

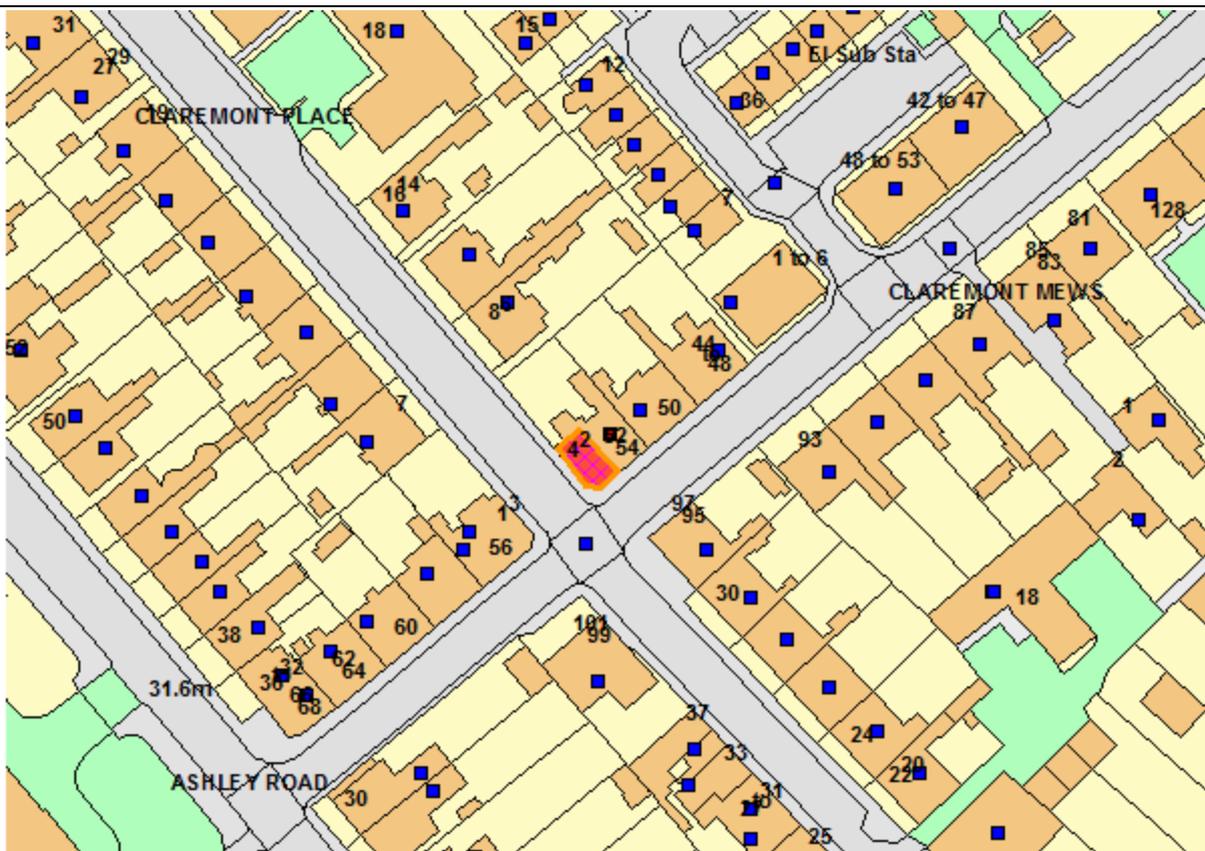


Planning Development Management Committee

Report by Development Management Manager

Committee Date:

Site Address:	54 Claremont Street, Aberdeen, AB10 6RA
Application Description:	Change of use from class 1 (retail) to class 11 (assembly and leisure)
Application Ref:	220640/DPP
Application Type	Detailed Planning Permission
Application Date:	18 May 2022
Applicant:	Mr Martin Jamieson
Ward:	Hazlehead/Queen's Cross/Countesswells
Community Council:	Ashley And Broomhill
Case Officer:	Roy Brown



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a ground floor commercial unit within a historic 3-storey granite-built tenement building in a residential area. The unit is currently vacant and was most recently in Class 1 (retail) use by 'Curated Stories'.

The upper stories of the building contain the 3 residential flats of 4 Claremont Place, which are accessed from the rear of the building and 52 Claremont Street, a residential tenement adjoins the unit to the northeast. The building has a corner frontage with a southeast facing principal elevation that fronts Claremont Street and a southwest elevation that fronts Claremont Place. In line with many corner units in the area, it would have originally been constructed and used as a shop.

Whilst the surrounding area is densely residential in character, the application site is to the immediate north of the Chattan Place Neighbourhood Centre and there are several local shop units in the surrounding area.

The surrounding streets are located within a Controlled Parking Zone (CPZ). Few of the properties in the surrounding area have off-street parking provision.

Relevant Planning History

None.

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought for the change of use of the building to Class 11 (assembly and leisure) from Class 1 (retail). The unit has a floor space of c.40sqm at ground floor level and c.27sqm at basement level.

The unit would be operated as an event space for offering leisure learning classes. Activities would include painting, cake decorating, flower arranging and pottery painting. It would also be used for the hosting of small private events (of fewer than 50 people) and that this could include 'paint and sip' classes, whereby visitors would bring their own food and drinks and paint.

No physical changes are proposed externally. A bin storage area would be provided internally. This development therefore solely considers the use of the unit as Class 11 (assembly and leisure).

Amendments

The application has been revised since submission so that a bin storage area would be provided internally rather than at the rear.

Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RC331DBZFWS00>

Supporting Statement (Prepared by Applicant)

Supporting statement in response to pre-application advice provided by the Planning Service for the proposal. Information has been provided to demonstrate the lack of demand for the retail use, to justify that the development would cater for a local need and to demonstrate that cycle storage would not be possible.

It also sets out superseded arrangements for waste storage to be located at the rear. As revised, waste is proposed to be stored internally.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because 6 or more letters of objection have been submitted with respect to the application.

CONSULTATIONS

Environmental Health Service – As food products are noted in the supporting statement, no objection if:

- A condition is applied to prohibit cooking activities likely to give rise to odour emissions; or
- They wish to cook on the premises, an extract ventilation system is provided, and odour and noise impact assessments are submitted and agreed.

The applicant has since confirmed acceptance of the suggested condition.

Environmental Health have also confirmed that there are no concerns with respect to noise from patrons.

Waste and Recycling Team – No objection – The development is classified as commercial and therefore receives a business waste collection. General information has been provided regarding commercial developments. Internal bin storage would be acceptable.

Roads Development Management Team – No objection – The application site is accessible to public transport provision as there are bus stops within 250m on Great Western Road.

No off-street parking spaces serve the site. The parking standards in the Supplementary Guidance: 'Transport and Accessibility' show that the existing and proposed use classes have similar parking requirements. It is thus considered that the change of use would have no net-detriment in the level of parking provision.

As the site is in a CPZ, parking is controlled in the area and there is no scope for indiscriminate parking. 'Pay & Display' parking measures would allow customer parking and turnover. Following concerns raised in the representations with respect to the impact on parking for the neighbouring residential properties, they reiterate these comments, highlighting that 'Pay & Display' parking measures would ensure turnover and note that the CPZ is not solely for use by residents but also visitors.

Whilst they would prefer safe cycle parking spaces to be provided on-site, they accept the supporting comments that this would not be possible and, given the small nature of the development, consider it acceptable. The suggested area presented for cycle stands would not be possible as it is neither within the control of the applicant nor Aberdeen City Council, as it is not adopted.

Ashley and Broomhill Community Council – No response received.

REPRESENTATIONS

Six objections from third parties have been received. The objections have raised concerns with respect to the following matters:

- Increased noise, which would negatively impact neighbouring residential amenity, health and wellbeing.
- Increased parking congestion in the area.
- Increased traffic would adversely impact road safety.
- The insufficient size of the unit for Class 11 use given it only has one restroom. Alternative locations would be more appropriate.
- Conflict with the ALDP and the Proposed ALDP in terms of impact on amenity, inadequate evidence for the need for the use and lack of demand for continued retail use.
- Neighbour notifications were not sent to all neighbouring properties.
- Concern for the safety of families, the elderly, single women, and children if it would be a drinking establishment.
- Drainage, if chemicals are improperly disposed.
- Precedent.
- The initially proposed location for bin storage.

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

Aberdeen City and Shire Strategic Development Plan 2020

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.

Aberdeen Local Development Plan 2017

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 –

Policy H1 - Residential Areas
Policy NC7 - Local Shop Units
Policy D1 - Quality Placemaking by Design
Policy R6 - Waste Management Requirements for New Development
Policy T2 - Managing the Transport Impact of Development
Policy T3 - Sustainable and Active Travel
Policy T5 - Noise

Supplementary Guidance (SG)

Transport and Accessibility
Noise

Proposed Aberdeen Local Development Plan 2020

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

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

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

The following policies are relevant –

Policy H1 - Residential Areas
Policy VC10 – Local Shop Units
Policy D1 - Quality Placemaking
Policy D2 - Amenity
Policy R5 - Waste Management Requirements for New Development
Policy T2 - Sustainable Transport
Policy T3 - Parking
Policy WB2 - Air Quality
Policy WB3 - Noise
Policy VC2 - Tourism and Culture

EVALUATION

Principle of Development

The application site is in a residential area, zoned within Policy H1 – Residential Areas of the ALDP, and the proposal relates to the change of use of an existing local shop unit to Class 11 (Assembly and Leisure).

Policy H1 states that any proposed loss of local shops would need to comply with Policy NC7 - Local Shop Units of the ALDP. It also states that within residential areas, proposals for non-residential uses will be refused unless:

1. They are considered complementary to residential use; or
2. It can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

These matters are considered in the below evaluation.

Loss of Local Shop Unit and Need for Proposed Use

The proposal would accord Policy NC7 if:

1. The applicant can demonstrate a lack of demand for continued retail use of the premises;
2. The proposed new use caters for a local need; and
3. The proposed use retains or creates a live and attractive frontage.

Lack of Demand for Continued Retail Use

Paragraph 3.30 of the ALDP states that proposals for a change of use where lack of demand is a factor should provide evidence that the property has been actively marketed for six months or more and should provide a statement(s) from prospective occupiers explaining their reasons for the property being unsuitable for retail use.

The supporting statement states that the site has been vacant since July 2020 and has been advertised locally for lease since then and a photograph of a 'To Let' sign (with a contact phone number) in the shop window from 4 August 2021 has been submitted as evidence. Corroborative of this, a Google Street View image from October 2020 appears to show the same 'To Let' sign and the signage from the previous operator was no longer present, implying the site was vacant. Furthermore, it has been known to the Planning Service that the unit has been vacant for at least 6 months. Notwithstanding the market conditions for a new operator were very unlikely to have been favourable during the pandemic, the unit appears to have been vacant for approximately 2 years. The Planning Service therefore accepts the evidence that the site has been unoccupied for more than 6 months.

Therefore, whilst no evidence has been submitted to explain why the property is unsuitable for retail use from prospective occupiers, premises has been vacant for significantly longer than 6 months, suggesting that current market conditions do not favour its continued retail use and therefore satisfactory evidence has been submitted to demonstrate a lack of demand for continued retail use of the premises, in compliance with Policy NC7 of the ALDP.

Catering for Local Need

In terms of catering for a local need, the supporting statement includes positive comments from members of the public in response to a social media post regarding their proposal. Whilst there is no evidence to corroborate the authenticity of these and no representations have been submitted in support, there are several local shops in the surrounding area. However, none of the commercial units in the local area are in Class 11 use. As such, whilst evidence of direct need has

not been provided, this proposal would provide an accessible and local premises in such a use, to the benefit of the local community, in accordance with Policy NC7 of the ALDP.

Paragraph 3.26 of the ALDP states that local shops outside defined centres play an important role in helping maintain sustainable communities. Given the close proximity of the application site to the Chattan Place and St Swithin Street Neighbourhood Centres and the existence of other retail units outside of these centres within close proximity to the site, the loss of the retail use would not result in the local community having no access to local shops. Conversely, the introduction of a new use to the area may increase footfall, to the benefit of existing shops.

Retention of Active Frontage

The proposal would retain an active frontage as no physical changes are proposed to the frontage. As such, the shop frontage would be retained, which would maintain the vitality of the surrounding area. It would also ensure that the proposal is reversible and that the site could be returned to retail use in the future.

Summary - Loss of Local Shop Unit and Need for Proposed Use

As there is a lack of demand for continued retail use of the premises, the proposed use caters for a local need; and the proposed use retains a live and attractive frontage, the proposal would accord with the aims of Policy NC7 – Local Shop Units of the ALDP.

Residential Amenity

There are residential flats above the unit (4 Claremont Place) and in the ground floor flat to the northeast, 52 Claremont Street. To consider whether the proposed use is complimentary to the surrounding residential uses and consider whether the development would detrimentally impact existing levels of residential amenity, consideration is given to potential impact from noise, odour and parking availability.

The Qualities of Placemaking referred to in Policy D1 – Quality Placemaking by Design of the ALDP seeks development to avoid unacceptable impacts on adjoining uses, including noise and smell.

Policy H1 states that within residential 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.

Noise

Given the small floorspace of the unit and the types of events noted by the applicant in terms of leisure learning classes, it is unlikely that there would be visitor numbers close to 50 people regularly.

The Environmental Health Service have been consulted and raised no concerns with respect to noise generation from the use, notably in terms of noise from visiting patrons.

During the day and early evenings, the proposed use would result in limited levels of noise, particularly in the context of background noise in the area. It would therefore not result in noise to a degree whereby the existing level of residential amenity of the neighbouring properties would be adversely affected.

The Noise SG requires that average indoor ambient noise levels for residential properties should be lower at night than during the day, between 2300 Hrs and 0700 Hrs. Background noise is likely to be significantly lesser in the area during such hours, meaning neighbouring residential properties would likely be more sensitive to any increase in noise levels in the area.

To minimise any noise inside and outside the premises during these hours, and thus protect the existing levels of residential amenity afforded to the residential properties in the area, it is reasonable and necessary to impose a planning condition to limit hours of operation to between 08:00 and 22:00 on any given day between Monday and Saturday and to between 10:00 – 21:00 on Sundays, which would allow time for visitors to leave the premises before 2300 Hrs.

Subject to this condition, the proposal would not adversely affect the existing level of amenity afforded to the neighbouring residential properties in terms of noise by any significant degree, in accordance with Policies H1 - Residential Areas, D1 - Quality Placemaking by Design and T5 - Noise of the ALDP; and the Noise SG.

Odour

Whilst no cooking operations are proposed, and this has been confirmed by the applicant, one of the proposed activities relates to food. It is therefore necessary to impose an appropriately worded condition to prevent cooking activities that would be likely to give rise to odour emissions, to prevent any risk of malodour being produced that could adversely affect the existing level of amenity afforded to the neighbouring residential properties. Subject to this condition, the proposal would not adversely affect the residential amenity of the neighbouring residential properties in terms of malodour, in accordance with Policies H1 – Residential Areas and D1 – Quality Placemaking by Design of the ALDP.

Parking Availability

It is recognised that there is limited parking provision on the surrounding streets of Claremont Place, Claremont Street and Chattan Place serving the surrounding residential properties, most of which have no private off-street parking provision. There are approximately 85 residential flats without off-street parking provision on Claremont Place whereas there are approximately 40 spaces on this street.

The Maximum Parking Standards suggest that the proposed Class 11 use would generate very similar levels of parking demand to the existing retail use, albeit a Class 11 use could reasonably be expected to generate less frequent visitors by car than Class 1 retail. The maximum requirement for the previous retail use was 1 space per 30sqm, and thus approximately 2, whereas the proposed use would require 1 space per 27sqm, also approximately 2 spaces.

The application site is in a Controlled Parking Zone. The previous retail use was eligible for two business parking permits and the proposed use would be eligible for the same number. The CPZ is operational Monday – Saturday 8am – 8pm with maximum stays for visitors being 3 hours. Any number beyond this would be controlled by ‘pay and display’ measures during the operational hours of the CPZ, the hours when parking demand would be expected to peak. In the event there was no spaces on the street, due to the turnover it would be for short periods and there would likely be spare capacity elsewhere within the CPZ.

Whilst the supporting information suggests the proposed activities would include ‘fewer than 50 people’, given the minor floorspace and expected space required for the suggested leisure classes, it is unlikely that there would be close to 50 people at the same time visiting regularly.

The site is located in the inner-city and is within close proximity to bus routes. As such, visitors would likely walk or use public transport to access the premises.

Considering the likely similar levels of parking demand of the proposed use compared to the existing use, CPZ controls in the area and its accessible inner-city location, the proposed Class 11 use would have negligible impact on the existing level of parking provision in the surrounding area. The Roads Development Management Team concord with this position.

As such, the proposed change of use would not adversely affect the existing levels of amenity afforded to the neighbouring residential properties in terms of adversely impacting existing levels of parking provision, in accordance with Policy H1 – Residential Areas of the ALDP.

Sustainable Transportation

Policy T2 – Managing the Transport Impact of Development of the ALDP states that commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

Policy T3 – Sustainable and Active Travel of the ALDP states that new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport.

As set out above, the proposal would negligible impact on the existing levels of parking provision in the area. The proposed location for cycle parking spaces suggested in the supporting statement would not be feasible as it is neither an adopted footway nor within the control of the applicant. As such, the proposal would not provide cycle parking spaces, in conflict with the Transport and Accessibility SG. Nevertheless, the application site is within 250m of the bus stops / routes on Union Grove to the north and Great Western Road to the south. It is located in the inner-city and thus it is accessible for pedestrian travel. The CPZ controls would likely discourage travel to the site by private cars.

Commensurate with the scale and anticipated impact, the proposed Class 11 use would have a negligible impact on the local transport network and, as far as feasible, the proposal would be accessible by means of sustainable and active travel. The proposal would therefore accord with the aims of Policies T2 – Managing the Transport Impact of Development and T3 – Sustainable and Active Travel of the ALDP.

Waste Storage and Collection

Policy R6 - Waste Management Requirements for New Development of the ALDP states that all new developments should have sufficient space for the storage of general waste, recyclable materials, and compostable wastes, where appropriate, and that details of storage facilities and means of collection must be included as part of a planning application for any development which would generate waste.

The proposed plans show that the bins would be stored inside the building. These would be moved onto the street on collection day.

To ensure that this bin storage area is provided, an appropriately worded condition will be applied to ensure that this area is provided in advance of the unit being brought into use. Subject to such a condition, bin storage would be provided, in accordance with the aims of Policy R6 - Waste Management Requirements for New Development of the ALDP and the 'Resources for New Development' SG.

Proposed Aberdeen Local Development Plan 2020

Policy T3 – Parking of the Proposed ALDP states that in inner city areas, low or no car development will be supported in suitable locations where there is adequate access to active travel and public transport options. Whilst no off-street parking provision is provided, nor would it be feasible, the site is in close proximity to active travel and public transport options. As such, the limited level of parking for the site would accord with the aims of this policy.

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

Matters Raised in Representations

The matters raised with respect to its assessment against the Development Plan, its location in a residential area, the impact on amenity, health and wellbeing, parking congestion, bin storage and the authenticity of evidence submitted have been addressed above.

The concern raised with respect to the initial proposal to store bins at the rear, have been addressed through the submission of revised plans to provide bin storage internally.

The Environmental Health Service and Roads Development Management teams were consulted to address representations raised with respect to noise and transport matters respectively and they reiterated their initial comments and position.

The change of use would have no impact on road safety. It would have no material impact on the risk of vehicles parking indiscriminately or driving at illegally high speeds. The enforcement of indiscriminate parking would be a matter for parking wardens and the control of vehicles driving at illegal speeds would be a matter for the police.

With respect to concern about patrons drinking alcohol, permission is sought for the change of use to Class 11 (Assembly and Leisure) and not a licensed premises. Planning permission would be required separately for the change of use to a licensed premises (*sui generis*). An application would also separately need to be made to the Licensing Board to decide whether to grant a license for the serving of alcohol. The planning conditions to minimise noise and prevent adverse odour would ensure that the amenity of the adjacent residential properties would not be adversely affected.

The proposal would not in itself result in a precedent for unwelcome development. Every planning application is assessed on its own merits, and this proposal is considered acceptable based on its own.

With respect to concern that some neighbours were notified, it is indeed the statutory requirement under Regulation 18 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 for the Planning Authority to send notifications to all premises within 20 metres of the application site. All such neighbours have been notified, including the flats of 4 Claremont Place, and 21 days have been provided to make a representation, as shown on the Neighbour Notification List dated 10th June 2022. As such, these statutory requirements have been fulfilled by the Planning Authority.

The other matters raised are not material planning considerations that can be considered in the assessment of this application.

With respect to the safety of families, the elderly, single women, and children, notwithstanding the proposal would increase natural surveillance to the benefit of safety, the prevention of crime is a matter that would be ensured by the police. The disposal of waste and materials would ultimately be an environmental health matter. The number of toilets provided for the premises would be considered under separate building regulations requirements.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

Satisfactory evidence has been submitted to demonstrate the lack of demand for continued retail use of the premises, the proposed Class 11 (Assembly and Leisure) use would serve a local need and the proposal would retain an active frontage as no physical changes are proposed to the frontage. As such, it would accord with Policy NC7 – Local Shop Units of the Aberdeen Local Development Plan 2017 and Policy VC10 – Local Shop Units of the Proposed Aberdeen Local Development Plan 2020.

Subject to the conditions to prevent unreasonable noise at night and malodour, the proposal would not adversely affect the existing levels of residential amenity afforded to the neighbouring residential properties in terms of noise and malodour, in accordance with Policy T5 – Noise of the Aberdeen Local Development Plan 2017; the Supplementary Guidance: ‘Noise’; and WB3 – Noise of the Proposed Aberdeen Local Development Plan 2020.

Given its minor floor space, the likely similar levels of parking demand from the proposed use compared to the existing use, existing controlled parking measures and its accessible inner-city location, the proposal would have negligible impact on the existing level of parking provision in the surrounding area. As such, it would not adversely affect the existing levels of amenity afforded to the neighbouring residential properties in terms of impacting parking provision.

The proposal would therefore not adversely affect the amenity afforded to the surrounding residential area, in accordance with Policy H1 – Residential Areas and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan 2017; and Policies H1 – Residential Areas and D1 – Quality Placemaking of the Proposed Aberdeen Local Development Plan 2020.

Notwithstanding no cycle storage would be provided, the proposal would be accessible by modes of sustainable and active travel given its accessible city location and proximity to bus stops, in accordance with Policies T2 – Managing the Transport Impact of Development and T3 - Sustainable and Active Travel of the Aberdeen Local Development Plan 2017; and Policy T2 – Sustainable and Active Travel of the Aberdeen Local Development Plan 2020. Given its inner-city location, the absence of parking provision would accord with the aims of Policy T3 – Parking of the Proposed Aberdeen Local Development Plan 2020.

The proposed use would have acceptable bin storage and collection arrangements in accordance with Policy R6 – Waste Management Requirements for New Development of the Aberdeen Local Development Plan 2017; the Supplementary Guidance: ‘Resources in New Development’; and Policy R5 - – Waste Management Requirements for New Development of the Proposed Aberdeen Local Development Plan 2020.

CONDITIONS

- 1) That the hours of operation for the Class 11 use hereby approved shall be limited to between 08:00 and 22:00 on any given day between Monday and Saturday and to between 10:00 and 21:00 on Sundays.

Reason: In the interests of the amenity of the neighbouring properties.

- 2) That no cooking, frying or baking 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 in the interests of preventing malodour and ensuring the existing level of residential amenity afforded to the neighbouring properties is retained.

- 3) That the use hereby approved shall not be implemented unless the waste storage area identified on the submitted floor plan (Ref: 004 Rev A), has been completed in its entirety, unless details of a variation have been submitted to, and approved in writing by the Planning Authority.

Reason: To ensure bins are not stored on the street, in the interests of pedestrian accessibility and safety.