

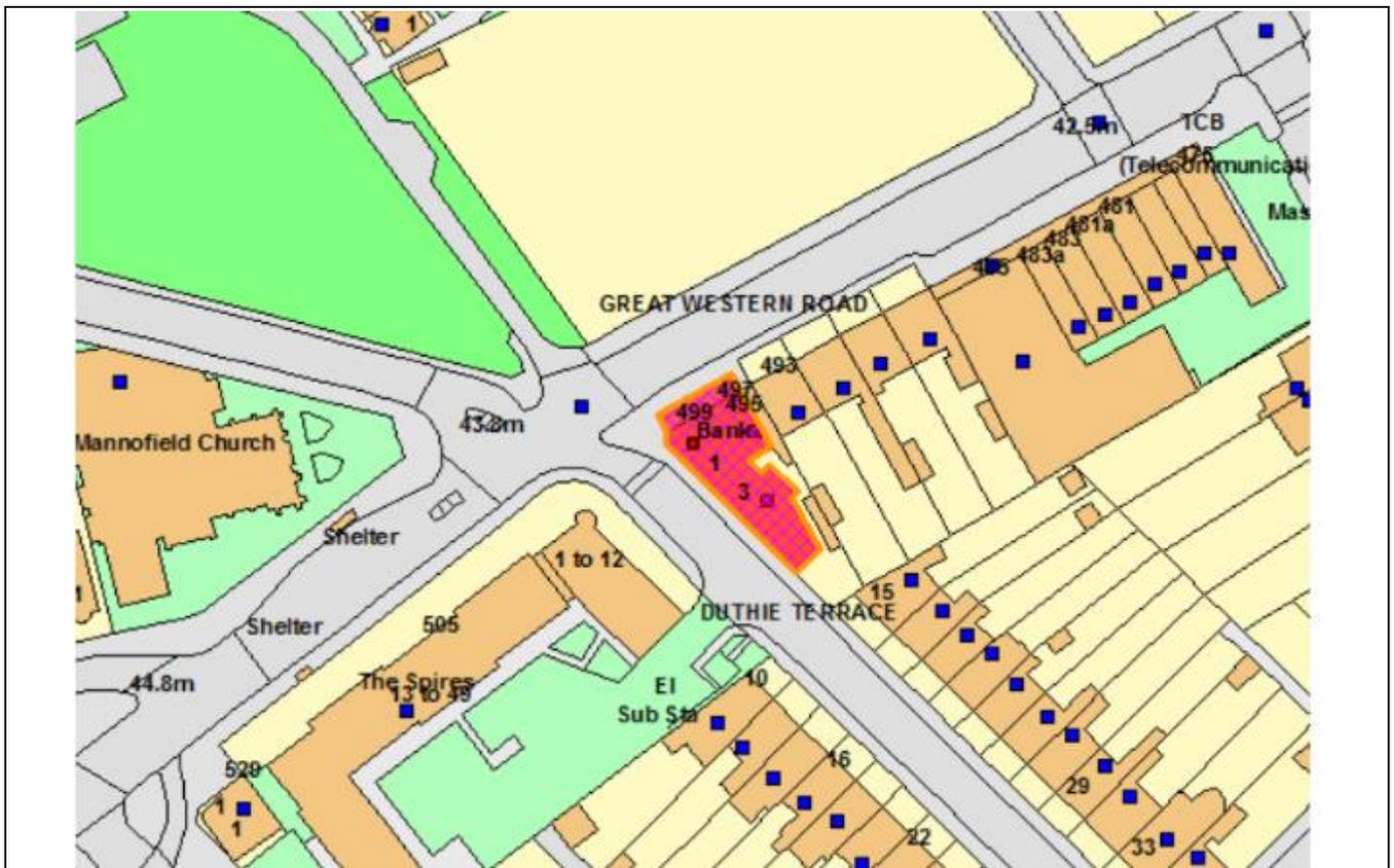


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 20 April 2023

Site Address:	Lloyds T S B, 495 - 499 Great Western Road, Aberdeen, AB10 6NN
Application Description:	Change of use from class 2 (financial, professional and other services) to class 3 (food and drink); change of use from pavement to outdoor seating area with associated enclosure and installation of canopy and kitchen extract flue
Application Ref:	221298/DPP
Application Type	Detailed Planning Permission
Application Date:	28 October 2022
Applicant:	Moossh
Ward:	Airyhall/Broomhill/Garthdee
Community Council:	Braeside And Mannofield
Case Officer:	Alex Ferguson



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site comprises a vacant commercial premises that occupies the ground floor level of a 3-storey end-terraced building of traditional design (granite walls and slated mansard roof) situated on the eastern side of Great Western Road's junction with Duthie Terrace. The vacant unit is authorised for Class 1A use (shops, and financial, professional and other services), having previously operated as a bank before closing in 2021. The unit has large shopfront windows on its principal (north) elevation to Great Western Road and two further windows on its side (west) elevation to Duthie Terrace, all set below a light grey fascia. The unit extends southward into a single-storey flat-roofed rear extension which incorporates a raised access door onto the street. An area of hardstanding used for bin storage occupies the southernmost part of the premises' rear curtilage which is shared with multiple residential flats that occupy the upper floors of the building, accessed via communal entry doors on Great Western Road and Duthie Terrace. The site forms part of the Mannofield neighbourhood centre and lies within the Great Western Road Conservation Area.

Relevant Planning History

Application Number	Proposal	Decision Date
230195/DPP	Erection of bin store	Status: Pending Determination
130344	Proposed illuminated Fascia Sign, Projecting Sign and ATM Surround	03.04.2013 Status: Approved Unconditionally

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought to change the use of the premises from Class 1A to Class 3 (food & drink), with the applicant intending to operate a café / delicatessen between the hours of 8am to 11pm Monday to Saturday and 8am to 10pm on Sundays. The existing use was, until 31st March 2023, Class 2 (financial, professional and other services), as per the application description. Following an update to the Town and Country Planning (Use Classes) (Scotland) Order 1997, Classes 1 and 2 were replaced by Class 1A use (shops and financial, professional and other services)

The café would incorporate seating and a counter, bar & deli display in the front portion of the unit (facing onto Great Western Road), with toilets, storage, staff rooms and a kitchen in the rear extension. Additional seating is proposed externally, on the Great Western Road pavement immediately in front of the unit, along with associated street furniture including a 1.8m high timber privacy screen adjacent to the communal entry door to the upper floor flats, low-level screen planting and fabric parasols and two Sheffield cycle stands. It is proposed to repaint the existing fascia to a green colour, and to install a metal kitchen extract flue to the southern elevation of the single storey rear extension. The flue would be powder coated a muted grey colour and would project 1m above the flat roof.

A bin store is proposed to be formed within the shared rear curtilage. As the proposed bin store is outwith the red line boundary for this application it is therefore the subject of a separate planning application (230195/DPP), which is pending determination at the time of writing.

Amendments

In agreement with the applicant, the following amendments were made to the application:

- Noise and Odour Impact Assessments were submitted; and
- The application description and plans were amended to include the installation of the kitchen extract flue;
- The installation of two cycle parking loops on the pavement, adjacent to the outdoor seating area, was incorporated.

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=RKEMDOBZKVN00>

- Noise Impact Assessment
- Kitchen Ventilation Report / Odour Assessment
- Design Statement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 representations were received either objecting to, or raising concern about, the proposed development and the application is recommended for approval.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. The premises has no car parking spaces at present and none are proposed. On-street parking is available on surrounding streets and it is likely that the proposed use would predominantly cater to the local community. The site lies in close proximity to bus stops which are used by regular bus services and cycle parking has been added to the proposals which could be used by customers. The applicant has confirmed that only transit-van sized vehicles would be required for deliveries which would occur, at most, twice daily and it is considered that this operation would be no more onerous than the regular security van visits to the property for deposits and collections when it operated as a bank. The applicant will need to apply for a café permit from the Council in order to occupy part of the adopted pavement for use as outdoor seating, but ample footway width would be retained, therefore there are no road or pedestrian safety concerns in that regard.

As the proposed use would not result in a net detriment in terms of parking, would be amply served by foot, cycle and bus, and as deliveries would be similar to the previous bank security vans in terms of size and frequency, there are no Roads concerns with the proposed development.

ACC - Environmental Health – No objection. Environmental Health are satisfied that the

proposed use would not cause any significant harm to the amenity of any neighbouring properties, subject to the implementation of the mitigation measures recommended in the applicant's Odour and Noise Impact Assessments, which can be summarised as follows:

Odour Control

A Local Ventilation Extract System requires to be installed to meet the requirements set out in the applicant's Odour Assessment, to incorporate odour mitigation measures including, but not limited to:

- Grease baffle filters to be applied within the extract canopy (providing initial grease removal/fire protection) as detailed within section 5.3.3 and Appendix C-2;
- A two-stage carbon filter unit incorporating a washable panel/bag pre-filter followed by carbon filtration (with a minimum 0.2 second carbon filters residence time) as detailed within section 5.3.4 and Appendix C-3;
- A high velocity vertical discharge cowl with bird mesh and an internal drain as detailed within section 5.3.6 and Appendix C-5.

Noise Control

- The kitchen ventilation intake/extract fans shall have equivalent, or lower, noise emissions to those detailed in sections 2.3/2.4 of the NIA and appendices 8.2/8.3;
- The café ceiling shall meet a minimum total reduction in sound to the above flats of 47 dB, with acoustic upgrades applied to the existing ceiling if necessary; and
- The outdoor seating area is acceptable provided the patron numbers are restricted to a maximum of 28 at any one time, and the operational hours are restricted to daytime hours (7am to 11pm).

The Environmental Health Service also recommend an advisory note is attached to any planning permission for the operator to establish a written Odour Management Plan including cleaning and maintenance procedures for the plant corresponding with Section 5.3.7 of the Odour report, based on manufacturer's instructions and extent of use, to reduce risk of malodour and statutory nuisance going forward.

ACC - Waste and Recycling – No objection. Advice is provided in relation to commercial waste storage and collection for the applicant to be aware of. These are added as an Advisory Note.

Braeside And Mannofield Community Council – No comments received.

REPRESENTATIONS

A total of 30 representations have been submitted by third parties, 22 of which either support or make positive comments about the proposed development and 8 of which either object to or raise concerns about the proposals. The matters raised can be summarised as follows:

Comments made in support of the application

- The proposed development presents a fantastic opportunity for the area and the local

community, with a new type of café/deli that is not available at present;

- There are a very limited amount of cafés in the Mannofield area and the existing cafés are not open in the evening. It would be good to have a bistro open in the evenings within walking distance, avoiding the need to travel into the city centre for a similar offering;
- The use would be sustainably accessible, being situated on a bus route and within a residential area, with many locals likely to walk to the premises rather than drive – therefore parking would not be an issue;
- The proposed café would be a better use for the property than the currently empty, boarded up unit, which detracts from the area;
- The proposed café would complement the area and existing cafes can often be too busy;
- The café could serve as a meeting place for local residents of all ages and attract other tenants to revitalise other empty commercial units on Great Western Road;
- The café would add to the vibrancy of the area and we should be encouraging new businesses in any way we can at this moment in time;
- The previous bank use was extremely busy with people stopping on the double yellow lines all day long, which customers won't do if sitting in;
- There are no cooking odours from the fully operational kitchen at the Mannofield Church. Modern extractor fans do their job superbly;
- Noise emissions will not be an issue as the use will not be a night club or bar;
- Waste collections and deliveries will be a necessity regardless of what type of establishment occupies the premises. Deliveries and collections will be quick and infrequent; and
- Research shows that the addition of a café / restaurant to an area would be more likely to add value to local residential properties, rather than devalue them.

Concerns raised

- No car parking is proposed and the proposed use would exacerbate existing on-street parking supply issues that affect local residents, particularly as Duthie Terrace is not in a Controlled Parking Zone;
- The proposed use will not be the same in terms of car parking demand as the previous bank use of the premises – with café customers likely to stay longer;
- In 2014, an application (P140359) for a venue nearby at Friendville, Mannofield was refused on the grounds of parking, with Roads Development Management objecting to the proposals and noting that 'the surrounding road network cannot accommodate overspill parking' – what has changed in the intervening years?
- The proposed use would result in the overprovision of food outlets in the area, with two cafés, two takeaways and a supermarket nearby and there is no need for another café;
- The kitchen extractor fans could blow cooking odours into the street and neighbouring properties;
- The placement of commercial waste bins on the public pavement would not be attractive and would jeopardise public safety;
- Evening opening hours would cause increased noise and disruption, causing harm to residential amenity;
- Opening hours should be restricted to between 9am and 6pm;
- The outdoor seating would encroach on the public pavement, to the detriment of pedestrian safety;
- Delivery and waste collection vehicles would block Duthie Terrace, given it is single-lane and one-way, with no space for unloading;
- The Council should consult Mannofield Church who already provide a café service for the community and it would be sad to see their revenue disappear;

- It is alleged that the application premises has no right of access over, or ability to use, the outside area where it is proposed to place the commercial waste bins;
- Industrial bins will not fit through the existing gateway;
- The placement of commercial bins in the rear curtilage would exacerbate existing vermin and hygiene issues – there is no washing area with a drainage system;
- Whilst no application for an alcohol license has been made, the floor plans show a wine counter. The noise from customers and recycling of glass bottles associated to a licensed premises would harm amenity and the application has been submitted for the incorrect use;
- Why are additional tables and chairs required outside and does the applicant have a permit from ACC to occupy part of the pavement?;
- How would access be maintained for upper floor flat owners to clean their windows and gutters?; and
- The change of use would devalue flats in the area.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Development Plan

National Planning Framework 4 (NPF4)

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan. The relevant provisions of NPF4 that require consideration in terms of this application are –

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- Policy 7 (Historic Assets and Places)
- Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings)
- Policy 12 (Zero Waste)
- Policy 13 (Sustainable Transport)
- Policy 14 (Design, Quality and Place)
- Policy 15 (Local Living and 20 Minute Neighbourhoods)
- Policy 23 (Health and Safety)
- Policy 25 (Community Wealth Building)
- Policy 27 (City, Town, Local and Commercial Centres)

Aberdeen Local Development Plan 2017 (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 five years after the date on which the current plan was approved. The ALDP is beyond this five-year period.

The following policies are relevant –

- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)
- Policy NC6 (Town, District, Neighbourhood & Commercial Centres)
- 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)

Proposed Aberdeen Local Development Plan 2020 (PALDP)

The Report of Examination on the Proposed Aberdeen Local Development Plan 2020 (PALDP) was received by the Council on 20 September 2022. All the recommendations within the Report have been accepted and the modifications made to the PALDP were agreed by Full Council on 14 December 2022. The PALDP constitutes the Council's settled view as to the content of the final adopted ALDP and is now a material consideration in the determination of planning applications. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on the relevance of these matters to the application under consideration.

The following policies are relevant –

- Policy D1 (Quality Placemaking)
- Policy D6 (Historic Environment)
- Policy R5 (Waste Management Requirements in New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC8 (Town, District, Neighbourhood and Commercial Centres)
- Policy WB3 (Noise)

Supplementary Guidance and Technical Advice Notes

- Transport and Accessibility
- Harmony of Uses
- Noise
- Resources for New Development

National Planning Policy and Guidance

- Historic Environment Policy for Scotland (HEPS)

EVALUATION

Tackling the Climate and Nature Crises, Climate mitigation and Biodiversity

Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4) requires significant weight to be given to the global climate and nature crises in the consideration of all development proposals. The proposed development is sufficiently small-scale such that it

would not make any material difference to the global climate and nature crises, therefore the proposals are compliant with Policy 1.

Policy 2 (Climate mitigation and adaptation) requires development proposals to be designed and sited to minimise lifecycle greenhouse gas emissions as far as possible, and to adapt to current and future risks from climate change. The proposed development is sufficiently small-scale such that it would not make any material difference to climate mitigation and adaptation, nor are there any opportunities to minimise greenhouse gas emissions, given the nature of the proposals. The proposals are therefore compliant with Policy 2 of NPF4.

Policy 3 (Biodiversity) of NPF4 requires proposals for local development *'to include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.'* The proposed change of use is small-scale, predominantly internal and does not offer the opportunity for any biodiversity gain other than the screening planters to the perimeter of the outdoor seating which could make a minor contribution to biodiversity enhancement. It is thus considered that the proposals are acceptable despite some minor tension with Policy 3 of NPF4.

Re-use of the existing building

Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 states that:

- d) *Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses.*

Policy 12 (Zero Waste) of NPF4 adds further support to the re-use of existing buildings and infrastructure and given the proposed development would repurpose a vacant ground floor unit within an existing building, with no external demolition or additions required, it is considered that the proposals would be sustainable in accordance with Policies 9 and 12 of NPF4.

Commercial Centres

The application site lies within the Mannofield Neighbourhood Centre, as defined in the Council's Hierarchy of Centres supplementary guidance.

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

- a) *Development proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses, will be supported.*

The proposed development would see a unit that has lain vacant for almost 2 years occupied for a new Class 3 use that would enhance the vitality and viability of the local centre, and add to the mix of uses already present. The proposals are therefore compliant, in principle, with Policy 27 of NPF4.

Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the ALDP states:

Retail is the preferred use within these designated centres, however a mix of uses is desirable. Proposals for changes of use from retail to non-retail use in town, district, neighbourhood and commercial centres will only be allowed if it meets all of the following criteria:

- 1) *the proposed alternative use makes a positive contribution to the vitality and viability of the centre;*

- 2) *the proposed alternative use will not undermine the principal function of the centre in which it is located;*
- 3) *the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use);*
- 4) *the proposed use caters for a local need;*
- 5) *the proposed use retains or creates a live and attractive shop frontage;*
- 6) *the new use does not create clustering of a particular use in the immediate vicinity which would undermine the character and amenity of the centre or the well-being of communities; and*
- 7) *the alternative use does not conflict with the amenity of the neighbouring area.*

The above criteria of Policy NC6 can each be addressed as follows:

- 1) *the proposed alternative use makes a positive contribution to the vitality and viability of the centre*

The proposed development would repurpose the existing vacant unit with a food & drink use that would likely be used predominantly by local residents, would reactivate the unit's street frontage and would make a positive contribution to the vitality and viability of the centre.

- 2) *the proposed alternative use will not undermine the principal function of the centre in which it is located*

The Mannofield neighbourhood centre includes the late 20th Century parade of commercial units to the east (475-485 Great Western Road) which contains a convenience retail store, a pharmacy, several other Class 1A units (either occupied or vacant), and a hot-food takeaway. To the west of the application site, in the Mannofield neighbourhood centre, there is the Mannofield Church (which contains a public café), another hot-food takeaway and further Class1A units between 530 and 541 Great Western Road. The principal function of the centre is therefore one of a mix of uses within Classes 1A, 3 and hot-food takeaways and the proposed creation of an additional Class 3 café would not undermine the function.

- 3) *the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use)*

Given both Policy 27 of NPF4 and Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the Proposed Aberdeen Local Development Plan 2020 (PALDP) do not state a preference for retail in such areas, acknowledging the changing retail landscape in recent years, it is considered that criterion 3 of Policy NC6 of the ALDP does not require to be met. Nevertheless, the unit has lain vacant for nearly 2 years, without having been taken on for retail use.

- 4) *the proposed use caters for a local need*

The café would likely be used predominantly by local residents from the surrounding area, with several third party representations noting that they would welcome the new use, with some noting how busy the existing cafés in the area are.

- 5) *the proposed use retains or creates a live and attractive shop frontage*

The Class 3 use would reinstate an active frontage to the street, with all existing shopfront windows to be retained.

- 6) *the new use does not create clustering of a particular use in the immediate vicinity which would undermine the character and amenity of the centre or the well-being of communities*

There is only one other Class 3 use in the neighbourhood centre – Café Connect at Mannofield Church approximately 80m to the west of the application site. The addition of the new café would not result in a clustering of Class 3 uses that would undermine the character and amenity of the area or the well-being of the community.

- 7) *the alternative use does not conflict with the amenity of the neighbouring area.*

A detailed assessment of the impact of the proposed use on amenity is contained in the 'Impact on amenity' section of the evaluation below, but for the reasons given in that section of the evaluation, it is considered that the proposed use would not cause any significant harm to the amenity of the neighbouring area.

The proposals are therefore considered to comply with Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the ALDP, and with the corresponding relevant policy VC8 of the PALDP.

Local living

Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 aims to encourage, promote and facilitate connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable walking, wheeling or cycling distance of their home and notes that development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. Whilst food & drink uses are not specifically listed in Policy 15, it is considered that the café would make a small contribution towards the local living concept promoted by NPF4, being an amenity that would add to the existing facilities available in the Mannofield neighbourhood centre which is itself within a 20-minute walk, wheel or cycle of a significant number of residential properties in the surrounding area. The proposals are therefore considered to be generally compliant with the aims of Policy 15 of NPF4.

Community wealth building

Policy 25 (Community wealth building) of NPF4 states that:

- a) Development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example improving community resilience and reducing inequalities; increasing spending within communities; ensuring the use of local supply chains and services; local job creation; supporting community led proposals, including creation of new local firms and enabling community led ownership of buildings and assets.*

The applicant advises in their Design Statement that the proposed café and delicatessen would be a local, independent business with a focus on showcasing locally sourced seasonal products from independent suppliers. The applicant further notes that, if successful, the business would lead to additional job opportunities within the local community, including part-time seasonal work for the young student workforce in Aberdeen.

Whilst the Planning Service cannot control what uses would operate within Class 3, if permission is granted, nor whether the business would be independent or source produce from local suppliers, it is clear that the occupation of the currently vacant unit for a Class 3 use would result in local job creation and likely result in additional business for other local firms. Spending in the community would also be increased compared to the existing situation, therefore the proposed development is considered to be compliant with the aims of Policy 25 of NPF4.

Impact on amenity

Noise

Policy 23 (Health and Safety) of NPF4 states that: *'The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.'*

Policy T5 (Noise) of the ALDP notes: *'housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses without suitable mitigation measures in place to reduce the impact of noise.'*

The applicant has submitted a Noise Impact Assessment (NIA) which assessed the potential impact of noise emissions on residential amenity from kitchen ventilation equipment, sounds within the café and sound from patrons sitting outside the café. The NIA concludes that any noise emitted by the kitchen ventilation equipment specified would not cause disturbance at the nearest residential property, that sound from within the café would be adequately reduced by the renovation of the premises' ceiling to meet a minimum total sound reduction of 47 dB and that noise from patrons using the outdoor seating area would be mitigated by a relatively high level of background noise from traffic on Great Western Road and sufficiently reduced by the distance to the nearest residential window.

The findings of the NIA are accepted by the Council's Environmental Health Service, subject to the implementation of various mitigation measures via condition, including:

- The kitchen ventilation intake/extract fans shall have equivalent, or lower, noise emissions to those detailed in sections 2.3/2.4 of the NIA and appendices 8.2/8.3;
- The café ceiling shall meet a minimum total reduction in sound to the above flats of 47 dB, with acoustic upgrades applied to the existing ceiling if necessary; and
- The outdoor seating area is acceptable provided the patron numbers are restricted to a maximum of 28 at any one time, and the operational hours are restricted to daytime hours (7am to 11pm).

The Planning Service is content to require the first two of the above mitigation measures to be implemented via conditions but the application of a restriction to the number of patrons using the outdoor seating area is not considered to be enforceable and would therefore not be a competent planning condition. Furthermore, should planning permission be granted for the change of use of the premises, new permitted development rights which came into force on the 31st of March 2023 allow for outdoor seating on the public road (including the pavement) adjacent to Class 3 and public house uses to take place without planning permission (although street occupation permits are still required). Therefore it would also not be reasonable to unduly restrict the occupancy of the outdoor seating area which would otherwise be permitted development. Nevertheless, given the size of the pavement, the relatively busy nature of Great Western Road and Aberdeen's temperate climate, it is not anticipated that the outdoor seating area would be occupied by a significant number of patrons on a regular basis, nor in the more sensitive evening hours. The Environmental Health Service's suggested restriction of the opening hours to between 7am and 11pm is

considered to be generally appropriate but 7am is considered to be relatively early and the Planning Service also considers that any opening hours restriction should be applied to the premises as a whole, rather than just the outdoor seating area. A condition is therefore attached restricting the opening hours of the café and any associated outdoor seating to between the hours of 8am and 11pm on any given day.

Therefore, subject to the implementation of the aforementioned mitigation measures, the Planning Service is satisfied that the proposed use would not have any significant adverse impact on the amenity of any neighbouring residential properties in terms of noise emissions, in accordance with Policy 23 of NPF and Policy T5 of the ALDP.

Although some noise emissions may also arise when waste and particularly recyclables (empty glass bottles) are deposited in the property's bins within the rear curtilage bin store, such waste and recyclable deposits are not likely to be frequent and, due to the aforementioned opening hours restriction, should not generally take place at any particularly sensitive periods in the late evening or early morning when harm to residential amenity would be increased.

Odour

No deep fat frying is proposed but as the cooking of various other hot foods (such as pizzas, pastas and baked potatoes) is proposed within the kitchen of the premises, an Odour Assessment was submitted by the applicant. The Odour Assessment concludes that, subject to the implementation of various mitigation measures in the chosen kitchen ventilation system design (as detailed in Section 7.0 of the Odour Assessment), the risk of malodours from cooking fumes adversely affecting residential amenity would be in the 'Low-Medium' category.

The Council's Environmental Health Service accept the findings of the Odour Assessment and consider that, subject to the implementation of the mitigation measures recommended within the Odour Assessment (mainly requiring certain types and specifications of equipment), the proposed kitchen ventilation equipment would adequately filter any odours produced in the kitchen and ensure that there would be no significant adverse impacts from cooking odours on residential amenity.

Transport & Accessibility

Accessibility and parking

Policy 13 (Sustainable Transport) of NPF4 states:

e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP both require new developments to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

The application site lies in an accessible location, with bus stops served by several regular bus services (no's 19, 52 and 201) situated within 100m of the site on Great Western Road, and within walking, wheeling and cycling distance of a significant number of residential properties in Mannofield, Braeside, Seafield and beyond. Cycle parking would also be provided for up to four bicycles. Given the nature of the proposed use and the surrounding area, and the absence of any

dedicated car parking, it is anticipated that the majority of customers would live in the local area and would access the café via sustainable and/or active modes of transport.

No dedicated car parking is either proposed or feasible, given the constrained nature of the site. For customers who would wish or need to access the site by car, unrestricted on-street car parking is available on Duthie Terrace and other nearby streets. Whilst concerns have been raised in some representations received from local residents in relation to existing on-street parking supply issues, it is considered that due to the predicted local catchment of the proposed use and the accessible nature of the site by foot, wheel or cycle, any increase in parking demand would not likely be significant. It is also worth noting that the property is currently authorised for any use within Class 1A, therefore any parking demand for the proposed Class 3 use should be considered in the context of any new Class 1A use of the property which would not require planning permission. In that context, it is anticipated that the proposed Class 3 use would not have a significant net increase in parking demand to the existing authorised use (albeit vacant at present).

The absence of any dedicated car parking for the proposed use is therefore considered to be acceptable, the proposed use would serve a local catchment area and the site is highly accessible by sustainable and active modes of travel – all in accordance with Policies 13 of NPF4 and T2 and T3 of the ALDP.

Road & pedestrian safety, and the free flow of traffic

Concerns have been raised in some representations in relation to the impact of the proposed development on road & pedestrian safety, and on the free flow of traffic on Duthie Terrace, particularly in relation to delivery and waste collection vehicles and also the encroachment of the public pavement on Great Western Road by the formation of the outdoor seating area.

The applicant has confirmed that deliveries would likely take place, at most, twice daily for relatively short periods of time, whilst waste and recyclables would be collected by a commercial waste contractor, likely on a weekly or twice-weekly basis. It is noted that Duthie Terrace has a relatively narrow carriageway when taking into consideration parked vehicles on both sides, and that it is on-way, with no entry permitted from Great Western Road. The applicant has advised that delivery and waste collection vehicles would be of a relatively small 'transit van' scale, which would be able to navigate Duthie Terrace without any issue. Double yellow lines run along the carriageway in front of the premises on Great Western Road and to the side/rear on the eastern side of Duthie Terrace, outside the rear access door to the property. Whilst parking is not permitted on double yellow lines in Aberdeen, commercial vehicles are permitted to load and unload goods on areas of carriageway marked with double yellow lines. The stretch of double yellow lines outside the property would therefore allow for the proposed café use to be adequately serviced by delivery and waste collection vehicles without detriment to either road safety or the free flow of traffic on Duthie Terrace.

In terms of pedestrian safety, the public pavement in front of the property on Great Western Road is approximately 6m wide. The applicant proposes to use the first 2.85m adjacent to the premises for outdoor seating, which would leave approximately 3m of unobstructed pavement width remaining for use by pedestrians, which is acceptable and would not result in any risk to pedestrian safety. Additionally, the seating area would not obstruct the visibility splay for vehicles turning from Duthie Terrace onto Great Western Road, therefore road safety would also be preserved. The creation of the bin store in the property's rear curtilage, with the waste being collected from Duthie Terrace by an appointed commercial waste contractor, would ensure that the bins would not be placed on the relatively narrow Duthie Terrace pavement at any point.

Waste Management

Policy 12 (Zero Waste) of NPF4 and Policy R6 (Waste Management Requirements for New Development) of the ALDP both require new developments to have sufficient space for the appropriate storage of any waste and/or recyclables that would be generated. The applicant proposes to form a dedicated bin store in the shared rear curtilage of the property which would allow for the commercial waste and recyclables to be stored separately from the domestic waste bins that are stored in the rear curtilage at present. The rear curtilage lies outwith the red line boundary for this application, therefore a separate application for the bin store was submitted and is pending determination at the time of writing. The bin store proposals are considered to be acceptable however, and a condition is attached requiring the formation of the bin store prior to the new use commencing. The proposals are therefore considered to be compliant with Policies 12 of NPF4 and R6 of the ALDP.

Design, placemaking and impact on the character and appearance of the conservation area

Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking by Design) of the ALDP both require all development to be of a high quality design, appropriate for its context.

The site lies within the Great Western Road Conservation Area and Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland (HEPS) and Policy D4 (Historic Environment) of the ALDP all require development within conservation areas to either preserve or enhance the character and appearance of the conservation area.

The proposed development would largely involve the change of use of the property and associated internal alterations. However, it is also proposed to repaint the existing shopfront fascia from light grey to green, to erect a 1.8m high, 2.85m wide timber privacy screen between the outdoor seating and the communal access door to the upper floor flats, and to install a muted grey, powder-coated metal kitchen extract flue to the rear elevation of the building's single storey rear extension. The repainting of the shopfront fascia to a green colour would not have any discernible impact on the visual amenity of the area or the character and appearance of the conservation area. The timber privacy screen would be of an appropriate material, scale and siting – on a wider section of pavement, partially screened from the east by bushes in neighbouring front gardens – such that it would also preserve the character and appearance of the conservation area. The metal kitchen extract flue would be relatively prominently visible from Duthie Terrace but it would not be of a significant scale, projecting just 1m above the flat-roof, and it would be powder-coated in a muted grey colour which would help to minimise the contrast in appearance between it and the backdrop of the building's grey granite walls.

The proposals are therefore all considered to be of an appropriate design for the context, in accordance with Policies 14 of NPF4 and D1 of the ALDP, and they would adequately preserve the character and appearance of the conservation area, in accordance with Policy 7 of NPF4, HEPS and Policy D4 of the ALDP.

Concerns raised in representations

The matters raised by those either objecting to, or raising concerns about, the proposed development are largely addressed in the foregoing evaluation. The remainder of the concerns not addressed above are each addressed, in turn, below:

- *The proposed use will not be the same in terms of car parking demand as the previous bank use of the premises – with café customers likely to stay longer*

Response: Whilst customers may be likely to stay for longer periods of time when

compared with the property's previous use as a bank, as noted above it is considered that the new café use would likely serve a local catchment area (perhaps more local than a bank branch) and that most customers would likely access the site by sustainable means. Therefore it is considered that the impact of car parking by customers on local on-street parking supply is likely to be insignificant.

- *In 2014, an application (P140359) for a venue nearby at Friendville, Mannofield was refused on the grounds of parking, with Roads Development Management objecting to the proposals and noting that 'the surrounding road network cannot accommodate overspill parking' – what has changed in the intervening years?*

Response: Each planning application is assessed on its own merits and against the relevant planning policies and guidance in place at that time. The 2014 application (P140359) which was refused, partly on the grounds of insufficient parking and the inability of the surrounding road network to accommodate overspill parking, was for a different site and for an alternative use (function facility with guest accommodation) which would likely have served a significantly larger catchment area than the proposed café and would have been more likely to be accessed via private car. Additionally, the 2014 application was assessed against the 2012 Aberdeen Local Development Plan which did not encourage low & zero parking and sustainable and active travel to the same extent as the current adopted and proposed local development plans, or NPF4. The planning policy situation in respect of car parking and sustainable travel has changed significantly since 2014.

- *The Council should consult Mannofield Church who already provide a café service for the community and it would be sad to see their revenue disappear*

Response: All properties within 20m of the application site were notified of the application, as statutorily required, and the application was advertised in a local newspaper. Mannofield Church did not require to be notified of the application and it is not the role of the Planning System to prevent competition between businesses.

- *It is alleged that the application premises has no right of access over, or ability to use, the outside area where it is proposed to place the commercial waste bins*

Response: Land ownership and access rights are not a material planning consideration. Nonetheless, the applicant has advised that they do have shared ownership of, and access rights over, the rear curtilage where it is proposed to store the commercial bins.

- *Industrial bins will not fit through the existing gateway*

Response: The bins proposed to be utilised would not be large 1280l bins, but smaller wheelie bins, which may require more bins or more frequent collections, but they would fit through the existing timber access gate to the rear curtilage.

- *The placement of commercial bins in the rear curtilage would exacerbate existing vermin and hygiene issues – there is no washing area with a drainage system*

Response: Subject to the approval of the separate planning application for the bin store, the commercial bins would be stored securely within a new bin store in the shared rear curtilage of the property. Whilst no washing area or drainage would be provided within the proposed bin store, as is advised by the Council's Waste & Recycling team, such facilities are preferable but not statutorily required. The Planning Service is satisfied that the waste

could be stored within the bin store without any hygiene issues or harm to amenity and were any such issues to occur then the Council would have separate powers, under Environmental Health legislation, to take enforcement action at that time.

- *Whilst no application for an alcohol license has been made, the floor plans show a wine counter. The noise from customers and recycling of glass bottles associated to a licensed premises would harm amenity and the application has been submitted for the incorrect use*

Response: The application must be assessed on its merits and against the description of the proposal, which is for Class 3 use. Subject to obtaining a licence, there is no restriction which prevents the sale of alcohol in Class 3 premises. Should the use be operated as a public house / bar once open then planning permission would be required for a change of use and enforcement action would be taken at that point in time.

- *Why are additional tables and chairs required outside and does the applicant have a permit from ACC to occupy part of the pavement?*

Response: It is not for the Planning Service to speculate why outdoor seating is desired by the applicant but the seating is considered to be acceptable for the reasons given in the foregoing evaluation. The applicant would need to obtain a street café permit from the Council before occupying the pavement with outdoor seating.

- *How would access be maintained for upper floor flat owners to clean their windows and gutters?*

Response: Access rights for maintenance are not a material planning consideration. Nonetheless the outdoor seating would not be permanently fixed in position, therefore it is anticipated that access for window cleaning and upper floor maintenance would be available if required.

- *The change of use would devalue flats in the area.*

Response: The impact of development on property values is not a material planning consideration.

Proposed Aberdeen Local Development Plan

The Report of Examination does not affect policies in a manner that is relevant to this application. The majority of the relevant PALDP policies substantively reiterate those referenced above in the adopted ALDP, therefore the proposal is acceptable in terms of both plans for the reasons previously given. As noted above, Policy VC8 (Town, District, Neighbourhood and Commercial Centres) of the PALDP is more relaxed than its equivalent policy (NC6) in the ALDP in relation to the protection of existing retail uses, instead favouring a mix of appropriate uses in commercial centres that should serve local communities. The proposal is therefore fully compliant with Policy VC8 of the PALDP.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed development would be of a sufficiently small scale and nature such that it would not materially affect the global climate and nature crises, in accordance with Policy 1 (Tackling the Climate and Nature Crises) of National Planning Framework 4 (NPF4). The works would not offer up the opportunity for climate mitigation or adaptation, thus there is no conflict with Policy 2 (Climate Mitigation and Adaptation) of NPF4. The works would be sufficiently small in scale and nature and do not provide any opportunity for any on-site biodiversity gain other than some minor planting in the outdoor seating area, therefore the proposals are acceptable despite some minor tension with Policy 3 (Biodiversity) of NPF4.

The proposed development would re-use an existing vacant commercial unit, which would comprise sustainable development in accordance with Policies 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) and 12 (Zero Waste) of NPF4. The proposed change of use would make a positive contribution to the vitality and viability of the Mannofield neighbourhood centre, would cater for a local need, reinstate an active street frontage, not result in a clustering of a particular use and would not conflict with the amenity of the surrounding area, all in accordance with Policy 27 (City, Town, Local and Commercial Centres) of NPF4 and Policy NC6 (Town, District, Neighbourhood & Commercial Centres) of the Aberdeen Local Development Plan 2017 (ALDP). Although the applicant has not demonstrated a lack of demand for the continued (or resumed) retail use of the premises as per Policy NC6, Policy 27 of NPF4 and Policy VC8 of the Proposed Aberdeen Local Development Plan 2020 (PALDP) are both supportive of a mix of uses in commercial centres, rather than protecting existing retail uses.

Subject to the implementation of appropriate mitigation measures required by condition, the proposed development would not adversely affect the amenity of any neighbouring residential properties in terms of noise or odour, in accordance with Policy 23 (Health and Safety) of NPF4, Policy T5 (Noise) of the ALDP and the Council's Harmony of Uses supplementary guidance.

The proposed development would be sited within 20 minutes walking, wheeling and cycling distance of a significant amount of residential properties and would likely serve a local catchment. The proposals are therefore compliant with the aims of Policy 15 (Local Living and 20 Minute Neighbourhoods) of NPF4 and the site would be capable of being accessed via sustainable and active modes of travel, in accordance with Policy 13 (Sustainable Transport) of NPF4 and Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP.

The formation of a new commercial use largely aimed at the surrounding local community, in a commercial unit that has lain vacant for nearly 2 years, would result in some local job creation and increased spending and amenities in the local community, in accordance with Policy 25 (Community Wealth Building) of NPF4.

The external alterations and additions to the building would be relatively minimal and of an appropriate design for the context of the area, in accordance with Policy 14 (Design, Quality and Place) of NPF4 and Policy D1 (Quality Placemaking by Design) of the ALDP and the works would all adequately preserve the character and appearance of the conservation area, in accordance with Policy 7 (Historic Assets and Places) of NPF4, Historic Environment Policy for Scotland and Policy D4 (Historic Environment) of the ALDP.

The development would have sufficient space for the storage of any waste generated, in accordance with Policy 12 (Zero Waste) of NPF4 and Policy R6 (Waste Management Requirements for New Development) of the ALDP. The proposals are also compliant with all corresponding relevant policies of the PALDP.

CONDITIONS

(1) DURATION OF PERMISSION

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

(2) FORMATION OF BIN STORE AREA

The hereby approved use shall not operate unless the bin store area shown in the approved plans under planning permission 230195/DPP, or similar as may be agreed in writing with the Council, has been installed and appropriate commercial bins have been made available for the storage of any waste and recyclables generated by the use.

Reason: In the interests of ensuring the satisfactory storage and collection of waste and recyclables without detriment to the amenity or character of the area.

(3) CYCLE PARKING

The hereby approved use shall not operate unless two cycle parking loops have been installed for use by customers as shown on approved Ground Floor Layout Plan drawing P01 Revision D.

Reason: In order to encourage and facilitate the accessibility of the new use via sustainable and active modes of travel.

(4) LOCAL EXTRACT VENTILATION SYSTEM

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 within the café premises unless the Local Extract Ventilation System detailed in Figures 3 & 4 and Section 5.3 of the hereby approved Odour Assessment (FEC Ltd 'Kitchen Ventilation Report including Odour Assessment' - Issue 01, 3rd February 2023), or a similar system as may be agreed in writing with the Council, with critical odour mitigation measures achieving at least an equivalent effect of those measures stated has been installed, including:

1. Grease baffle filters within extract canopy (providing initial grease removal/fire protection) as detailed within section 5.3.3 and Appendix C-2.
2. A two-stage carbon filter unit incorporating a washable panel/bag pre-filter followed by carbon filtration (with a minimum 0.2 second carbon filters residence time) as detailed within section 5.3.4 and Appendix C-3.
3. A high velocity vertical discharge cowl with bird mesh and an internal drain as detailed within section 5.3.6 and Appendix C-5.

Thereafter the use shall not operate unless the approved Local Extract Ventilation System is in place and operational.

Reason: In order to preserve the amenity of surrounding properties and the area by adequately filtering cooking odours.

(5) NOISE MITIGATION

The hereby approved use shall not operate unless:

1. Kitchen intake/extract fans with equivalent or lower noise emissions to those detailed in sections 2.3 & 2.4 and appendices 8.2 & 8.3 of the hereby approved Noise Impact Assessment (FEC Acoustics, 7 February 2023) have been installed, and evidence of this installation has been provided to, and agreed in writing by, the Planning Authority; and
2. Evidence has been provided to, and agreed in writing by, the Planning Authority to demonstrate that the café ceiling has been insulated to give a minimum total reduction in sound from the café to the first-floor flats of 47dB. Such evidence should be verified in writing by a professional noise consultant based on agreed inspection checks during and after work on site.

Reason: In order to protect the amenity of neighbouring residents from noise emissions associated to the café's cooking operations and customers.

(6) OPENING HOURS

The hereby approved use and associated outdoor seating shall only operate between the hours of 8am to 11pm on any given day.

Reason: In order to protect the amenity of neighbouring residents from noise and activity during the quieter, more sensitive late evening and early morning periods.

ADVISORY NOTES FOR APPLICANT

(1) ODOUR MANAGEMENT PLAN

The Environmental Health Service also recommend an advisory note is attached to any planning permission for the operator to establish a written Odour Management Plan including cleaning and maintenance procedures for the plant corresponding with Section 5.3.7 of the Odour report, based on manufacturer's instructions and extent of use, to reduce risk of malodour and statutory nuisance going forward.

(2) WASTE MANAGEMENT

- Business premises need to be provided with a bin store to allocate, within the property curtilage for the business waste and recycling bins
- Commercial waste bins cannot be stored on the street any day of the week as per Council Policy 2009 (Obstructions- Commercial Waste Bins). Infringement on the Council Policy can lead to a fine of £500 per bin as adopted by the Enterprise, Strategic Planning and Infrastructure Committee on 29th August 2013
- There are many waste contract collection providers operating in Aberdeen and each one provides different collection of waste and recycling services. For this reason, business premises need to liaise with their waste contract collection to ensure the correct management of their waste.
- Business premises have a legal Duty of Care covering all the waste they produce. This means that it is the Business premises responsibility to manage and dispose of any waste correctly.

- The Waste (Scotland) 2012 requires that all businesses from 1st January 2014 are required to separate paper, cardboard, glass, plastic and metals for recycling. Some businesses will additionally be required to separate their food waste (where food waste >5kg per week).

General tips for site and hopefully the chosen waste collection contractor will detail this but for access, the following is needed:

- An area of hard standing at storage and collections point(s)
- Dropped kerb at proposed bin collection point
- Yellow lines in front of bin collection point
- Bin storage areas to ideally be provided with a gulley and wash down facility for the interest of hygiene

For further independent guidance about waste and recycling provision, storage and collection please refer to the following document:

http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste_000.pdf and additional Trade Waste information can be found in the Waste Supplementary Guidance available at <https://www.aberdeencity.gov.uk/sites/default/files/2020-07/7.1.PolicySG.ResourcesForNewDevelopmentUpdateJuly2020.pdf>