential area. Street cafes would benefit Aberdeen most in a retail area. Allowing such cafes in outer areas will detract further from our suffering main retail areas and damage business there by reducing footfall. Aberdeen Local Development Plan, Policy RT1, p200-201 states that "In all cases, proposals shall not detract significantly from the vitality or viability of any first, second, third or fourth tier retail location...". ( For clarification - the Supplementary Guidance (City Centre and Retailing-Hierarchy of Centres) shows Fountainhall as our Neighbourhood Centre (Fig 3)).

The Treehouse cafe has run a street cafe in breach of requirements

The cafe proprietor advised me that he has experience of street cafes and thus his failure to operate as required we would argue supports that this application should not be granted. Further, there is clear reason to worry that if granted there would continue to be failure to comply with the provisions, given his claimed experience.

- most notably failed to apply for Planning permission when wished to operate for more than 28 days in a year (street cafe was operated for a few months)

- failed to comply with "Aberdeen Pavement Cafes on the public footway"

- no sight line for outdoor area (obscured glass and a display case in the way). Thus can not be "kept under supervision at all times of its operation" required by 9, in effect not "visible from existing premises" as required by 4 of Pavement Cafes on the Public Footpath

- barriers have blown over on numerous occasions (it is a windy corner)(such is not immediately remedied by cafe as not visible to them)

- no licence on display (a copy was put through my door when requested)

- failure to keep extended area clear of litter and clean area at the end of the day (we regular saw the chairs and tables removed yet never saw the area moped or even swept, however I have observed those that live above pick up the litter from the area on their return from work). 8 requires "The cafe area should be thoroughly washed at the end of each trading day".

- the 6 tables and 15 chairs is significantly more than the "should ideally not be of a greater proportion than 25% of the interior seating provision", para 4. Planning permission has been given, see Ref: DPP111438, for 3 tables with 9 chairs and 11 stools around window (thus 15 additional would increase allowed number by 75%). It should be noted that without permission the cafe has already expanded internally and now seats people in 2 extra rooms.
- I would also note that no bin was provided nor high chair (ever visible) in the outside area
- sign and planters placed outside designated area
- circulation space (as required for buggies and wheelchairs) seems restricted

Concerns about size of street cafe sought and pedestrian access:

- as noted above the 15 chairs sought is in excess of 25% of the approved internal use. Restricting to at least just 2 tables or one row seems appropriate, such would also address the size concerns dealt with below.
- the area is more restricted than appears on the plan: (1) there is a bin beside the lamp post shown, (2) there is a further sign post near the entrance to the cafe. I have been told that old ladies were having difficulty getting to the shop when the area was in use. It also impedes the flow of Grammar pupils home and to the corner shop.
- for completeness I would also note that the pavement in the area is used for (a) signs (often placed in the middle of the footpath) for the cafe, gift shop and corner shop, (b) bins for the cafe and gift shop (though this has improved in the last few weeks), (c) 2 planters for the cafe [when I asked how they had permission (as I have been told by the Council that I can not have planters outside my front door) they told me I did not need permission, hence should just put some out]. There is damage to the footway surface. Panes for a basement are broken.

The details and figures in the application do not appear to make sense

- I have not been able to replicate the figures provided in the plan on site. For example in Q7 of the application an area of 12.5sqm is given but the plan shows (1.685+1 by 2+2+1 being 13.425sqm). Such issues are probably due to the complex layout of the site, but this should be appreciated, given their impact. I was advised by Planning not to speak to the applicant to try and clarify matters myself. "A clear pedestrian route of at least 2m must be maintained between the kerbline and the pavement cafe boundary" as required by 4 of the Pavement Cafes on the Public Footway this does not appear to be satisfied given the curve in the kerb, 2 posts and bin. When I made measurements I had distances of: 145-152cm from corner of street cafe boundary to lamppost, 123cm from boundary to bin, 164cm from boundary to sign post). In any event given the high flow of Grammar pupils I would ask that either the street cafe should be closed before the pupils leave school or more than 2m clearance be provided.
- in respect of parasols Pavement Cafes on the Public Footpath 6 requires "metric dimensions, materials and colours must be specified as part of the application"
- 8 of Pavement Cafes on the Public Footpath requires "one suitable litter bin and one suitable smoking bin within the cafe area" these are not provided for on the plan and were not in place during periods of operation of the cafe over the summer. We would ask that a condition be

imposed to not allow smoking, as it passes into the residential property with windows directly above the area causing loss of amenity and health risks, and sets a poor example to the children in the surrounding residential area. Further the application states at Q13 that the rubbish issue is dealt with, presumably failing to appreciate the need for a bin in the street cafe and the increase in rubbish resulting from a larger seating capacity.

- In the application form other points seem difficult to reconcile, e.g section 5 "have the works been started" is answered as "No", when in fact the street cafe was run without permission for months despite public complaint and only stopped after Councillor involvement.

#### Parking and road safety issues

The cafe is already regularly causing parking issues and road safety concerns. The cafe has no private parking. In respect of 111438/DPP the roads department in their report of 10.10.11 noted that 2 additional parking spaces should be provided for the change of use but stated "as quite a modest development... I will not object". Without permission the cafe has already extended to 2 extra rooms. The cafe already serves more than the local community. If they increase their size still further the inflow of cars will also increase.

Customers are parking in the surrounding residential area, some residents near parking meters view without buying tickets. I have had to park 5 car lengths from my house and carry my shopping. When returning for lunch my daughter and I now are periodically searching for a parking space. In the last month on two occasions I have counted (and photographed) some 15 cars, from without our parking zone, parked in the four residential streets by our corner. However I can at least normally find a parking space. Parking further down Desswood and Whitehall Road can become very fraught between neighbours and as I push further down this enhances their difficulties. During the day there is normally enough parking if you walk but in the evening/night we are now noting that people (we think residents/visitors to residents) are ending up parking on the double yellows outside our house. At present the cafe has a right to, worryingly, stay open until 11pm.

Unhelpful parking on the double yellows, particularly hazardous at the corner, now occurs regularly. We have had 3 cars parked on the yellows outside the Treehouse and then a delivery van pulls in on the corner. I spoke to a lady who parked recently on the double yellow line, she explained she was only parking for short period (in her case this was true and I thanked her) as just going in to pick up food and was not near the corner.

There is traffic congestion in the area when the parking is heavily used. Traffic has to wait and queue to pass through.

Drivers appear to have their attention diverted by the cafe, particular when there was a street cafe. While I was speaking to 2 traffic wardens a car pulled up on the corner and just chatted to someone outside the cafe.

We are concerned that the increased traffic, parking issues and inappropriate road usage already increases the risk of injury to pedestrians crossing the road and the risk of accidents. In particular this is a hazard for many Grammar School children on their school commute. Allowing the street cafe will further exacerbate the situation.

### Residential amenities

During the summer while the street cafe was in operation I was observed while coming in and out of my house (usually 10 or more times per day) and while working in my front garden. Further, people in the street cafe can look into my rooms on the first floor being: a bedroom, my lounge and dining room, with dining table at the window. During the period of use I found the observation outside my house particularly annoying, but did also draw curtains within my house on occasions. Thus while cutting my neighbours hedge I felt as if I had a cheerleading group. In fact I chose not to garden on occasions because of those using the street cafe, which although my choice I view is a sad restriction. I appreciate that such people do not mean any harm and I myself look about me when in public areas, but I am a private person and resent this invasion of my privacy in my home environment in a residential area. Our son also expressed his dislike of being watched on his return from Grammar school.

If the street cafe was allowed to operate for extended days and hours we would be concerned by the risk of a significant increase in noise.

At present our house has only been affected by smells from the cafe once. My daughter thought we were smelling the fishy smell from the harbour. But when I came home about an hour later I tracked it down to the cafe that had it appeared been preparing salmon.

It has also been pointed out to me that people could use the street cafe to observe my children, and vulnerabilities of my home and it's occupants. I find such observations concerning. This street is notable in that children play on the street regularly, have street sales and use their gardens. I am aware that some years ago there was concern in respect of a paedophile living on Fountainhall Road (I was not and am not concerned by that case as I think all people have a right to live their life without discrimination). However it does appear generally that providing a place where people can quite properly linger and observe children in a residential area and interact with Grammar pupils returning home (groups congregate outside the corner shop, beside the cafe boundary, as only a set number can go in), is unsafe given the difficulties that our society has.