

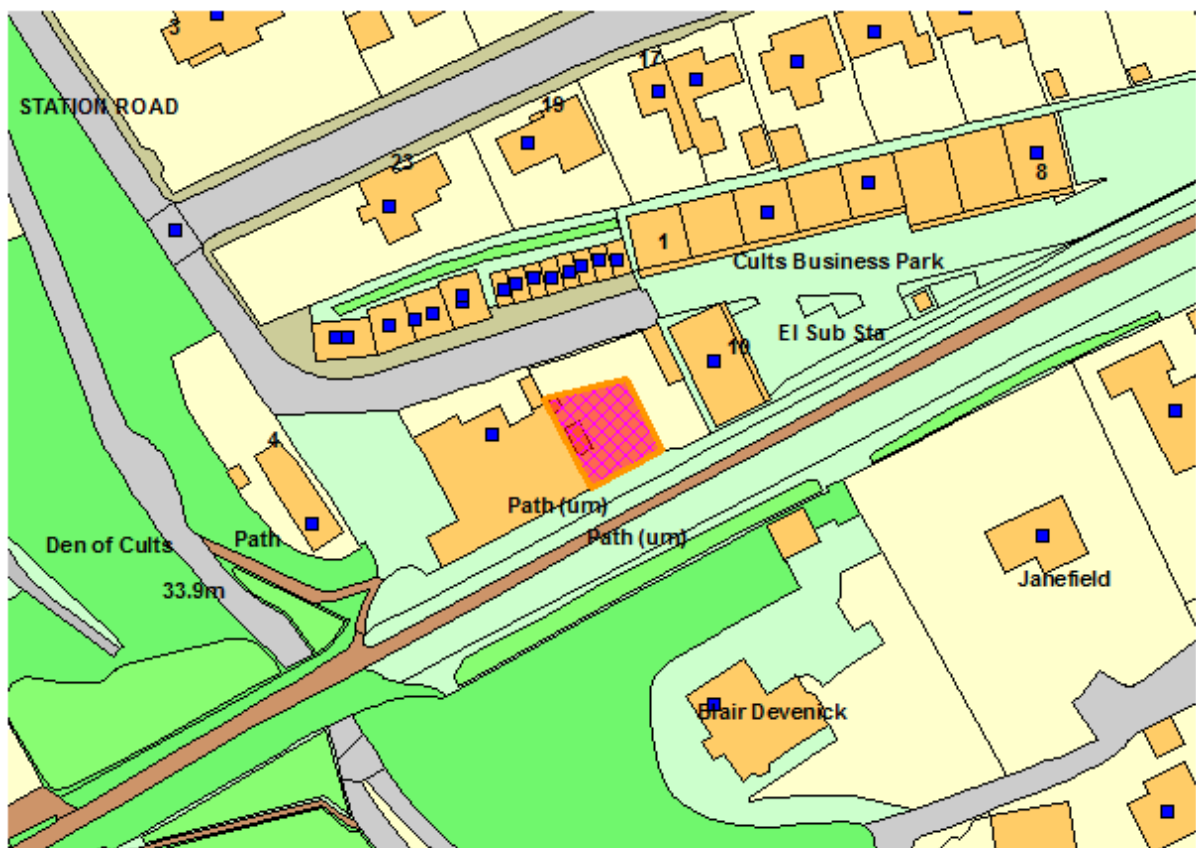


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 17<sup>th</sup> February 2022**

<b>Site Address:</b>	Land at former Cults Railway Station, Station Road, Cults, Aberdeen, AB15 9SJ
<b>Application Description:</b>	Installation of takeaway food kiosk and outdoor seating area with decking including change of use (partly retrospective) (Temporary for 18 months)
<b>Application Ref:</b>	211587/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	8 November 2021
<b>Applicant:</b>	JJ's Food & Drink Co Ltd
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bielside and Milltimber
<b>Case Officer:</b>	Gavin Clark



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### **RECOMMENDATION**

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site, which extends to approximately 197sqm, relates to an area of land to the immediate east of the former Cults Railway Station on the southern side of Station Road and approximately 125m to the south of North Deeside Road. The adjacent former station building is currently utilised as a cycle repair business operating under the consented use class of the premises, which was previously a joinery store and workshop. To the immediate south of the site is the Deeside Way, and further south of this mature trees lining the rear curtilage of a residential property which forms part of the boundary of the Pitfodels Conservation Area. The Station building itself is located to the immediate west, with a residential property located approximately 40m west (4 Station Road) of the site. To the north and east are a number of commercial units along with Cults Business Park (to the east). Further north are a number of residential properties on Ashfield Road (approximately 28m north of the site boundary, behind the business units). The application site is not within the Pitfodels Conservation Area.

### **Relevant Planning History**

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

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

The proposal seeks detailed planning permission for the erection of a coffee and food kiosk with associated area of decking, serving area and outdoor seating (three tables and six benches). Planning permission is sought on a temporary basis for a period of 18 months. The kiosk has already been installed on the site. It constitutes a metal container set on wheels but, due to the difference in ground levels and the decking that surrounds it, the structure is more permanent in appearance. The kiosk measures 6m x 2.4m with an overall height of 2.7m whilst the area of decking measures 2m x 2.4m and is located approximately 0.27m above ground level. A 1.6m high timber fence surrounds the bin store, which is located to the rear of the building. In terms of materials, the container is constructed in metal and has been painted dark blue externally. The timber fencing and decked areas are all unpainted and have a natural looking finish. The kiosk already exists on site and is trading, however the seating and tables are not on site, although informal seating in the form of wooden sleepers exists, hence the part retrospective nature of the application.

### **Amendments**

None

### **Supporting Documents**

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R23QVZBZHNI00>

- Design Statement: November 2021

- Planning Statement: November 2021

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

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

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection to the proposal following the receipt of further information regarding deliveries to the site (as mentioned in the CBMCC response). Their response will be discussed in greater detail in the evaluation section of this report.

**ACC - Environmental Health** – No objection to the proposal following the receipt of further information regarding the proposed operation of the premises. Their response will be discussed in greater detail in the evaluation section of this report.

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

**Cults, Bielside and Milltimber Community Council** – supports the provision of the “Boxcar Café” noting that the proposal has significant public support and that the café has proved popular with walkers and cyclists.

Note concerns of local residents showing potential traffic and road safety problems on Station Road. Particularly in relation to food deliveries made by a 7.5 tonne truck, whereas analysis submitted by the previous application showed a swept path for a 4.5 tonne transit van. CBMCC therefore requested that colleagues in RDM look at the issue and advise whether food deliveries and business waste collections can be made safely without inconvenience caused to local residents using Station Road.

Also note that it is not clear why a different postcode was used for the application and that it is unfortunate that concerned local residents were not directly notified. Confirmed their representation as a conditional support.

Further comments were received from the Community Council on the 3<sup>rd</sup> February 2022 summarising their current position on the planning application. They note that the kiosk is popular with users of the Deeside Way but has received criticism from nearby residents. They have noted the concerns, which include increased car traffic on Station Road, deliveries and refuse collections, noise and cooking odours, litter, and loss of privacy. There was also a query in relation to the use of the main building by staff.

Note that the concerns of the residents (particularly around noise and odour) need to be addressed if the Community Council are to maintain their conditional support for the proposal. They would also prefer the consent to be limited to 12 months from the date of the PDMC meeting as a strong incentive to a permanent solution (which would be a café within the former station building on a smaller scale to that previously proposed).

### **REPRESENTATIONS**

A total of 38 valid and timeously made representations have been received in relation to this application (16 objections and 22 in support). The matters raised can be summarised as follows:

## Objections:

### *Principle of Development/ Amenity Concerns*

1. Consider that, similar to the previous application for wider redevelopment, the proposal would result in a *scale of development that would be excessive for the site, constituting overdevelopment, intensification in the use of the site that would introduce additional noise and disturbance to the area especially in the evening and in relation to the introduction of outdoor seating, food serving van and play area. The proposal is, therefore, considered to be contrary to Policy H1 (Residential Areas) of the Aberdeen Local Development Plan in that it would not be complementary to residential use and in as far as it would conflict with, and result in nuisance to, the enjoyment of existing nearby residential amenity.*
2. The site will have an outdoor service area with seating behind residential properties. The proposed hours of operation would conflict with Policy H1 in that the proposal would conflict and provide nuisance to the enjoyment of residential amenity. Another objector queried the hours of operation, stating that the unit should close at 5pm.
3. Object to access directly to the station platform, which encourages the congregation of patrons closer to residential properties to the south.
4. The planning application should not be considered as a steppingstone back to the original planning application, which was rejected.
5. Concerns in relation to noise, hours of operation, proximity of trees and impact on wildlife.
6. The proposal is contrary to Policy D1 of the ALDP in that it is not welcoming, not safe and is not pleasant.
7. Query the temporary nature of the proposal, and the 18-month nature of the retrospective planning application.
8. The proposal would have an adverse impact in terms of noise, which would get worse with the seating proposed.

### *Roads*

9. Queries were raised regarding the initial roads consultation response, with specific mention of cycle parking provision, the lack of requirement to update pedestrian infrastructure to the site and the refuse collection plan – noting that the objector considers that the access to the site for delivery/ refuse vehicles is not up to standard.
10. The proposal will result in increased traffic on the Den of Cults, which will also cause further damage to boundary walls of neighbouring properties, the lack of a footpath from North Deeside Road will also raise safety issues.

### *Other Matters*

11. Queries regarding the neighbour notification process, and that an incorrect postcode has been utilised for the building.
12. If the permanent structure is on a Class 4 business site, then the application should cover both the permanent structure and the change of use.
13. The main building is being utilised for the proposed use; this has not been reflected in the current planning application. The staff use the main building for general purposes.

### *Non-Material Considerations*

14. Queries whether the proposal is commercially viable as a standalone unit.
15. Query whether the car parking area is owned by the applicant.

## Support:

16. The temporary structure has brought back in to use a previously derelict area and the addition of decking would improve the visual appeal of the area, with the outdoor seating providing a valuable addition.
17. Cults has no cafes with outdoor seating, and with a limited amount of indoor seating, the kiosk and seating area would be of huge benefit to the area.
18. The location of the site adjacent to the Deeside Way encourages active travel with people walking and cycling to the kiosk.
19. The café has a positive impact regarding mental health.
20. The proposal provides a variety of food and drinks.
21. The Council should do their utmost to help independent, entrepreneurial businesses flourish in Aberdeen.
22. The proposal would have a positive impact on the surrounding area and is an asset to the community. The site is also in a convenient location.
23. Note that the station building is much less of an eyesore on the community, with the site having been cleared and the building fixed.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

### **Development Plan**

#### **Strategic Development Plan**

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified that are applicable to this application.

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

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant – H1 (Residential Areas), D1 (Quality Placemaking by Design), T2 (Managing the Transport Impact of Development), T3 (Sustainable and Active Travel), T4 (Air Quality), T5 (Noise) and R6 (Waste Management Requirements for New Development).

### **Proposed Aberdeen Local Development Plan**

The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether – such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP; and the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. The following policies are relevant to this proposal: Policies H1 (Residential Areas), WB2 (Air Quality), WB3 (Noise), D1 (Quality Placemaking), D2 (Amenity), T2 (Sustainable Transport), R5 (Waste Management Requirements for New Development) and T3 (Parking).

### **Supplementary Guidance (SG)**

Transport and Accessibility, Temporary Buildings and Noise.

## **EVALUATION**

### **Principle of Development**

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

The Planning Authority must therefore consider the impact of the kiosk and associated works and whether the building / use would be complementary to the existing residential use of the surrounding area, and whether it can be demonstrated that the proposal would have no adverse impact on the residential amenity of the surrounding area. These matters will be discussed below.

### **Impact on Residential Amenity**

A number of the residential properties in the area have raised objections to the proposed development in terms of impact on residential amenity. The nearest properties to the north (19 and 23 Ashfield Road) are located approximately 28m (to boundary) and 36m (to rear elevation) respectively from the application site boundary. The property at 4 Station Road is located approximately 42m from the application site boundary (with the existing station building located in between). It is noted that the properties on Ashfield Road sit at a higher level, and there are commercial business units in between.

The modular building is considered to be acceptable given the context of the surrounding area, which, although predominantly residential, does include a number of business and commercial uses immediately adjacent. Furthermore, the proposed development is located within the generally commercial area immediately adjacent to the Cults Business Park. The location of the site adjacent to the Deeside Way would also allow the proposal to cater for both the local and wider areas with both walkers and cyclists being able to utilise the facility, without accessing it from North Deeside Road. The proposal would have an impact on residential amenity, though additional noise and activity, although any impact is not considered to be sufficiently detrimental, due to the scale of the operations and the location of the kiosk. The applicant has also confirmed that there would be no cooking on site (other than the re-heating of foods) and colleagues in Environmental Health (EH) are content with this element of the proposal, concluding that there would be no odour impact on the surrounding residential area. The hours of operation (until 8pm) are considered to be acceptable.

and typical of such facilities found within a more residential setting and EH are also content with this element of the proposal. A condition can be applied to the consent regarding hours of operation.

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

### **Temporary Buildings**

Also of relevance is the Temporary Buildings Supplementary Guidance. Firstly, this guidance states that *“Planning permission is not required for the erection or placing of moveable structures (including buildings) required as part of a temporary use taking place on land for 28 days or less. This would, for example, allow a portable building to be located within a park, field or public open space during an outdoor event or open-air market”*. When offering advice initially, the Planning Service were of the view that planning permission would not be required for a structure that was on wheels and could be moved to and from the site on a daily basis. This view changed once the structure was installed in its present form with the decking surrounding the structure, which resulted in a more permanent appearance.

The guidance goes on to state that *“Portable buildings’ are typically stand-alone, self-contained buildings that are manufactured and fitted out in a factory. They are delivered in one piece by road and craned into position, usually supported on jack-up legs”*. *The Council consider that in most circumstances three years is a reasonable timescale for any permanent accommodation solution to be achieved, and therefore typically that will be the maximum initial period of time granted for portable buildings.”* This guidance is considered to be of relevance to what is being proposed. As the building has already been in place and operating since July 2021, a temporary consent until July 2024 is considered to be appropriate in this instance. This will allow for a more permanent solution to be found in the longer term.

The guidance also advises that such buildings should be appropriately located away from the principal elevation, avoid the loss of parking spaces and landscaped areas. The building is located to the side of the station building, would not utilise existing parking spaces and would not be sited on a landscaped area. As a result of the above, and subject to conditions controlling the temporary nature of the building, it is considered to comply with the SG.

### **Design and Scale**

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 (Quality Placemaking by Design) of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment.

In this instance, it is recognised that the proposal is relatively small scale in nature and viewed against the backdrop of the station building and business units found in the surrounding area. The building and associated structures have been sited with due consideration for their surrounding context and would have no adverse impact on the character or amenity of the surrounding area. Subsequently, given the temporary nature of the proposal, it is considered to comply with Policy D1 of the ALDP.

### **Traffic/ Roads Impact**

Policy T2 states that *“new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel”*, whereas Policy T3 advises that *“new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport”*

The proposal has been assessed by colleagues in Roads Development Management (RDM). Their initial response queried cycle parking and refuse collection, requiring the submission of swept path analysis to show how waste was to be collected. This information was subsequently submitted and accepted.

In their finalised consultation response, they noted that existing parking provision is sufficient for the scale of development proposed. They also noted that staff cycle parking would be provided within the existing former station building and cycle parking for patrons would be provided through a Sheffield stand accommodating eight cycles within the current application boundary. Provision of such facilities can be controlled via planning condition. The applicants submitted a swept path plan for a 7.5 tonne box van, which was also considered to be acceptable. As a result of the above, colleagues in RDM raised no objection to the proposed development.

The site is also considered to be in a sustainable location, which is easily accessible by walkers, cyclists and by public transport (from North Deeside Road).

As a result of the above evaluation, the proposal would not conflict with Policy T2 (Managing the Transport Impact of Development), T3 (Sustainable and Active Travel) or the associated Supplementary Guidance: Transport and Accessibility of the ALDP.

### **Air Quality/ Noise**

Policy T5 (Noise) advises that *“there will be a presumption against noise generating developments, as identified by a NIA, being located close to noise sensitive developments, such as existing or proposed housing”*.

It is noted that the larger cafe proposal within the station building under application 210140/DPP was supported by a Noise Impact Assessment. In this case, an NIA was not requested due to the small-scale nature of the operation. Colleagues in EH noted that the current premises are unsuitable for unrestricted cooking activities due to the risk of adverse odour impacting on neighbouring residential properties. Based on the information contained within Section 6.5 of the Design Statement, which advises that *“the food menu includes breakfast rolls, croissants, bagels, sandwiches, wraps, toasties and paninis. Where required items are cooked/ heated using a panini contact grill, or a countertop electric hob”*. On the basis of the above statement, colleagues in EH are content with a suitably worded planning condition to restrict cooking activities which are more likely to give rise to odour emissions. This has been added as condition 3.

The applicants advised that they are agreeable to a condition restricting the type of method of cooking being attached to any approval rather than installing a Local Extract Ventilation system and submitting the relevant assessments. Menu items such as bacon or sausage rolls would be pre-cooked off site and only heated up on site. The use of a panini grill and home baking would allow for compliance with the above.

A further query was raised by the Planning Service regarding the hours of operation, following comments received from members of the public. EH advised that operating until 8pm is considered reasonable and that they had no objection to this element of the proposal. This is understood to be in line with the licence granted for the site. Opening hours are seasonal, with the following proposed and considered to be acceptable: 08:00 to 19:00 Monday – Thursday, and 08:00 to 20:00 Friday to Sunday (April to September) and 08:00 to 17:00 Monday – Saturday and 09:00 to 17:00 on a Sunday (October to March).

Colleagues in Environmental Health have raised no objection to the application and as a result the proposed development would comply with Policies T4 (Air Quality) and T5 (Noise) of the ALDP along with the associated Supplementary Guidance relating to Air Quality and Noise.



## Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given. Policy D2 (Amenity) is a new policy which seeks to ensure that buildings and uses are fit for purpose and meet the needs of users and occupiers, with consideration given to neighbouring properties to ensure there would be no unreasonable impacts on daylight, sunlight, noise, air quality and outlook. In respect of this policy (and as assessed in the above evaluation), it is considered that the proposal would not have an adverse impact on the amenity of neighbouring residential properties.

## Matters Raised by Community Council

Cults, Bieldside and Milltimber Community Council note their conditional support for the proposal. The matters raised in relation to deliveries have been considered by colleagues in RDM, who have raised no objection to the proposals following the submission of further information. The matters in relation to the postcode are noted and whilst unfortunate, have had no impact on the neighbour notification process. All properties within 20m of the application red line boundary (which is less notifiable neighbours than the station building proposal due to a smaller red line boundary) were notified of the proposed development in line with regulations. An advertisement was also placed in the Evening Express on the 17<sup>th</sup> November 2021.

In terms of the updated comments from the Community Council (received on the 3<sup>rd</sup> February 2022), these can be addressed as follows. In terms of noise and odour, Environmental Health are content with the methods of cooking (as detailed above) and a condition has been inserted restricting the level of cooking that can be done on site. The other matters raised in relation to traffic, access and impact on residential amenity have also been addressed above. The Community Council preference for the 12-month permission is noted, and the Planning Service have justified why an 18-month permission is acceptable.

## Matters Raised in Representation

### *Principle of Development/ Amenity Concerns*

1. Consider that, similar to the previous application for wider redevelopment, the proposal would result in a scale of development that would be excessive for the site, constituting overdevelopment, intensification in the use of the site that would introduce additional noise and disturbance to the area especially in the evening and in relation to the introduction of outdoor seating, food serving van and play area. The proposal is, therefore, considered to be contrary to Policy H1 (Residential Areas) of the Aberdeen Local Development Plan in that it would not be complementary to residential use and in as far as it would conflict with, and result in nuisance to, the enjoyment of existing nearby residential amenity. *Response: each application is considered on its own merits. The Planning Service consider the proposal to be acceptable for the reasons detailed below and through the report.*
2. The site will have an outdoor service area with seating behind residential properties. The proposed hours of operation would conflict with Policy H1 in that the proposal would conflict and provide nuisance to the enjoyment of residential amenity. Another objector queried the hours of operation, stating that the unit should close at 5pm. *Response: this matter has been discussed in the residential amenity section above. Environmental Health have raised no concerns regarding the hours of operation and 8pm is considered reasonable.*
3. Object to access directly to the station platform, which encourages the congregation of patrons closer to residential properties to the south. *Response: as this is an existing access point to the Deeside Way it would not be possible to restrict access to the development. Use*

*of the existing access along the Deeside Way and platform reduces the number of patrons passing through the residential area.*

4. The planning application should not be considered as a steppingstone back to the original planning application, which was rejected. *Response: each application is considered on its own merits. The Planning Authority is only considering this application at present, and its approval is not considered to suggest support for an application for the wider site.*
5. Concerns in relation to noise, hours of operation. *Response: The proposal has been assessed by colleagues in Environmental Health, who have raised no objection to the proposal in terms of either noise or hours of operation.*
6. Proximity of trees and impact on wildlife. *Response: due to the small-scale nature of the development, it is not anticipated that the proposal would have an impact on either trees or wildlife.*
7. The proposal is contrary to Policy D1 of the ALDP in that it is not welcoming, not safe and is not pleasant. *Response: the proposal has been assessed against Policy D1 and is considered to be compliant in this instance.*
8. Query the temporary nature of the proposal, and the 18-month nature of the retrospective planning application. *Response: the temporary nature of the proposal has been discussed elsewhere in this report.*
9. The proposal would have an adverse impact in terms of noise, which would get worse with the seating proposed. *Response: colleagues in Environmental Health have raised no objections from a noise perspective.*

#### Roads

10. Queries were raised regarding the initial roads consultation response, with specific mention of cycle parking provision the lack of requirement to update pedestrian infrastructure to the site and the refuse collection plan – noting that the objector considers that the access to the site for delivery/ refuse vehicles is not up to standard. *Response: the response from colleagues in RDM has been discussed elsewhere in this report.*
11. The proposal will result in increased traffic on the Den of Cults, which will also cause further damage to boundary walls of neighbouring properties, the lack of a footpath from North Deeside Road will also raise safety issues. *Response: colleagues in RDM have raised no objection to the site access, nor footpath access to the site. If there is damage to boundary walls, then this would be a civil matter between the relevant parties. It is not anticipated that many patrons will access the facility by the Den of Cults as there are other, more accessible options available.*

#### Other Matters

12. Queries regarding the neighbour notification process, and that an incorrect postcode has been utilised for the building. *Response: the matters in relation to neighbour notification have been discussed in the Community Council section above.*
13. If the permanent structure is on a Class 4 business site, then the application should cover both the permanent structure and the change of use. *Response: there is no requirement for a change of use of the land to be included in such an application.*

14. The main building is being utilised for the proposed use; this has not been reflected in the current planning application. The staff use the main building for general purposes. *Response: the main building can be used for ancillary functions such as by members of staff. This would not result in a material change of use of the building for which planning permission would be required.*

#### *Non-Material Considerations*

15. Queries whether the proposal is commercially viable as a standalone unit. *Response: the viability of the proposal is not a material planning consideration.*

16. Query whether the car parking area is owned by the applicant. *Response: it is noted that the land is leased from the Council. Response: The applicant has highlighted in blue additional land within that ownership, this includes the parking area suggested above.*

#### Support:

17. The temporary structure has brought back in to use a previously derelict area and the addition of decking would improve the visual appeal of the area, with the outdoor seating providing a valuable addition. *Response: comments noted, the principle of development along with the impacts have been discussed elsewhere in this report.*

18. Cults has no cafes with outdoor seating, and with a limited amount of indoor seating, the kiosk and seating area would be of huge benefit to the area. *Response: comments noted, although this is not material to the determination of this application.*

19. The location of the site adjacent to the Deeside Way encourages active travel with people walking and cycling to the kiosk. *Response: it is noted that the site is in a highly accessible location.*

20. The café has a positive impact regarding mental health. *Response: comment noted.*

21. The proposal provides a variety of food and drinks. *Response: comment noted, although the food offering is not a material planning consideration.*

22. The Council should do their utmost to help independent, entrepreneurial businesses flourish in Aberdeen. *Response: comment noted.*

23. The proposal would have a positive impact on the surrounding area and is an asset to the community. The site is also in a convenient location. *Response: comment noted, issue has been discussed elsewhere.*

24. Note that the station building is much less of an eyesore on the community, with the site having been cleared and the building fixed. *Response: the proposal does not relate to the main station building.*

#### **RECOMMENDATION**

Approve Conditionally

#### **REASON FOR RECOMMENDATION**

The proposal is considered to be an acceptable form of development, which would have no adverse impact on the character or amenity of the surrounding residential area. The building has been

designed with due consideration for its surrounding context, is located in an accessible location and appropriate levels of parking and cycle parking will be provided. The building is considered to be of a temporary nature and a related temporary permission is considered appropriate. Subject to conditions, the proposal is therefore considered to comply with Policies H1 (Residential Areas), D1 (Quality Placemaking by Design), T2 (Managing the Transport Impact of Development), T3 (Sustainable and Active Travel), T4 (Air Quality), T5 (Noise) and R6 (Waste Management Requirements for New Development) of the Aberdeen Local Development Plan 2017, as well as with the associated Supplementary Guidance relating to Transport and Accessibility, Temporary Buildings and Noise.

For similar reasons the proposal would also comply with Policies H1 (Residential Areas), WB2 (Air Quality), WB3 (Noise), D1 (Quality Placemaking), D2 (Amenity), T2 (Sustainable Transport), R5 (Waste Management Requirements for New Development) and T3 (Parking) of the Proposed Aberdeen Local Development Plan.

In consideration of the Supplementary Guidance: Temporary Buildings and under Section 58(4)(c) it is considered this permission should be directed to lapse on 31st July 2024.

## **CONDITIONS**

1. Planning permission is hereby granted for a temporary period only and shall cease to have effect and lapse (excepting the effect of condition 2) on 31st July 2024 (the 'cessation date'). Prior to the cessation date, the use hereby permitted shall cease, the application site shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992) and the application site shall be reinstated in accordance with the agreed restoration scheme submitted to and approved in writing by the planning authority under the terms of condition 2 of this permission. Reason: To ensure the building is used for a temporary period in terms of the Supplementary Guidance: Temporary Buildings and minimise the impact on the amenity of the surrounding area and to ensure the appropriate restoration of the site.
2. Within two months prior to the cessation date of 31<sup>st</sup> July 2024, full details of a scheme for the restoration of the application site shall be submitted to and approved in writing by the Planning Service. Prior to the cessation of this permission the site shall be restored in accordance with the approved restoration scheme. Reason: To ensure the timeous and appropriate restoration of the site following the expiry of this temporary permission, in the interests of the visual amenity of the area.
3. That within one month of the date of this permission, the cycle storage facilities as shown on drawing no. 1003 Rev B (Site Plan – Proposed) shall be provided and retained for the duration that the building is located on site. Reason - in the interests of encouraging more sustainable modes of travel.
4. That no cooking or frying operations (including but not limited to: deep fat frying, shallow frying, oven cooking, boiling, stewing, grilling, or broiling) shall be carried out on the premises. Reason: in order to protect the amenity of neighbouring uses from cooking odours.
5. That the use hereby granted planning permission shall be undertaken in accordance with the details outlined in the Litter Management Plan (Section 6.8 of the approved Design Statement), unless otherwise agreed in writing by the Planning Authority. Reason - In order

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

6. That the use hereby approved shall not operate outwith the times in the following days and months:
  - a. In the months of April to September (inclusive) in any given year the use hereby approved shall not operate outwith the hours of 08:00 to 19:00 Monday to Thursday or outwith the hours of 08:00 to 20:00 Friday to Sunday.
  - b. In the months of October to March (inclusive) in any given year the use hereby approved shall not operate outwith the hours of 08:00 to 17:00 Monday to Saturday and 09:00 to 17:00 on a Sunday.

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