

# Public Document Pack

## **SECOND ADDITIONAL CIRCULATION**



To: Councillor Allan, Convener; Councillor Bell and Hunt, Vice-Convener; and Councillors Copland, Cormie, Donnelly, Flynn, Graham, Grant, Hutchison, Macdonald, Mason, McRae, Nicoll and Jennifer Stewart.

Town House,  
ABERDEEN 23 May 2017

## **COMMUNITIES, HOUSING AND INFRASTRUCTURE COMMITTEE**

The undernoted items are circulated in connection with the meeting of the **COMMUNITIES, HOUSING AND INFRASTRUCTURE COMMITTEE** to be held here in the Council Chamber on **WEDNESDAY, 24 MAY 2017 at 2.00 pm.**

FRASER BELL  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### **BUSINESS**

1.1 Determination of Urgent Business

2.1 Determination of Exempt Business

### **GENERAL BUSINESS**

#### **TRANSPORT**

12.7 Wellington Brae (Pages 3 - 12)

### **EXEMPT / CONFIDENTIAL BUSINESS**

14.4 Wellington Brae - Exempt Appendix (Pages 13 - 16)

Should you require any further information about this agenda, please contact Emma Parr, tel 01224 522607 or email [emparr@aberdeencity.gov.uk](mailto:emparr@aberdeencity.gov.uk)

## SUBMISSION OF LATE REPORT

NAME OF COMMITTEE : Communities Housing and Infrastructure  
 DATE OF COMMITTEE : 24 May 2017  
 TITLE OF REPORT : Wellington Brae

**Please explain why this report is late.**

This report is late due to the time needed to clarify a number of legal and procedural matters regarding this project.

**Please explain:**

- why this report must be submitted to the next meeting of the Council/Committee; and
- why it cannot be submitted to a meeting of the Council/Committee at a later date.

This report must go to this Committee to make a decision on how to proceed with this project – the contractor is on standby following suspension of the works and any further delay in decision making could further increase the Council's financial liability, which cannot be covered by external funding.

Director Bernadette Marjoram PP Richard Sweetnam Head of Service  
 Date 22 May 2017



The following section must be completed by the Convener where a report must be submitted less than three clear days<sup>1</sup> before a meeting of the Council/Committee.

By law, an item of business must be open to inspection by members of the public for at least three clear days before a meeting.

An item of business not open to inspection for three clear days may be considered at a meeting only by reason of special circumstances, which shall be specified in the minutes, and where the Convener is of the opinion that the item should be considered as a matter of urgency.

Please explain why you are of the opinion that the item should be considered as a matter of urgency.

*as above*

*Yvonne Allan*

Convener Yvonne Allan

Date

*22-5-17*

Please note that under Standing Order 12.9, the Head of Legal and Democratic Services may refuse to allow any item of business on to the agenda or may withdraw any item of business from an agenda, following consultation with the Convener and Vice Convener.

<sup>1</sup> For example if a letter is posted on Monday advising of a meeting on Friday, it gives 3 clear days notice (i.e. Tuesday, Wednesday, Thursday). Saturday, Sunday and public holidays are included within the definition of Clear Days.

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COMMITTEE	Communities, Housing & Infrastructure
DATE	24 <sup>th</sup> May 2017
REPORT TITLE	Wellington Brae
REPORT NUMBER	CHI/ 17/ 096
STATUTORY OFFICER	Fraser Bell and Steven Whyte
REPORT AUTHOR	Eric Owens

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**1. PURPOSE OF REPORT:-**

This report is seeking approval to accept funding from the registered charity Sustrans Scotland and permit works to proceed to re-open National Cycle Network 1 at Wellington Brae.

**2. RECOMMENDATION(S)**

- a) Note the awards by Sustrans and accept the grants towards the works to National Cycle Network 1;
- b) Instruct the Head of Land and Property Assets to secure the necessary landowner approvals;
- c) Provided such approvals at b) are obtained, instruct the Head of Planning and Sustainable Development to undertake and complete the works, utilising the Sustrans grant and the current contractor instructed under contract to carry out the works;
- d) Approve the exempt recommendation in Appendix 1; and
- e) Note that a current investigation into governance process is underway and will be reported separately.

**3. BACKGROUND/MAIN ISSUES**

- 3.1 During storm damage in February 2016 one of the Council's adopted foot paths, and the Sustrans National Cycle Network (NCN) Route 1, at Wellington Brae suffered damage. A combination of the trees being planted close to the path's retaining wall and the inclement weather resulted in tree roots bursting through the Victorian dyke wall and leading to its partial collapse in one area. Subsequently, several other areas were identified as also likely to fail. The foot and cycle path was closed to protect public safety and until a suitable plan for the repair and funding of the works could be established.
- 3.2 At the same time as this occurred, Sustrans Scotland, a sustainable transport registered charity promoting walking and cycling, put a call out to all local

authorities advising that Transport Scotland were aware that recent storm damage had caused an undermining of a number of cycle paths across the country, and had set aside a special fund for reinstating routes that had been damaged. This included the use of funds to undertake works on third party land. Sustrans Scotland are regulated by the Fundraising Regulator.

- 3.3 Sustrans Scotland was successfully approached with 100% of the estimated necessary funding (cir. £250,000) subsequently being made available to cover the costs to reinstate the path. It was agreed that the monies provided would be split across two financial years, with the majority of funds being made available in 2017/18.
- 3.4 An initial allocation was spent on immediate emergency shoring up work and tree removal, topographical survey, land search, design of the permanent solution for the retaining wall, landscaping and drainage. The emergency works were undertaken until further construction works could commence to fully reopen the path. Steel containment barriers were placed along the length of the wall and were further reinforced to block unsafe entry until the permanent works could be completed.
- 3.5 Prior to the permanent works commencing to replace the retaining wall to modern standards, regulatory approval to undertake works to trees adjacent to the retaining wall was secured and a works contract was awarded. Works commenced on 20<sup>th</sup> April 2017.
- 3.6 However, in light of potential governance issues being raised including with regards the proper process of approval of the Sustrans external funding and the delivery of the works, the said works contract has been suspended pending this report to Committee. A formal investigation lead by the Council's Investigation Team is underway, the outcome of which will be the subject of a separate report to the Audit and Risk Committee in September 2017. In the meantime there are several potential options available to the Council at this stage with regards to the works.
- 3.7 Those potential options identified are set out in Table 1 enclosed within Appendix 1. There are contractual and legal implications and risks associated with each of the options. These are noted in Table 2 in Appendix 1. There are also financial implications linked with each option. These are set out in Table 3 and 4 in Appendix 1.
- 3.8 The following are also key considerations when considering the way forward:
  - Sustrans remain committed to funding the works to re-open the path.
  - There is a reasonable prospect of the necessary approvals being put in place to progress works, if required.
  - Safe, accessible cycle infrastructure is a key objective contained within the Council's Local Transportation Strategy 2016 to 2021.
  - The path is currently blocked off as there is no safe access. This has recently been strengthened due to continued efforts by members of the public trying to gain access. This remains a Health and Safety issue and also demonstrates the demand for appropriate access.

- Whatever the Council decides to do now will have cost implications that will have to be absorbed, even if no permanent works are undertaken

3.9 It is therefore recommended that in the interests of public safety and for ensuring delivery of projects funded by Council partners that this project progresses with no further delay. This proposes that the recommended Option 1 is taken forward subject to securing the necessary landowner agreements to access and facilitate the works, and failing that, Option 4. All Options are detailed within Appendix 1.

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

4.1 The potential costs associated with the works at Wellington Brae are set out within Table 3 Appendix 1.

4.2 Costs to be paid by the Council in relation to this project will require to be met through the existing revenue budget of the Planning and Sustainable Development Service in 2017/18. This will be reported through future budget monitoring reports.

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

5.1 There are no direct legal implications arising from this report. However, there are contractual obligations associated with each option, as detailed in Appendix 1. Assuming the committee wish to proceed with the recommendations as detailed, the approvals already obtained in relation to the procurement of the current contractor for the works are considered appropriate and allow matters to be progressed. The Council is in the process of contacting the landowner to discuss the necessary agreements to access and facilitate the works.

#### **6. MANAGEMENT OF RISK**

6.1 If Committee decides not to accept the recommendations of this report the risks can be viewed below:

- **Financial**  
The Council will need to seek clarification as to whether Sustrans Scotland will want any of the initial funding allocation returned that they have previously supplied given that this may be consider abortive works. Further financial implications are outlined in Appendix 1.
- **Customer / citizen**  
There are continued concerns around public access to the site and their safety. Despite warning signs and fencing, the public continue to use the route as the diversion is 585m walk longer than to reach the end of the path. There is obviously a risk that if the works are not completed then there is more potential for an incident to occur in this

area as people continue to move legitimate barriers to open the access and continue to use the route.

- **Legal**  
Legal risk is outlined in section 5 above.
- **Reputational**  
There is a risk of reputational damage if the works are not completed.

## 7. IMPACT SECTION

- 7.1 This section demonstrates how the proposals within this report impact on the strategic themes of Aberdeen City Council and Community Planning Aberdeen, as set out in the [Aberdeen City Local Outcome Improvement Plan 2016-26](#) and the [Aberdeen City Council Strategic Business Plan](#).

### **Economy**

- 7.2 The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen, and the relevant Regional Economic Strategy embraces this in the vision for 'A 20 year vision for the well-being of the place and our people'.

- 7.3 As such, the Strategy includes the following objective and commitment:

Objective: To improve deployment of low carbon transport in the city and urban areas, through active travel networks.

We will: Secure significant improvements in the city's green/ active travel (walking/ cycling) network

- 7.4 The Local Outcome Improvement Plan contains exactly the same commitment regarding cycling and the Strategic Business Plan contains a further commitment to: Increase the share of journeys by walking, cycling and public transport by 10% by 2020.

### **People and Staff**

- 7.5 The Council is committed to improving the key life outcomes of all people in Aberdeen and so has agreed a set of Equality Outcomes (2017-21) [http://www.aberdeencity.gov.uk/council\\_government/equality\\_and\\_diversity/eqd\\_report\\_2017\\_21.asp](http://www.aberdeencity.gov.uk/council_government/equality_and_diversity/eqd_report_2017_21.asp). The continued introduction and maintenance of safe walking and cycling routes, whether for leisure or daily trips is recognised at all levels of government as a positive contributory factor in the health of everyone in the community and research also suggests that building in daily exercise such as walking or cycling to school, work etc., is one of the best ways to achieve the recommended levels of exercise to keep us active and healthy for longer.



- 7.6 National Cycle Network Route 1 is a key part of the City's cycle network and its closure at Wellington Brae is clearly creating frustration amongst regular users, to the point that they are evading the barriers and using the route in any case. It would seem appropriate to reinstate this route as quickly as possible and given the current pressures on Council finances, to maximise opportunities for external funding.

#### **Place**

- 7.7 The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit and operating to the highest environmental standards. The reinstatement of this vital walking and cycling route can only serve to maintain high standards of place for the community and visitors alike.

### **8. BACKGROUND PAPERS**

*Communities, Housing and Infrastructure Information Bulletin*  
17<sup>th</sup> May 2016

<https://committees.aberdeencity.gov.uk/documents/s65006/CHandl170516InformationBulletin.pdf>

### **9. APPENDICES (if applicable)**

Appendix 2: LOCATION PLAN

Appendix 3: REPLACEMENT PLANTING PLAN

### **10. REPORT AUTHOR DETAILS**

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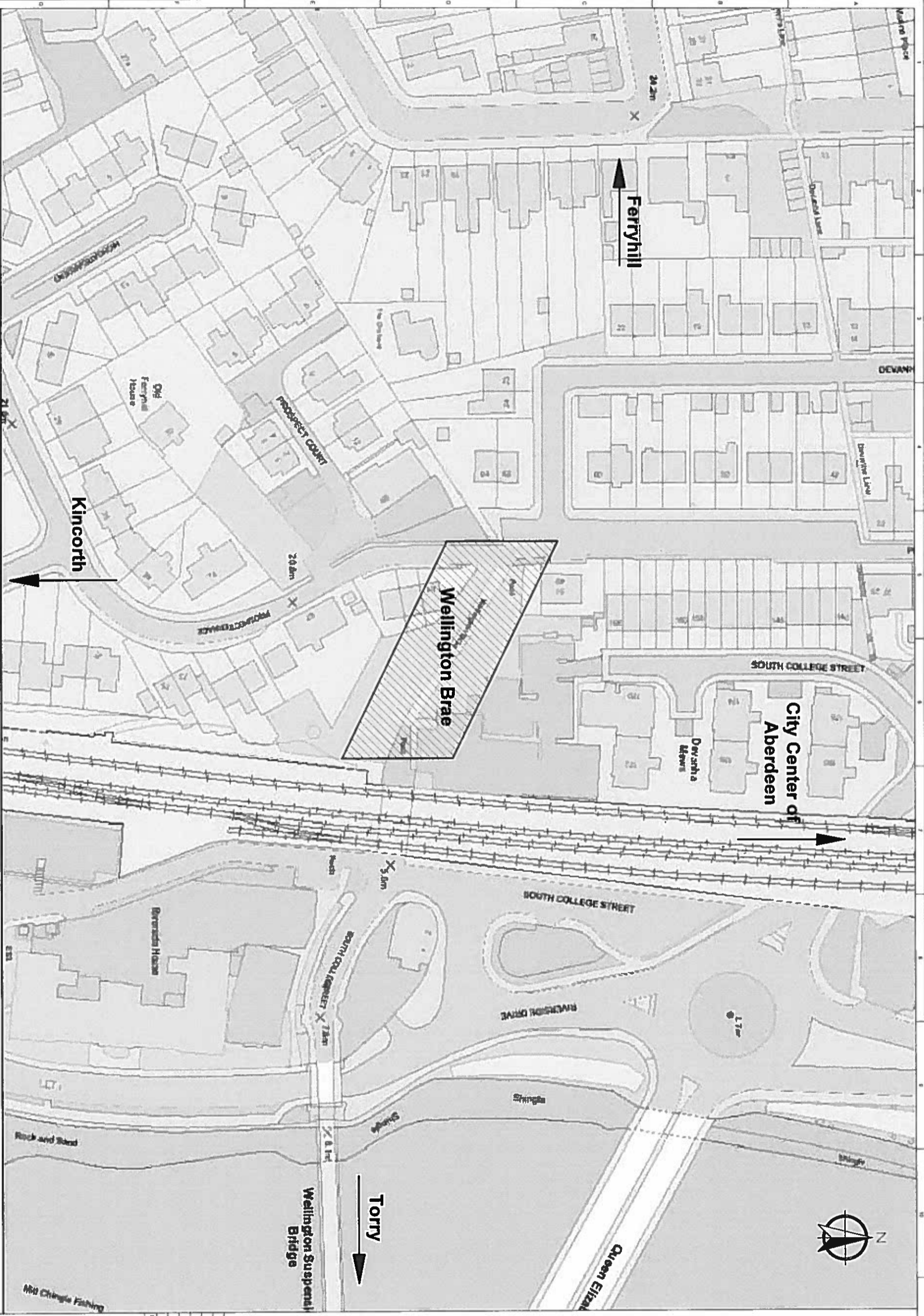
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**LOCATION PLAN**

Scale 1:500

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Rev	Date	Description	By	CHKD
0	01/08/2016	ISSUE FOR RECOGNITION	KZ	PH

**ABERDEEN CITY COUNCIL**

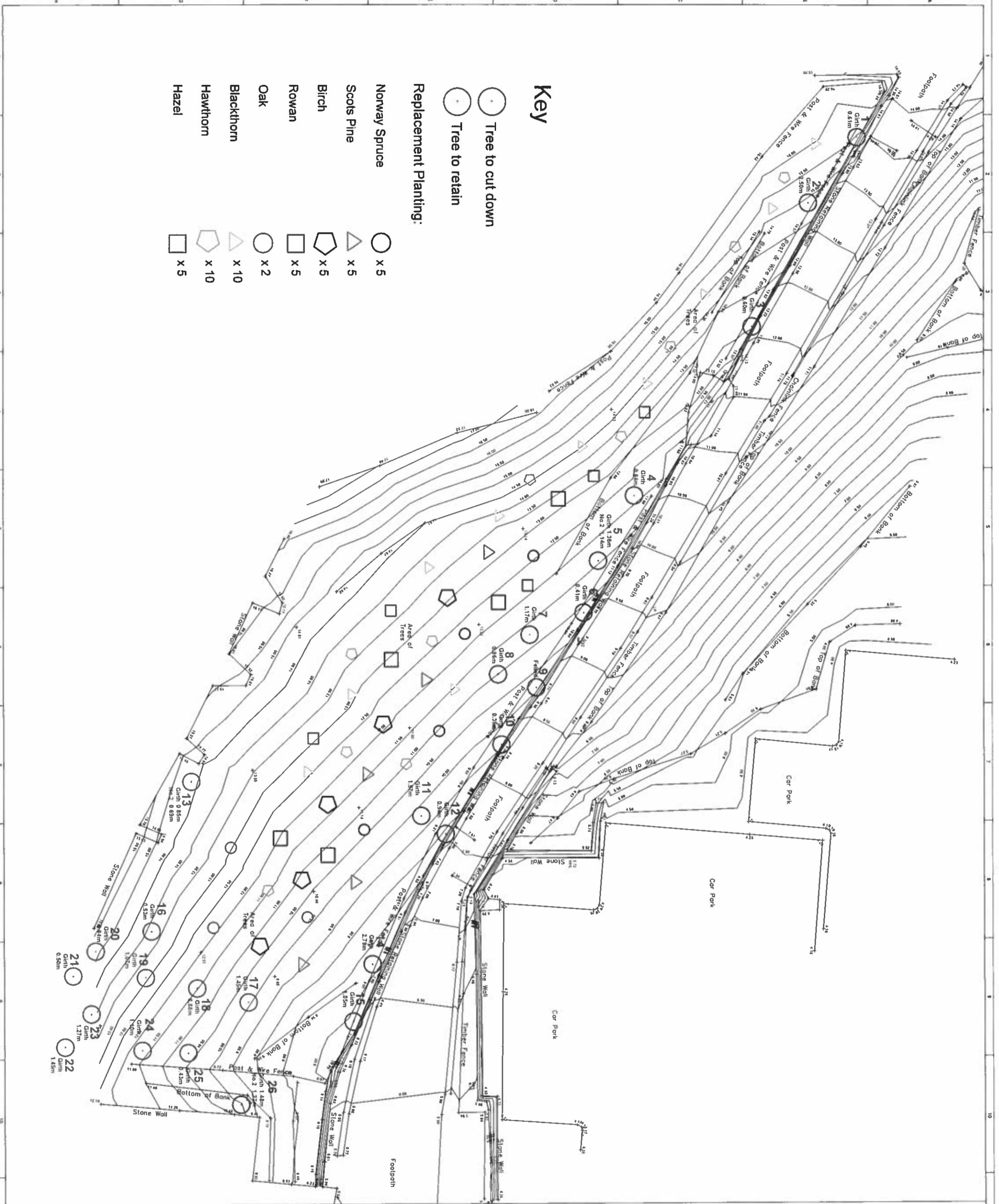
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**ABERDEEN CITY COUNCIL**

**WELLINGTON BRAE**  
Retaining Wall  
Location Plan

Drawn	Checked	Date	Scale	Sheet size
KZ	PH	01/08/2016	1:500	A3
Drawing Number	Sheet No	Revision		
SFC-1017-16-001	1/1	0		



### Key

- Tree to cut down
- Tree to retain

### Replacement Planting:

- x 5 Norway Spruce
- △ x 5 Scots Pine
- ◡ x 5 Birch
- ◡ x 5 Rowan
- x 2 Oak
- ◡ x 10 Blackthorn
- ◡ x 10 Hawthorn
- ◡ x 5 Hazel

Rev	Date	Issue	By	CHK	PH
0	15/12/2016	ISSUE FOR TENDER			
1		DATA			


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Client: **ABERDEEN CITY COUNCIL**  
 Drawing Title: **WELLINGTON BRAE Retaining Wall Replacement planting plan**

Drawn	Checked	Date	Scale	Sheet No.	Sheet Size
K2	PH	01.06.2016	1:100	A1	A1
Drawing Number: <b>SFC-1017-16-008</b>					Revision: <b>0</b>

Exempt information as described in paragraph(s) 8 of Schedule 7A of the Local Government (Scotland) Act 1973.

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