

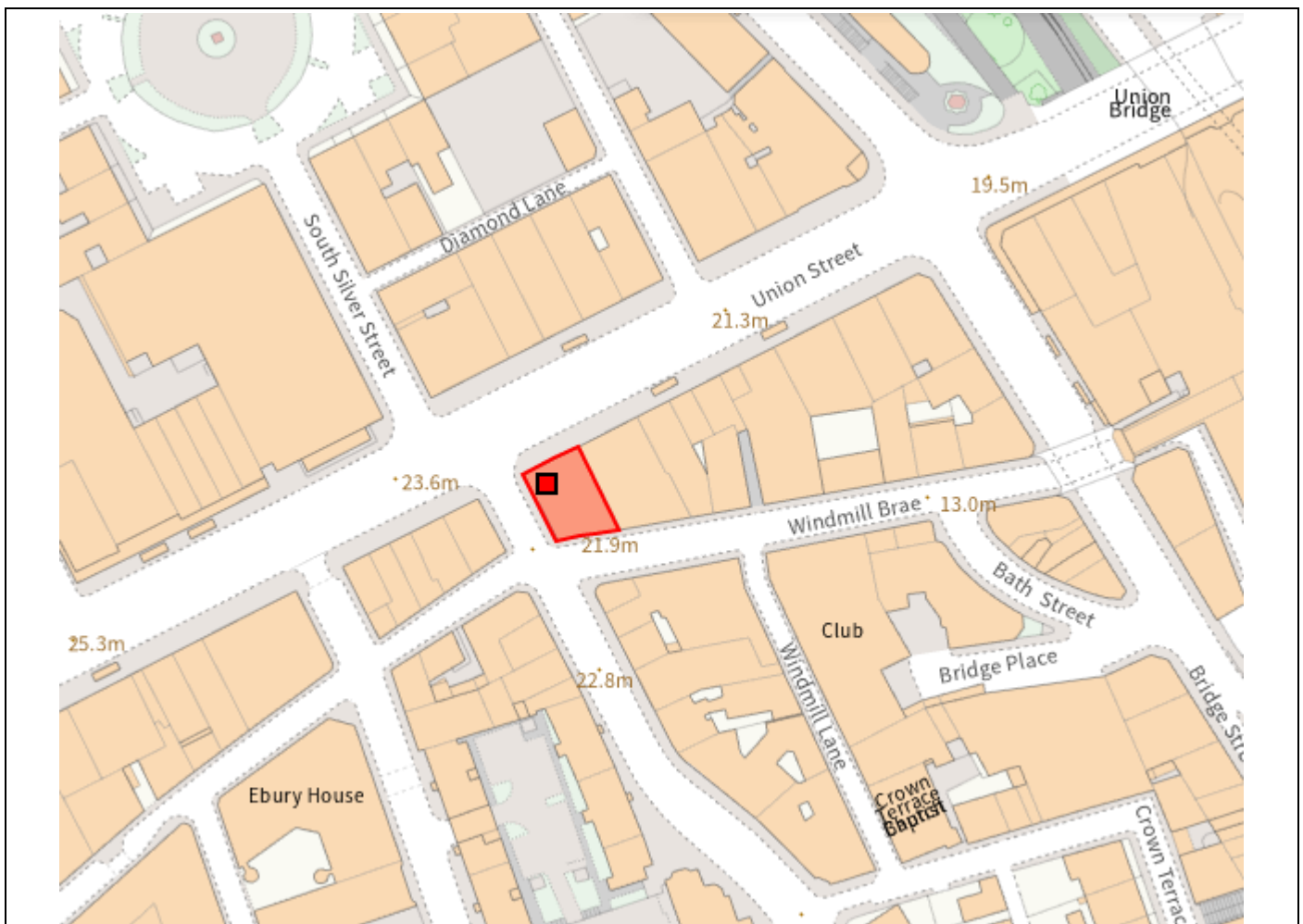


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 5 December 2024

<b>Site Address:</b>	201 Union Street, Aberdeen, AB11 6BB
<b>Application Description:</b>	Change of use from class 1A (shops, financial professional and other services) to class 3 (food and drink) and installation of extract vent to rear flat roof
<b>Application Ref:</b>	240947/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	8 August 2024
<b>Applicant:</b>	Sanaland Ltd
<b>Ward:</b>	Torry/Ferryhill
<b>Community Council:</b>	City Centre



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## **RECOMMENDATION**

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site comprises a vacant commercial unit covering the ground and lower ground floor of a 3½ storey granite-built 'renaissance revival' styled building on Union Street, which dates from the late 19<sup>th</sup> century. The building is category B-listed and lies within the City Centre Conservation Area.

The ground and basement floors comprise a Class 1A (financial, professional and other services) unit that is currently vacant, having previously been in long-standing use as a 'Bank of Scotland' branch. There are five residential flats in floors above which are accessed via a communal stairwell and door on the southwest side of the building on Crown Street. The ground floor unit also has an emergency door which accesses the stairwell at ground floor level.

The building has a northwest facing principal elevation that fronts Union Street, a southwest side elevation that fronts Crown Street. The building adjoins 191-197 Union Street to the northwest. To the (southeast) rear, the building has a 1½ storey flat roofed annexe which projects c.7.5m from the primary 3½ storey section of the building and bounds Windmill Brae.

### **Relevant Planning History**

Listed building consent 240941/LBC granted the installation of the extract vent to the rear of the building in November 2024.

Planning permission 220953/DPP and listed building consent 220682/LBC granted the removal of external signage, night safe, two external ATMs and an alarm box in 2022.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Planning permission is sought for the change of use of the ground and lower ground floors of the building from class 1A (shops, financial professional and other services) to class 3 (food and drink) and the installation of an extract vent to the rear flat roof at first floor level. No other external alterations are proposed.

The layout shows that the public entrance would be from Union Street and the restaurant floor would cover c.150sqm of the ground floor. The commercial kitchen would be towards the rear of the building primarily within the rear annexe and would be c. 50sqm in area. There would be a disabled toilet on the ground floor. The lower ground floor would also include areas for food preparation, storage and customer convenience facilities. It would include an acoustic ceiling above the ground floor.

### **Amendments**

In agreement with the applicant, the application has been revised since submission in that:

- A noise and odour impact assessment has been provided and noise and odour mitigation measures have been proposed. This includes installation of an acoustic ceiling throughout the ground floor to minimise noise transfer.
- Staff cycle storage would be provided in the lower ground floor adjacent to the rear access.

## 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=SHW95YBZIFD00>

- Heritage Statement
- Noise and Odour Impact Assessment (Ref: 3339212314 – V4)
- Supporting Statement

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it is being recommended for approval and has been the subject of six or more timeous letters of representation (following advertisement and/or notification) containing material planning considerations that express objection or concern about the proposal.

## CONSULTATIONS

**ACC - Environmental Health** – Reviewed the Noise and Odour Impact Assessment (Couper Acoustics, 3rd October 2024 [Ref: 3339212314 – V4]) submitted in support of the development and comment as follows:

### Environmental Odour Control

The Odour Impact Assessment (OIA) indicates that a very high level of odour control (as detailed in the EMAQ guide on 'The Control of Odour and Noise from Commercial Kitchen Exhaust Systems') is required. The report states:

*'The EMAQ+ CONCKES guidance best practice advises that a very high level of odour control may include the following: Fine Filtration or Electrostatic Precipitators (ESP) followed by carbon filtration (carbon filters rated with a 0.4 – 0.8 second residence time) or Fine Filtration or ESP followed by carbon filtration and by counteractant/neutralising system or fine filtration or ESP followed by UV ozone system to achieve the same level of control. At this stage the applicant does not know which option will eventually be chosen so would request a suspensive condition to provide this information at a later date.'*

The OIA is considered reasonable. The service is satisfied that a detailed specification for the Local Extract Ventilation (LEV) system could be secured by planning condition (suggestion below -italics). It is noted that the restaurant proposes to have a charcoal grill and specific issues associated with this solid fuel appliance will need to be considered at detailed design stage in-line with 'DW/172 Specification for kitchen ventilation systems (2nd edition)' and 'HSE Information Sheet CAIS26' guidance.

*'Prior to development, the applicant shall submit a detailed specification for the Local Extract Ventilation (LEV) system that meets the requirements for a 'very high level of odour control' as detailed in the EMAQ guide on 'The Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.*

This Service would also recommend that 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 (based on extent of use) in accordance with manufacturers guidelines and report recommendations (Sections 7.04 - 7.05) – to reduce risk of malodour and statutory nuisance going forward.

## Environmental Noise Control

### Local Extract Ventilation (LEV) Noise

As a detailed LEV design specification is not available at this stage, the NIA has provided reversed calculations to derive notional sound power levels for the outlet/inlet fans. ACC - Environmental Health is satisfied that the LEV would not cause a noise nuisance provided:

- The inlet and outlet fan or a combination of the fans and a silencer(s) do not exceed the notional sound power level figures shown in Table 13.
- The fans are installed internally in the premises.
- The ventilation flue inlet and outlet are circular in shape, with a diameter of 0.45 metres and have no obstructions such as a metal 'hat' attached to the end.
- The ventilation outlet is at least 6 metres from any receptor window.
- The premises and ventilation system only operates between the hours 10:00 and 23:00.
- Where a silencer is used, it must be installed on the atmospheric side of the fan and include melanex to avoid deterioration from grease.

### Internal Noise Transmission

ACC - Environmental Health is satisfied that internal noise transmission through the intervening ceiling/floor to the residential properties above can be suitably controlled by inspecting and making good the existing ceiling (as detailed in Section 7.10) and by providing a new independent acoustic ceiling (as detailed in Section 7.11 and Drawing No. 7171 - L(00)03B). Other recommended mitigation measures include:

- Worktops, appliances, and surfaces in the preparation and kitchen areas must be free standing, ensuring they are not rigidly linked to the structural wall. Tables and chairs shall be fitted with rubber feet to reduce any noise from movement and the front door shall incorporate an automatic closer system. Any chimney breasts or walls cupboards must be blocked up. Any ventilation and air intake canopy, ducting, fan, odour control and any other accessories shall be resilient isolated from the building.
- Any music speakers shall be positioned on shelves lined with 20mm thick Sylomer foam or equivalent. No speakers should be directly fixed to the walls or the ceiling. Music shall be played at a low level so that conversation can easily take place.

**ACC - Waste and Recycling** – The development is classified as commercial and would therefore receive a business waste collection. Bins should be presented on a collection day and then stored in a specified bin storage area. Bins should not be permanently stored on the pavement. General business waste advice has also been provided.

**ACC - Roads Development Management Team** – No objection – Cycle parking provision would be provided, which is acceptable.

**City Centre Community Council** – No response received.

## **REPRESENTATIONS**

Seven objections have been received in respect of the application. The matters raised can be summarised as:

1. It would adversely affect the upper storey flats in terms of noise.
2. It would result in adverse odours / air quality afforded to the upper floor residential flats, particularly in relation to the siting of the extract fan near the rear bedroom windows of the upper storey flats. Concern in relation to allergies from odour.
3. The matter of odour cannot be addressed through a condition.
4. The increase in disturbance around the property from customers, deliveries and general activity as a result of the increased footfall and the longer opening hours of the premises.
5. Waste management concerns.
6. The adverse impact on parking availability and it could increase traffic congestion.
7. The adverse impact on road safety, particularly from deliveries.
8. The adverse impact on the character of the building as it is predominantly residential.
9. The public notice displayed outside the application site showed an incorrect date.
10. Ambiguity if the development would also be a bar or hot food takeaway.
11. Concerns related to potential litter if it were to be used as a hot food takeaway.
12. Exacerbation of the over-provision of kebab and pizza establishments on Union Street.
13. The adverse impact of the extract fan on the historic environment. Existing chimney stacks should be used.
14. The concerns to the quality of life and wellbeing of the residents outweigh the benefit in terms of business growth.
15. It would not support the City Centre Masterplan, encourage people into the centre, and would be contrary to policies within the Development Plan.
16. The enforceability of the mitigation measures.

The impacts on property values, building insurance and property finance have been raised. However, these are not material planning considerations which can be taken into account in the assessment of this planning application. Fire safety risk has been raised, which would be a matter addressed through the licensing process and building regulations.

## **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

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.

- Policy 1 (Tackling the Climate and Nature Crises)
- Policy 2 (Climate Mitigation and Adaptation)
- Policy 3 (Biodiversity)
- 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 27 (City, Town, Local and Commercial Centres)

### Aberdeen Local Development Plan 2023 (ALDP)

- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)
- Policy D6 (Historic Environment)
- Policy R5 (Waste Management Requirements for New Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy VC1 (Vibrant City)
- Policy VC4 (City Centre and Retail Core)
- Policy VC5 (City Centre Living)
- Policy WB2 (Air Quality)
- Policy WB3 (Noise)
- OP91 (Union Street West City Centre Masterplan intervention Area)

### **Aberdeen Planning Guidance**

- Amenity and Space Standards
- Harmony of Uses
- Transport and Accessibility
- Waste Management Requirements for New Developments

### **Other National Policy and Guidance**

- Historic Environment Policy for Scotland

### **Other Material Considerations**

- City Centre and Beach Masterplan

## **EVALUATION**

### **Principle of Development**

The application site lies within the defined City Centre Boundary and zoned as Policy VC4 (City Centre Retail Core) on the Proposals Map of the ALDP.

The application site is also on land within the allocated OP91 (Union Street West City Centre Masterplan Intervention Area) opportunity site in the ALDP, but would not affect its delivery, nor any of the related development proposals referred to within the masterplan.

### **Vitality and Viability of the City Centre**

Policies 27 (City, Town, Local and Commercial Centres) of NPF4, and VC1 (Vibrant City) and VC4 (City Centre and Retail Core) of the ALDP, support development within the city centre which supports its vibrancy and vitality throughout the day and/or into the evening; make a positive contribution to footfall; and to contribute towards the wider aims of the City Centre Masterplan and its vision for the city centre as a major regional centre.

In this regard, the proposed change of use of a vacant Class 1A (shops and financial, professional and other services) unit to Class 3 (food and drink) would support the vibrancy and vitality of Union Street during the day and evenings, as well as make a positive contribution to footfall by increasing visitors to the city centre, and notably to Union Street. The proposal would bring a vacant unit on Union Street back into use. The main entrance of the premises would be from Union Street and the unit would retain a dual frontage on both Union Street and Crown Street, improving the vitality and passive surveillance of both streets, and maintaining an active street frontage which is accessible to the public from the street, in accordance with Policy VC4 of the ALDP. The proposal would accord with the objectives of the City Centre Masterplan in terms of increasing *'the city centre employment base'* through bringing a vacant ground floor commercial unit back into use and *'creating a metropolitan outlook'* by increasing activity within the city centre (Representation 15).

### **City Centre Living**

The upper floors of the building are in residential use. One of the objectives of the City Centre Masterplan is also to create a 'living city for everyone'. Paragraph 10.17 of the ALDP states:

*'Living in the city centre is a positive way to ensure it has vibrancy, vitality and viability and support an economy based around day to day living. To achieve this there needs to be an increase in the number of people living in the city centre.'*

Policies 27 of NPF4, and VC1 and VC4 of the ALDP also require development to demonstrate that any adverse impacts on neighbouring uses can be mitigated and, where applicable, that a suitable level of residential amenity is achieved or maintained.

Whilst applicable to new residential development, Policy VC5 (City Centre Living) of the ALDP states that there is a presumption that suitable residential amenity cannot be achieved if proposed residential developments are within the same built structure as a restaurant / café and if there is a common or shared access with a use detrimental to residential amenity.

As such, for the principle of the change of use to Class 3 to accord with the city centre policies and the aims of the City Centre Masterplan, it must be clearly demonstrated that the residential amenity of the residential flats above can be maintained. This is considered under the 'Amenity' heading further in this evaluation.

## Mix of Uses in the Area

Policy 27 of NPF4 supports development that increases the mix of uses in city centres. Policy VC4 of the ALDP requires development to not create overprovision and/or clustering of a particular use in the immediate vicinity which would undermine the character and amenity of the regional centre.

In accordance with this policy, the development would not result in an overprovision of Class 3 uses in the immediate vicinity, whereby the character and amenity of the regional centre would be undermined (Representation 12). There is a mix of primarily Class 1A uses at street level in this section of Union Street, in addition to Class 3, licensed premises, betting shops and a footfall generating assembly and leisure premises (Music Hall). The change of use from Class 1A to Class 3 would thus retain the mix of uses, in accordance with Policies 27 of NPF4 and VC4 of the ALDP (Representation 8).

## **Amenity**

The qualities of successful places referred to in Policy 14 of NPF4 and the qualities of successful placemaking referred to in Policy D1 (Quality Placemaking) of the ALDP also seek development to be safe and pleasant, in terms of avoiding unacceptable impacts on adjoining uses, including from in relation to noise and odour. Policy D2 (Amenity) of the ALDP seeks developments to be designed to afford occupiers adequate levels of amenity in relation to noise.

## Residential Stairwell

The proposed development would retain the emergency escape door which connects to the ground floor of the communal stairwell to the residential flats above. The entrance for patrons would be via the entrance on Union Street and there is a door on Windmill Brae to the rear, which would be used by staff. Whilst there is a possibility that staff may use the door onto Crown Street which is shared with the apartments above, this is an existing arrangement and there is a low risk that this door would be used on any regular basis. In particular, given the layout of the premises whereby the walk-in fridge, food preparation area and stores would be in the basement, deliveries would likely be from the rear entrance on Windmill Brae as the closest and most convenient access. The staff cycle store would also be at the rear of the premises adjacent to the rear exit. The presence of the existing door into the stairwell would be very unlikely to result in any harm to the neighbouring residents in the floors above.

## Noise

Policy 23 (Health and Safety) of NPF4 states that development proposals that are likely to raise unacceptable noise issues will not be supported. Policy WB3 (Noise) of the ALDP states that there will be a presumption against noise generating developments, as identified by a noise impact assessment, being located close to noise sensitive developments, such as existing or proposed housing.'

A Noise and Odour Impact Assessment (Ref: 3339212314 – V4) has been submitted. This assessment identifies that without mitigation, noise could affect the residential flats above from noise associated with the extract fan and from patron / activity noise from within the premises permeating through the ceiling (representations 1 and 4). The noise impact assessment identifies several noise mitigation measures to ensure that noise levels would not exceed acceptable levels as a result. This includes the formation of an acoustic ceiling throughout the ground floor, repairing the existing ceiling and the incorporation of silencers on the ventilation system. ACC – Environmental Health have been consulted and have advised that the noise mitigation measures are acceptable.



Paragraph 10.15 states that *'the responsibility for mitigating any detrimental impact of noise from a new development or operation lies with those carrying out the new development or operation'*.

As such, the recommendation is for approval, subject to a condition requiring the implementation of the noise mitigation measures and evidence of this to be provided. Furthermore, another condition to limit the hours of operation outside of night time hours is proposed to mitigate any risk of noise from the proposed use during sensitive night time hours (Representation 2). Given the city centre location on Union Street, there would not be a significant increase in disturbance as a result of the proposed development outside the premises.

Upon the implementation of these mitigation measures, the development would not adversely affect the level of residential amenity afforded to the residential dwellings above the premises, in accordance with Policies 23 of NPF4 and WB3 of the ALDP.

### Odour

Without mitigation, there is a risk that the proposed class 3 use could result in malodour (Representation 2), which adversely affects the residential amenity of the residential dwellings above. The proposed layout shows that the premises would have a charcoal grill.

The Noise and Odour Impact Assessment (Ref: 3339212314 – V4) indicates that a very high level of odour control (as detailed in the EMAQ guide on 'The Control of Odour and Noise from Commercial Kitchen Exhaust Systems') would be required. It states:

*'The EMAQ+ CONCKES guidance best practice advises that a very high level of odour control may include the following: Fine Filtration or Electrostatic Precipitators (ESP) followed by carbon filtration (carbon filters rated with a 0.4 – 0.8 second residence time) or Fine Filtration or ESP followed by carbon filtration and by counteractant/neutralising system or fine filtration or ESP followed by UV ozone system to achieve the same level of control. At this stage the applicant does not know which option will eventually be chosen so would request a suspensive condition to provide this information at a later date.'*

With respect to the charcoal grill, there are specific issues associated with this solid fuel appliance will need to be considered at detailed design stage in-line with 'DW/172 Specification for kitchen ventilation systems (2nd edition)' and 'HSE Information Sheet CAIS26' guidance.

ACC – Environmental Health have advised that a detailed specification for the Local Extract Ventilation (LEV) system could be secured by planning condition on the basis that there are systems that exist which would be sufficient to prevent malodour from being produced. As there is a solution (Representations 3 and 16), the recommendation is for a condition to be applied that the unit shall not be brought into Class 3 (food and drink) use unless a detailed specification for the local extract ventilation (LEV) system has been submitted to and approved in writing by the planning authority in consultation with ACC – Environmental Health, thereafter that the LEV system has been installed in full in accordance with the approved detailed specification and confirmation is submitted to the planning authority.

The Amenity and Space Standards Aberdeen Planning Guidance states that flue termination points located at low levels in relation to adjacent buildings, can cause problems for amenity, as well as having visual impacts. It furthermore states that consideration should be given when designing extraction for commercial kitchens to the location and height of these points.

In this regard, the proposed extract vent would be located on the flat roof at the rear of the premises and terminate on first floor level. It would be at least 6m from the nearest window of the residential dwelling at first floor level. ACC – Environmental Health have advised that they do not object on the basis that such a separation distance can be achieved. The proposal has been designed to maximise the distance between the neighbouring window and the extract point. In conjunction with the design of a satisfactory scheme to prevent malodour, the distance between the vent and the window would be acceptable.

The proposed flue would be a relatively small fixture on the roof and would not appear overbearing nor adversely affect the outlook afforded to the residential dwelling by any significant degree. The overall visual impact of the fixture is considered in detail below under the 'Historic Environment' heading.

An advisory note is also to be attached, for the operator to establish a written Odour Management Plan, including cleaning and maintenance procedures for the plant (based on extent of use) in accordance with manufacturers guidelines and report recommendations (Sections 7.04 - 7.05). This would ensure the system is sufficient to mitigate odour. ACC – Environmental Health have also advised that this would reduce the risk of statutory nuisance for the purpose of environmental health legislation.

### Amenity - Summary

Subject to the implementation of acceptable noise and odour mitigation measures, which would be addressed by way of planning conditions, the change of use to Class 3 would maintain the existing level of residential amenity afforded to the upper floor residential dwellings, notably in terms of noise and odour, in accordance with the aims of Policies 14 (Design, Quality and Place) and 23 (Health and Safety) of NPF4, as well as Policies D1 (Quality Placemaking), D2 (Amenity) and WB3 (Noise) of the ALDP and the aims of the 'Noise' and 'Amenity and Space Standards' Aberdeen Planning Guidance. The proposal therefore accords with the aims of the City Centre Masterplan and Policies 27 (City, Town, Local and Commercial Centres) of NPF4, and VC1 (Vibrant City), VC4 (City Centre and Retail Core) of the ALDP (Representations 14 and 15).

### **Waste Storage and Collection**

Policy R5 (Waste Management Requirements for New Development) of the ALDP requires all new developments to have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate. The proposal would incorporate a waste storage area in the lower ground floor of the site. ACC - Waste and Recycling have been consulted and do not object to the application. The development would incorporate appropriate waste storage, in accordance with Policy R5 of the ALDP and the aims of the Waste Management Requirements for New Development Aberdeen Planning Guidance. Beyond the planning process, it would be for the operator to ensure that they comply with waste management regulations (Representation 5).

### **Sustainable Transport**

Policy 13 (Sustainable Transport) on NPF4 and Policies T2 (Sustainable Transport) of the ALDP promote and encourage the use of sustainable and active modes of travel where possible, as opposed to private vehicle trips. Given its central location on Union Street, the development would be accessible using a range of sustainable and active travel methods (Representation 6). The proposal incorporates cycle storage for staff use, in accordance with the Transport and Accessibility Aberdeen Planning Guidance. The development would be within 400m of the nearest bus stop, in accordance with Policy T2 of the ALDP.

Policy T3 (Parking) of the ALDP states that within the City Centre boundary – as specified in the Proposals Map – the principle of ‘zero parking’ shall be applied with respect to all new development. The proposal would have no associated parking provision, in accordance with Policy T3 of the ALDP. There would be space for loading / unloading on Windmill Brae to the rear of the site without obstruction. The development is of a scale and siting whereby it would not result in significant traffic generation (Representation 6). The proposal would not impact road safety and the ACC – Roads Development Management Team have been consulted and have raised no road safety concerns (representation 7).

The development would thus have a negligible impact on the local transport network and would be accessible using sustainable and active travel methods, in compliance with Policies 13 of NPF4 and T2 and T3 of the ALDP and the Transport and Accessibility Aberdeen Planning Guidance.

## **Historic Environment**

Policy 7 (Historic Assets and Places) of NPF4 states that development proposals for the alteration of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Policy D6 (Historic Environment) of the ALDP states that appropriate developments, including new features and fixings, must be designed to respect the character, appearance and setting of the historic environment and protect the special architectural or historic interest of listed buildings and conservation areas.

Given the functional design of the extract fan outlet flue and that it would be visible, to a degree, from Windmill Brae and Crown Street, it would have a minor adverse visual impact on the special architectural and historic interest of this listed building, its setting and the character and appearance of the City Centre Conservation Area. Nevertheless, it would be appropriately located on the secondary elevation at the rear and would be partially screened by the existing parapet. It is also accepted as a necessary feature of the odour mitigation to enable the change of use. Consideration has been given as to whether any existing chimneys could be used instead of the proposed flue. However, the kitchen would be located at the rear of the premises within the rear annexe and would not be directly underneath any former chimney stacks. Using such a system could require extensive alterations to the building and in the upper floors of the building, which are not within the application site. The chimney stacks also may not be suitable to process the odours of the commercial system, required to protect the amenity of the upper floor residents. The change of use would bring the vacant ground and basement floors of this listed building back into use, ensuring the long term retention of this historic building (Representation 13). Whilst the design of the fixture has tensions with Policies 7 (Historic Assets and Places) of NPF4 and D6 (Historic Environment) of the ALDP, they are not to such a degree that would warrant refusal.

Nevertheless, because of the unsympathetic design of the fixture, a condition is to be applied to ensure that the extract fan is to be removed and the roof reinstated, should the use cease and the extract flue becomes redundant / obsolete.

## **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. 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. Policy 3 (Biodiversity) of NPF4 requires proposals for local development to include measures to conserve, restore and enhance biodiversity, proportionate to the nature and scale of development.

Given its very accessible location in the city centre, the development would accord with the principles of Policy 20 (Local Living and 20 Minute Neighbourhoods) of NPF4. It would bring a vacant unit on Union Street in an existing building back into use, in accordance with the principles of Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4. Otherwise, the proposal is sufficiently small-scale such that it would not have any material impact on the global climate and nature crises, climate mitigation and adaptation, nor are there any opportunities that can be identified to minimise greenhouse gas emissions given the nature of the proposal.

Therefore, the proposal is compliant with Policies 1 and 2 of NPF4. Whilst this proposal would not include measures to enhance biodiversity, which would have minor tensions with Policy 3 of NPF4, the proposal is for a change of use of the building, is small-scale and does not offer the opportunity for meaningful biodiversity enhancements.

### **Other Matters Raised in the Representations**

The proposal is for a change of use to Class 3 and is not for the change of use to a licensed premises or a hot food takeaway. The material use of the premises as either of these uses would require planning permission separately (Representations 10 and 11).

A public notice has been displayed outside the premises with the correct date of publication, as required by Sections 60 and 65 of the Town and Country (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **RECOMMENDATION**

Approve Conditionally

### **REASON FOR RECOMMENDATION**

Subject to appropriately worded conditions to ensure sufficient noise and odour mitigation measures are implemented, the proposed change of use to Class 3 would support the vibrancy and vitality of the city centre, make a positive contribution to footfall, and, proportionate to the scale of development, contribute towards the wider aims of the City Centre Masterplan and its vision for the city centre as a major regional centre. The development would bring a vacant unit on Union Street back into use and would retain an active street frontage. Noise and odour mitigation measures would ensure that the residential amenity of the city centre residential dwellings in the upper floors of the building would be maintained. As such, the development accords with Policies 14 (Design, Quality and Place), 23 (Health and Safety) and 27 (City, Town, Local and Commercial Centres) of National Planning Framework 4. It would accord with Policies D1 (Quality Placemaking), D2 (Amenity), VC1 (Vibrant City), VC4 (City Centre and Retail Core) and WB3 (Noise) of the ALDP. Furthermore, it would accord with the aims of the 'Noise' and 'Amenity and Space Standards' Aberdeen Planning Guidance.

Given the functional design of the extract flue, it is anticipated to have a minor adverse visual impact on the special architectural and historic interest of this listed building, its setting and the character and appearance of the City Centre Conservation Area, which would have tensions with Policies 7 (Historic Assets and Places) of NPF4 and D6 (Historic Environment) of the ALDP. However, it would be sited to minimise the visual impact and the fixture would be a necessary feature of the odour mitigation to enable the change of use and the bring the vacant unit back into use, ensuring the long term retention of this historic building.

The proposal would have suitable waste storage arrangements, in accordance with Policy R5 (Waste Management Requirements) of the ALDP and the aims of the Waste Management Requirements for New Development Aberdeen Planning Guidance.

The proposal would be accessible using sustainable and active travel methods, it would incorporate staff cycle storage, and it would have a negligible impact on the local transport network, in accordance with Policies 13 (Sustainable Transport) of NPF4 and T2 (Sustainable Transport and T3 (Parking) of the ALDP, as well as the Transport and Accessibility Aberdeen Planning Guidance.

In terms of climate change, it thus accords with the principles of Policy 20 (Local Living and 20 Minute Neighbourhoods) of NPF4. The proposal would bring a vacant unit in a historic granite building back into use, in accordance with the principles of Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4. The proposal is sufficiently small-scale such that it would not have any material impact on the global climate and nature crises, climate mitigation and adaptation, nor are there any opportunities that can be identified to minimise greenhouse gas emissions given the nature of the proposal. Therefore, the proposal is compliant with Policies 1 (Tackling the Climate and Nature Crises) and 2 (Climate Change Mitigation and Adaptation) of NPF4. Whilst this proposal would not include measures to enhance biodiversity, which has minor tensions with Policy 3 of NPF4, the proposal is a change of use, small-scale and does not offer the opportunity for meaningful biodiversity enhancements.

## **CONDITIONS**

### **(01) 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.

### **(02) ODOUR MITIGATION**

That the Class 3 (food and drink) use hereby approved shall not occur unless a detailed specification in line with the Noise and Odour Impact Assessment (Ref: 3339212314 – V4) for the local extract ventilation (LEV) system has been submitted to and approved in writing by the planning authority in consultation with ACC – Environmental Health, and thereafter that the LEV system shall be installed in full accordance with the approved detailed specification, and evidence of its installation has been submitted to, and confirmed in writing by the planning authority.

The specifications of the LEV system shall meet the requirements for a 'very high level of odour control' as detailed in the EMAQ guide on 'The Control of Odour and Noise from Commercial Kitchen Exhaust Systems.

Reason – To protect the amenity afforded to the residential properties above and ensure acceptable noise mitigation measures are the responsibility of the developer.

### **(03) NOISE MITIGATION**

That the Class 3 (food and drink) use hereby approved shall not occur unless the noise mitigation measures have been installed in full accordance with the mitigation measures set out in the Noise and Odour Impact Assessment (Ref: 3339212314 – V4), and evidence of their installation has been

submitted to, and confirmed in writing by the planning authority. These measures shall include the following:

- That the inlet and outlet fan or a combination of the fans and a silencer(s) do not exceed the notional sound power level figures shown in Table 13 of the Noise and Odour Impact Assessment (Ref: 3339212314 – V4).
- That the fans are installed internally in the premises.
- That the ventilation flue inlet and outlet are circular in shape, with a diameter of 0.45 metres and have no obstructions such as a metal 'hat' attached to the end.
- That the ventilation outlet is at least 6 metres from any receptor window.
- That the ventilation system only operates between the hours 10:00 and 23:00.
- That where a silencer is used, it must be installed on the atmospheric side of the fan and include polyester film to avoid deterioration from grease.
- That the existing ceiling is repaired (as detailed in Section 7.10) and the new independent acoustic ceiling has been installed in full (as detailed in Section 7.11 and Drawing No. 7171 - L(00)03B)

Reason – To protect the amenity afforded to the residential properties above and ensure acceptable noise mitigation measures are the responsibility of the developer.

#### (04) CYCLE PARKING SPACES

That the unit shall not be brought into use unless the cycle storage has been formed, in accordance with the Proposed Site Plan approved with this application (Ref: L(00)09A).

Reason – to incentivise sustainable and active travel to the premises.

#### (05) HOURS OF OPERATION

That the use hereby approved shall only be in operation within the hours of 10:00 and 23:00 hours on any given day.

Reason – To protect residential amenity.

#### (06) REMOVAL OF REDUNDANT EQUIPMENT

That should the class 3 use cease, the external extract fan extract flue shall be removed in its entirety and the roof be reinstated to its present condition within six months of the use ceasing, or a time period to be agreed in writing by the planning authority.

Reason – In the interests of the architectural and historic interest of the listed building and the City Centre Conservation Area.

### **ADVISORY NOTES FOR APPLICANT**

The operator should establish a written Odour Management Plan, including cleaning and maintenance procedures for the plant (based on the extent of use) in accordance with the manufacturers guidelines and recommendations of the Noise and Odour Impact Assessment (Sections 7.04 - 7.05). This is to prevent of malodour and minimise any risk of statutory nuisance.