

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Planning Development Management
<b>DATE</b>	25 August 2022
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Guidance on Outdoor Seating
<b>REPORT NUMBER</b>	PLA/22/183
<b>DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	David Dunne
<b>REPORT AUTHOR</b>	Donna Laing
<b>TERMS OF REFERENCE</b>	5. Adopt non-statutory planning management guidance

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### 1. PURPOSE OF REPORT

- 1.1 This report presents a draft guidance note on Outdoor Seating. The report seeks approval to undertake public consultation on the document, with the results of the consultation and any revisions to the document reported back to this Committee for approval within the next six months.

### 2. RECOMMENDATION(S)

That the Committee: -

- 2.1 Approve the content of the draft Guidance on Outdoor Seating (Appendix 1);
- 2.2 Instruct the Interim Chief Officer - Strategic Place Planning to, subject to any minor drafting changes, publish the draft Guidance on Outdoor Seating document for a four week non statutory public consultation; and
- 2.3 Instruct the Interim Chief Officer – Strategic Place Planning to report the results of the public consultation and any proposed revisions to the draft Guidance on Outdoor Seating to a subsequent Planning Development Management Committee within the next six months.

### 3. CURRENT SITUATION

- 3.1 During the coronavirus (Covid-19) pandemic the Scottish Government used its powers to support the temporary relaxation of some planning controls via the COVID 19: Relaxing Planning Control guidance. Amongst other things this included relaxations around provision of outdoor seating.

- 3.2 A cross service group within Aberdeen City Council was subsequently set up to support and work with business in line with Scottish Government and Chief Planner guidance and to consider proposals for temporary outdoor areas. This group included officers from Environmental Health, Planning, Building Standards, Licensing and Comms, and engaged with Police and Emergency Services as necessary. During this time, the group dealt with over 100 proposals from businesses for temporary outdoor seating, the majority being independent traders, cafes, restaurants and bars. This group also prepared and kept updated an online Guide for Businesses which, as well as signposting businesses to relevant legislation, set out the principles where outdoor trading would be supported.
- 3.3 At the August 2021 City Growth and Resources Committee, under the City Centre Masterplan Review, and in the context of Scottish Government restrictions around physical distancing in place at that time, the Committee resolved to maintain current arrangements for the approval of temporary outdoor trading proposals through the cross service group described above until 23:59 on 24 January 2022. After this date, necessary formal consents for outdoor seating would therefore be required, including planning permission.
- 3.4 Officers have since identified a need for additional guidance on outdoor seating proposals for applicants. The Draft Guidance on Outdoor Seating (attached at Appendix 1) is proposed to be taken forward as a trial non statutory planning document in the first instance. With the review of the Local Development Plan well underway, the updating of associated planning guidance documents will follow in due course. Rather than wait for the review of the wider suite of planning documents to be completed, it was felt a standalone planning document was required in the short term to provide clarity on the expectations around outdoor seating from a planning perspective. The success of the document will be monitored and evaluated and may form part of further non-statutory Aberdeen Planning Guidance under the adoption of the emerging Aberdeen Local Development Plan 2022.
- 3.5 It is felt a guidance note to help applicants identify the planning criteria for the erection of outdoor seating, and to support them to identify where other services or consents may be required, would be helpful. It will also ensure planning officers have clarity on what to consider when making decisions on outdoor seating. Outdoor seating in this context can take the form of chairs and tables outside of a premises, or larger covered structures to accommodate further seating. There is currently some limited planning guidance on street cafes within the Harmony of Uses Supplementary Guidance document. The proposed Draft Guidance on Outdoor Seating supplements rather than replaces this Supplementary Guidance and identifies further situations where guidance on outdoor seating is needed, such as in private car parks, on open space, and sets parameters for timeframes of seasonal outdoor seating.
- 3.6 Without the document there may be applications for inappropriately located outdoor areas leading to conflict between pavement uses and vehicles. The impact on surrounding amenity, including impact to neighbouring uses and built heritage, also has to be considered to ensure outdoor seating areas minimise unsocial noise, are well designed and are positive additions to local areas.

- 3.7 The Draft Guidance on Outdoor Seating provides criteria for applicants to support them through the planning system. It flags where further consents may be required from other departments beyond the planning service (e.g. Roads and Licensing). The document will help applicants, planning officers and other stakeholders and will ensure a consistent approach to decision making.
- 3.8 A four-week period of consultation in public will be undertaken in Autumn 2022. The consultation will be undertaken electronically with documentation available for inspection via the Council website. The consultation will be communicated via an advertisement in a regional newspaper and also through the Council's website, the Local Development Plan newsletter and social media platforms.
- 3.9 Comments on the consultation will be submitted using the Council's consultation hub (Citizen Space), email or by post. These comments will be reviewed, synthesized and reported back to a subsequent Planning Development Management Committee within the next six months.
- 3.10 At a national level the Scottish Government is looking to review its Permitted Development Rights. Permitted Development Rights are proposals where no planning consent is required, or planning consent is required only in certain instances. Moveable outdoor furniture was part of the remit of the recent consultation on Permitted Development Rights, and a response to this consultation was submitted by officers on behalf of Aberdeen City Council. With the possible reworking of Permitted Development Rights associated for moveable outdoor seating as a result of this national picture, and the COVID 19: Relaxing Planning Control guidance coming to an end on 30 September 2022, it is felt interim planning guidance for Aberdeen is required.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The cost of preparing the document is met through existing staff time resourcing budget.
- 4.2 The guidance document will help to mitigate any increase in applications and queries which will result in added pressure on the finances and staff resources of the Council's planning service.

#### **5. LEGAL IMPLICATIONS**

- 5.1 As a major landowner in the city, proposals for the development of land and assets owned by Aberdeen City Council will, where this is applicable, be subject to assessment in line with the principles and standards set out in the document.

#### **6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 A Strategic Environment Assessment (SEA) screening report will be submitted to the SEA gateway and the results reported back to subsequent Planning Development Management Committee within the next six months.

6.2 A Habitats Regulations Appraisal (HRA) is not required for the Draft Guidance on Outdoor Seating as it does not specifically recommend any actions or projects.

## 7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Not delivering the aims of the City Centre Masterplan and Local Development Plan relating to the future of Aberdeen.	Encourages outdoor seating to facilitate a vibrant and welcoming city.	L	<b>Yes</b>
<b>Compliance</b>	Ensuring that planning permission is sought for outdoor seating.	The document provides advice on planning consent.	L	<b>Yes</b>
<b>Operational</b>	By not provided guidance, officers could, over time, provide inconsistent advice.	The document provides clarity, consistence and certainly in terms of what is required for planning permission.	L	<b>Yes</b>
<b>Financial</b>	Not having timely guidance could lead to uncertainty at Planning application stage, potentially leading to more staff time spent processing	The document should reduce the number of queries and provide clarity, consistence and certainly in terms of what is required for planning permission.	L	<b>Yes</b>

	applications and a greater number of planning application appeals.			
<b>Reputational</b>	Not providing guidance opens the possibility of inconsistency and misinformation.	The document sets parameters for development based on location, design and amenity.	L	<b>Yes</b>
<b>Environment / Climate</b>	Ensures Net Zero Route map is considered in the design of proposals	The document notes proposals have to consider energy use and emissions.	L	<b>Yes</b>

## 8. OUTCOMES

<u><a href="#">COUNCIL DELIVERY PLAN 2022-2023</a></u>	
<b>Impact of Report</b>	
<p><b>Aberdeen City Council Policy Statement</b></p> <p><u><a href="#">Working in Partnership for Aberdeen</a></u></p>	<p>The proposal within this report support the delivery of the following aspects of the policy statement: -</p> <p>A vibrant city – make Aberdeen a more attractive place to live, work, study and visit.</p>
<u><a href="#">Aberdeen City Local Outcome Improvement Plan</a></u>	
Prosperous Economy Stretch Outcomes	Supports outcome 2 by supporting the labour market to recover from impact of Covid-19, and by allowing people to linger longer in spaces.
Prosperous People Stretch Outcomes	Support outcome 11 by facilitating spaces where individuals can interact socially.
Prosperous Place Stretch Outcomes	Supports outcome 13 by focusing on impact on proposals on Net Zero Route map.
<p><b>Regional and City Strategies</b></p> <p>Regional Strategies:</p>	Supports the City Centre Masterplan by helping to facilitate a vibrant and welcoming city.

<p>Aberdeen City and Shire Strategic Development Plan 2020</p> <p><u>City Strategies and Strategic Plans:</u>  City Centre Masterplan, Aberdeen Local Development Plan 2017, Proposed Aberdeen Local Development Plan 2020.</p>	<p>Support the Aberdeen City and Shire Strategic Development Plan 2020, the Aberdeen Local Development Plan 2017, and the Proposed Aberdeen Local Development Plan 2020 by ensuring Aberdeen is an excellent place to live, visit and do business, and where the built, historic, and natural environment will be protected.</p>
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## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	Full impact assessment not required
<b>Data Protection Impact Assessment</b>	Not required.
<b>Other</b>	Not required.

## 10. BACKGROUND PAPERS

- 10.1 [Aberdeen City and Shire Strategic Development Plan 2020](#)
- 10.2 [Aberdeen Local Development Plan 2017](#)
- 10.3 [Proposed Aberdeen Local Development Plan 2020](#)
- 10.4 [City Centre Masterplan and Delivery Programme 2015](#)
- 10.5 [Harmony of Uses Supplementary Guidance](#)

## 11. APPENDICES

- 11.1 Appendix 1 – Draft Guidance on Outdoor Seating

## 12. REPORT AUTHOR CONTACT DETAILS

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