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1. Introduction

1.1 Status of Aberdeen Planning Guidance

This Aberdeen Planning Guidance (APG) supports the Development Plan and is a material consideration in the determination of planning applications.

This APG expands upon the following Aberdeen Local Development Plan policies:

- Policy D1 – Quality Placemaking
- Policy D6 – Historic Environment (for applications in conservation areas / in the curtilage of, or affecting the setting of listed buildings)
- Policy T2 – Sustainable Transport
- Policy WB2 – Air Quality
- Policy WB3 – Noise
- Policy NE5 – Trees and Woodland
- Policy NE2 – Green and Blue Infrastructure (for applications in Urban Green Space and the Green Space Network)

1.2 Introduction to Topic / Background

The recent expansion of outdoor seating offered by hospitality businesses has transformed the city, creating a colourful, vibrant and busy atmosphere. Outdoor seating can animate a street and space, add to the ambience of a place and, due to increased footfall leading to natural surveillance, allow people of all ages to feel welcome. Outdoor seating can help to ensure the emerging café culture in Aberdeen will continue to develop in a positive and encompassing way. We continue to encourage the provision of outdoor seating in the city but we must be sure that the seating and any associated street furniture and structures meet the high standards that everyone expects.

Planning guidance on outdoor seating will help businesses to understand the criteria that need to be considered, from a planning perspective, when thinking about outdoor seating.

Outdoor seating as discussed in this document can take the form of moveable chairs and tables placed outside a premises, or larger covered structures to accommodate further seating.

Changes to planning legislation came into effect on 31 March 2023. These changes, known as Permitted Development Rights, allow for certain proposals to be implemented without the need to obtain planning permission.

As of 31 March 2023, planning permission is no longer required if a Class 3 (food & drink) premises, as defined in The Town and Country Planning (Use Classes) Order 1997 (these being a restaurant, cafes, or establishment where food and drink is consumed on the premises), or a public house wishes to:

- (a) change the use of part of a public road adjacent to relevant premises for the purposes of selling or serving food or drink supplied from those premises, or the consumption of food or drink supplied from those premises, and
- (b) place furniture on the public road adjacent to the premises for use in connection with such purposes.

A requirement of the above permitted development rights is that consent must be obtained from the relevant Roads Authority before any furniture is placed on the public road, which includes pavements and verges.

Within the Permitted Development Rights, 'furniture' is defined as:

- a) counters or stalls for selling or serving food or drink,
- b) tables, counters or shelves on which food or drink can be placed,
- c) chairs, benches or other forms of seating,
- d) umbrellas, ramps, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink,
- e) decking structures for the purpose of creating a level surface on which items mentioned in sub-paragraphs (a) to (d) can be placed.

Planning permission is required for all other outdoor seating and associated furniture or structures not included in the definition above. For the avoidance of doubt, buildings and enclosed or covered structures (other than umbrellas and parasols) underneath or within which seating would be provided, will always require planning

permission. If you are unsure if you require planning permission please contact the Development Management service at pi@aberdeencity.gov.uk

Other consents required for outdoor seating must be obtained separately. These are noted below:

- A café permit will be required from the Roads Authority if the proposed development is located on a public road, which includes pavements and verges. Café permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises, as covered by the existing licence, and employ sufficient staff to provide table management to the outside area. Café permit details a number of considerations including public safety, size and layout, boundaries, furniture including heaters, managing pavement café services, site cleanliness, good citizenship, hours of operation, permissions and operating requirements.
- If alcohol is to be served then an application also needs to be made to the Licensing Board.
- If a structure is to be erected then a Building Warrant may also be required.

Applicants are encouraged to contact the Licensing Board and Roads Authority early on in the process to discuss their proposals, and before submitting a planning application.

Links to further consent process can be found at the end of the document. This document covers planning considerations only. Matters which relate to other regulatory regimes (e.g. licensing) are not material planning considerations and would not be taken into account when deciding on a planning application in relation to outdoor seating.

1.3 Climate Change

Proposals should also be mindful of energy use and emissions - Aberdeen has an approved a Net Zero Routemap which strives to ensure the city becomes net zero by 2045.

2. Aberdeen Planning Guidance

2.1 General Principles for all outdoor seating and structures

Location

Proposals for outdoor seating should consider both the immediate and wider context in which they would be situated.

As a new addition to an area, the agent of change principle will be applied- whereby the applicant is responsible for ensuring their proposals would not cause unnecessary harm to the existing amenity of the surrounding area.

Proposals in conservation areas and within the curtilage of, or potentially affecting the setting of, a listed building will need to preserve or enhance the character and appearance of the conservation area and the special character and setting of listed buildings.

The location of nearby existing permanent street furniture should be considered in any design (e.g. bins, benches, bus stops, bollards).

Design

Outdoor seating should be of a high quality and continuity of design with any surrounding premises is encouraged.

Appropriate landscaping and “greening” using planting is encouraged, this could be in the form of planters and/or green walls to form an enclosure where appropriate.

Any perimeter enclosures over one metre in height should be partially ‘see-through’ in order to maintain visibility of activity. Any perimeter enclosures less than one metre in height should be of a high quality and appropriate design to provide shelter and clear delineation of the area.

Furniture and fixtures must not be fixed into the street or pavement surface. Furniture and associated items may need to be removed from the street and stored inside each evening – this will depend largely on the type of furniture / structures proposed and the location of the occupation.

New structures will always require planning permission and will generally not be supported where they would be attached to an existing building. Structures must be of an appropriate high quality design, scale and siting, particularly within a conservation area or within the curtilage or setting of a listed building.

Be a good neighbour

Outdoor seating areas should be visible from existing premises and kept under supervision.

Outdoor seating areas should not prevent access to neighbouring properties.

Residential amenity should be respected, especially in terms of noise emissions and light spillage .

Suitable arrangements for the storage and collection of refuse generated in outdoor seating areas must be made.

External public address systems or amplified music will not be acceptable at unsociable hours. Planning applications are subject to consultation with the Environmental Health Service who may require restrictions to be applied any planning permission via condition.

A clear route must be maintained to allow other footway users to pass the outdoor seating area or any queue without obstruction. Crossing the footway to reach an outdoor seating area should generally be avoided.

2.2 Specific Guidance

The following guidance should be considered in line with the general principles above.

2.2.1 Outdoor Seating on Streets

Subject to the general principles the Council supports and encourages the provision of street cafes in the form of outdoor seating in:

- fully pedestrianised areas (where vehicles have no right of entry);

- In areas supported through the City Centre / Beach Masterplan proposals; and
- areas where pavements are wide enough to accommodate the proposed street café.

It is important that street cafes are properly designed, administered and managed to ensure that they meet the high standards expected in Aberdeen. They should not obstruct public space or create a hazard for pedestrians.

Planning applications for street cafes on the pavement where adequate space is not provided to allow pedestrians a straight, obvious and unobstructed route past will not be supported. Such a route should not pass through the area used by the tables and chairs.

Applications for street cafes which occupy more than half the total width of the footway will not be supported.

2.2.2 Privately Owned Car Parks

Modifying areas of privately owned car parking within the curtilage of a building or immediately adjacent, such as in front of hotels, to provide outdoor seating associated with an existing use may be acceptable.

The Council supports and encourages active travel and public transport journeys; however consideration will need to be given to the impact of the removal of car parking in some areas. Accessible spaces for people with mobility impairments, including wheelchair users, and designated for that use must be retained or reworked into any proposal. Suitable drop off points must also be retained or included in any proposal.

Typically, no more than 50% of the car parking should be removed; this percentage could be increased if the need for the existing level of car parking is deemed to be more than necessary, for example if active or sustainable travel options are available and promoted, or if sufficient public or on-street car parking is available in the immediate area. Adequacy of car parking is not the only consideration and proposals must be balanced against the potential impact on amenity of the surrounding area from noise, visual impact, adverse impact on the historic environment and other factors.

2.2.3 Public open space

Open space within the city comprises greenspace and areas of civic space such as squares or other paved or hard surfaced areas with a civic function.

Redevelopment of green public open space is generally not supported. Policy NE2 – Green and Blue Infrastructure, subsection Urban Green Space will be used to assess such applications. Relevant considerations include the scale of the existing space, the scale of the proposed outdoor area, the percentage of greenspace proposed to be used, potential enhancement of the greenspace, and if more appropriate areas are available as an alternative to accommodate the proposals.

Outdoor seating within civic spaces will be supported, however this will be dependent on space available, the scale of the proposal, the percentage of space left over and the design of the proposal.

When a proposal to develop public open space of any form is put forward, a justification for the proposal will be required explaining what alternative options were considered, why this is deemed the most appropriate location and how the proposal will sit successfully within the site without a detriment to the wider public use of the space or the character of the area. The proposed use must not alter the primary use of the open space, dominate the open space or remove the primary uses of the open space.

2.2.4 Seasonal consents / Time Limited Applications

Planning permission may be sought for outdoor seating and movable structures which are themed on seasonal events. If this is the case, we would encourage applicants to apply for a time limited planning permission, whereby the days and months of occupation over a 2 year period are submitted as part of the planning application. This could relate to summer or winter months where there is more business demand and public desire for outdoor seating.

2.2.5 Belmont Café Quarter

This is an area that has recently become a thriving hub for food and beverage offerings and outdoor seating provision as a consequence of physical distancing and COVID- 19 regulations.

Through the City Centre Masterplan, the Belmont Street Quarter is earmarked as a key area to help transform the city into a vibrant, prosperous place in which to live, work, visit and thrive. The proposal for this area is to continue the café culture where outdoor seating would contribute to the vibrancy and vitality of the area. This guidance note

and the principles within in it will be of use for assessing any outdoor seating applications submitted. Given the nature of the area, any structures proposed should be semi-permanent, lightweight, and positively contribute to the townscape / historic character.

2.3 Who to Contact?

A number of different consents may be required for outdoor seating applications. The following links identify who should be contacted:

Applicants are encouraged to contact the Licensing Board and Roads Authority early on in the process to discuss their proposals, and before submitting a planning application

- To apply for a café permit, please see the Roads Authority - <https://www.aberdeencity.gov.uk/services/business-and-licensing/licences-and-permits/pavement-cafe-permit-application>
- If alcohol is to be served, please apply to the Licensing - <https://www.aberdeencity.gov.uk/services/services-business/licences-and-permits/licensing>
- To apply for planning permission or to check if planning permission is required, please contact the Planning Authority - <https://www.aberdeencity.gov.uk/services/planning-and-building/planning-applications/apply-planning-permission>
- Pre-application planning advice can also be sought - <https://www.aberdeencity.gov.uk/services/planning-and-building/planning-applications/apply-planning-permission/pre-application-advice>
- If a structure is to be erected please contact Building Standards about a Building Warrant - <https://www.aberdeencity.gov.uk/services/planning-and-building-standards/building-standards/apply-building-warrant>