

# Public Document Pack

## ADDITIONAL CIRCULATION



To: Councillor Boulton, Convener; Councillor Stewart, the Depute Provost, Vice Convener; and Councillors Allan, Cooke, Copland, Cormie, Greig, MacKenzie and Malik.

Town House,  
ABERDEEN 06 December 2021

## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE**

The undernoted items are circulated in connection with the meeting of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** to be held here in the Town House on **THURSDAY, 9 DECEMBER 2021 at 10.00 am**. This is a hybrid meeting and **Members may also attend remotely.**

**Members of the press and public are not permitted to enter the Town House at this time. The meeting will be webcast and a live stream can be viewed on the Council's website. <https://aberdeen.public-i.tv/core/portal/home>**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

## **B U S I N E S S**

### GENERAL BUSINESS

#### WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 7.1 Detailed Planning Permission for the residential development (100 units) with associated landscaping and parking and supporting ancillary infrastructure - Leggart Brae (land to the south and south west of Deeside Brae), Aberdeen (Pages 3 - 58)

Planning Reference – 201558

All documents associated with this application can be found at the following link and enter the reference number above:-

[Link](#)

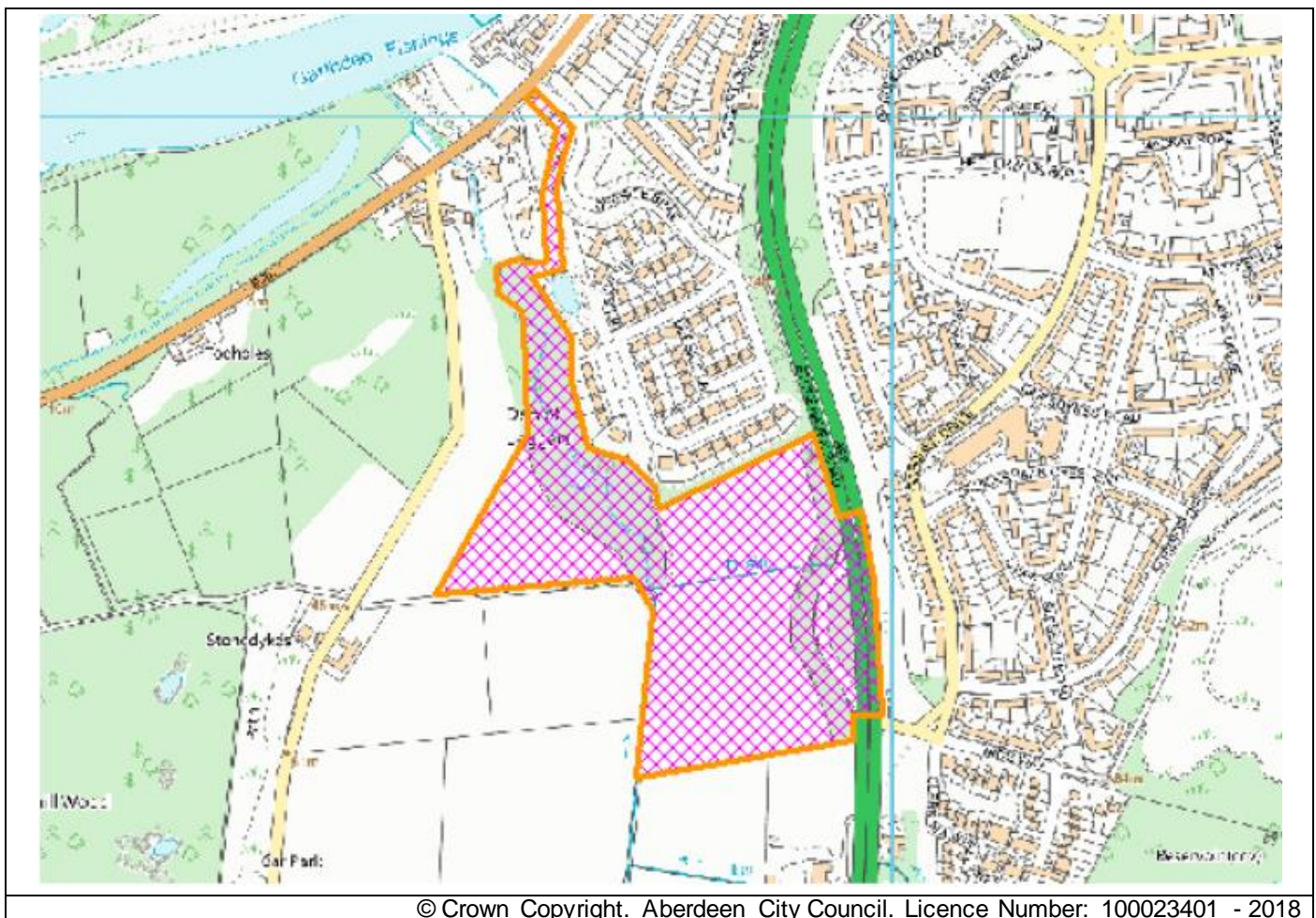
Planning Officer: Alex Ferguson

**Members please note that this is an updated report due to a drafting issue. The report has now been amended to reflect officer's finalised evaluation of the application, and page 46 of the agenda refers and has been highlighted in bold.**

Should you require any further information about this agenda, please contact Lynsey McBain, Committee Officer, on 01224 522123 or email [lymcbain@aberdeencity.gov.uk](mailto:lymcbain@aberdeencity.gov.uk)

	<b>Planning Development Management Committee</b>
	Report by Development Management Manager
	<b>Committee Date:</b> 9 December 2021

<b>Site Address:</b>	Land To South and South-west of Deeside Brae, Aberdeen
<b>Application Description:</b>	Residential development (100 units) with associated landscaping and parking and supporting ancillary infrastructure
<b>Application Ref:</b>	201558/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	18 December 2020
<b>Applicant:</b>	Manfield Limited (A Comer Company)
<b>Ward:</b>	Kincorth/Nigg/Cove
<b>Community Council:</b>	Kincorth and Leggart
<b>Case Officer:</b>	Alex Ferguson



## **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The application site predominantly comprises an area of greenfield land to the south and west of the Deeside Brae housing development known as Leggart Brae. The Den of Leggart runs on a north-south axis through the central and northern section of the site which also includes an existing layby immediately to the west of the A92 dual carriageway, as well as a section of the A92 itself. To the north of the Den of Leggart, the site incorporates a winding strip of land that incorporates an informal (grassed) pedestrian path between the Den and Leggart Terrace, running adjacent to the vehicular carriageway that forms the entrance to Deeside Brae.

The site is bound to the east by the A92 with Kincorth beyond, to the north by the Deeside Brae housing development and Leggart Terrace, to the west by the 'Causey Mounth' minor road and to the south by open, arable fields. The site lies immediately adjacent to the Aberdeen City Council (ACC) administrative boundary with Aberdeenshire Council (AC), which follows the Leggart Burn until it enters the Den of Leggart. The boundary then extends c. 200m westward before returning to the Den and again following the route of the Leggart Burn until it enters the River Dee approximately 200m to the north. The River Dee, and its tributaries form a Special Area of Conservation (SAC).

The area of land within the ACC boundary is approximately 9.6 Hectares in size and aside from the Den of Leggart, it mostly comprises open, arable agricultural fields, with an established tree belt forming the eastern edge of the site with the A92. An access track runs along the boundary of the site from the Causey Mounth, over the Leggart Burn and connects up into the Deeside Brae development to the north. In general, the site slopes upwards to the south, whilst the eastern section falls to the west from the A92.

The entirety of the site is zoned in the adopted Aberdeen Local Development Plan 2017 (ALDP) as Green Belt land, with the exception of the informal winding path adjacent to Deeside Brae in the northern part of the site, which lies within land zoned as Residential. The eastern portion of the site and the Den of Leggart are zoned as Green Space Network. The Den of Leggart is designated as a Local Nature Conservation Site (LNCS).

The southern and eastern parts of the site (the majority of the application site) are zoned as Residential land and allocated as an Opportunity Site (OP46) for 150 homes in the Proposed Aberdeen Local Development Plan 2020 (PALDP). The PALDP content was agreed by Full Council on 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public.

### **Relevant Planning History**

A Proposal of Application Notice (PoAN), reference 200638/PAN, was submitted on 8<sup>th</sup> June 2020, with an online public consultation event by the applicants taking place on 8 August 2020.

An Environmental Impact Assessment (EIA) Screening Opinion request 200682/ESC for the proposed development was submitted to the Council on 19<sup>th</sup> June 2020. The Planning Service determined that EIA is not required but requested that various supporting information documents and surveys be submitted to support any formal planning application.

The applicants presented their pre-application proposals for the site to the Planning Development Management Committee (PDMC) Pre-Application Forum on 20<sup>th</sup> August 2020.

At the March 2021 meeting, PDMC resolved that the required Pre-Determination Hearing for the application, and ultimate determination of the application would be undertaken by PDMC, rather than being referred to Full Council. The Pre-Determination Hearing was subsequently held at the PDMC in September 2021.

At the time of writing, a concurrent planning application (APP/2020/2492) for works to the west of the application site is pending determination by Aberdeenshire Council. The application seeks detailed planning permission for upgrades to (widening of) the Causey Mounth road, the formation of a new access road to the City boundary, cycleways and footpaths and associated landscaping. All the works are proposed in conjunction with the current application to Aberdeen City Council to allow access to the western portion of the application site.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

This application seeks Detailed Planning Permission (DPP) for the development of 100 homes (78 dwellings and 22 flats), the formation of a new signalised junction on the A92, formation of foot & cycle paths and associated infrastructure and landscaping.

#### **East of the Leggart Burn**

The 100 homes are proposed to be built in the c. 4 Ha field that lies to the east of the Leggart Burn. The proposal would see four residential streets set to the north and south of a main access road, also lined with some dwellings, that would provide access to the site via a new signalised junction on the A92 to the east. The development would contain a mix of house types and sizes, including large detached dwellings, semi-detached dwellings and terraced duplex flats. A Sustainable Drainage System (SUDS) basin would be sited adjacent to the Den of Leggart in the north-western corner, adjacent to an access path linking into Deeside Brae to the north.

The dwellings would all be 2 / 2½ storeys in height with a mix of designs and sizes. The prevailing architectural style would be contemporary, taking design cues from local precedents.

A total of 25 affordable units are proposed (mid-market rent), all of which would be sited on the central, terraced street, comprising 22 flats and 3 dwellings.

#### **West of the Leggart Burn**

The western part of the site (c. 1.1 hectares) would be predominantly grassed for use as communal open space for residents, with two linear, tree-lined cycleways / footpaths running through the open space and connecting the housing in the east with further open space and footpath linkages in Aberdeenshire to the west.

There would be a pedestrian footpath link connecting into the Deeside Brae development to the north from the eastern portion of the site as well as further pedestrian and cycle connections to the A92, to the east, and to the Causey Mounth to the west (subject to the separate application to Aberdeenshire Council).

#### **Infrastructure**

A signalised road junction is proposed to be formed onto the A92 at the eastern edge of the site, to provide vehicular access to the housing and a signalised pedestrian crossing linking to Kincorth, east of the A92.

## Amendments made since initial submission

- A further 33 residential units (9 dwellings and 24 flats), an associated access road and SUDS basin were initially proposed in the western part of the site. The 24 flats were proposed to be spread between two 3-storey blocks adjacent to the western edge of the Den of Leggart, with the dwellings to the south, on the opposite side of the central access road. The applicant submitted amended plans in October 2021, omitting the 33 units from the western part of the site and replacing them with grassed open space.
- Initially it was proposed to incorporate a remote pedestrian & cycle path through the northern edge of the Den of Leggart (via a bridge), which would have connected in to Leggart Terrace to the north. This aspect has subsequently been omitted from the proposals.
- A further pedestrian footpath that was proposed to run around the northern and eastern edges of the easternmost block of flats has also been omitted from the proposals.
- The floor plan drawings have been updated to incorporate the provision of electric vehicle charging points (one per detached and semi-detached dwelling)
- Minor amendments have been made to the internal road layouts, to address points made by the Roads Development Management Team.
- Updated tree survey documents have been submitted which demonstrate a greater loss of trees at the eastern entrance to the site than was previously proposed. The survey states that the trees are considered to be of poor quality and notes the intention to incorporate high-quality compensatory replanting in the development.

## Supporting Documents

All drawings and the 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=QL4ENUBZMYE00>

- Pre-Application Consultation (PAC) Report
- Planning Statement
- Design & Access Statement
- Transport Assessment
- Noise Impact Assessment
- Air Quality Impact Assessment
- Flood Risk Assessment
- Drainage Impact Assessment
- Tree Survey and Arboricultural Impact Assessment
- Road Safety Report
- Landscape and Visual Appraisal
- Design Access Audit Report
- Cycle Audit Report
- Convenience Retail Needs Analysis
- Accommodation Schedule
- Affordable Housing appendix
- Ecological Impact Assessment
- Archaeological and Cultural Heritage Desk Study Assessment
- Landscape and Biodiversity Management Plan

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee (PDMC)



because: -

- the proposed development is classed a 'major development' in terms of The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009;
- the proposal is considered to be a Significant Departure from the Development Plan by virtue of it being a major residential development located on a site zoned as Green Belt and Green Space Network; and
- more than 5 objections have also been received from third parties.

### **Pre-Application Consultation**

This application is accompanied by a Pre-Application Consultation Report, as required for all planning applications for major developments.

Due to the Covid-19 pandemic restrictions in place at the time, it was not possible for the applicants to undertake an in-person public consultation event. As such, the applicants held a statutory pre-application consultation event online (at [www.leggartbrae.com](http://www.leggartbrae.com)), on 6<sup>th</sup> August 2020, between 4pm and 8pm. Advertisements were placed in the Press & Journal and the Evening Express on 30<sup>th</sup> July, giving advance notice of the consultation event. Notices were also sent to the local Ward Councillors (including to those in neighbouring wards in both the City and Shire), to the local MSP and MP's. Copies were also sent to the local and neighbouring Community Councils. Notices advertising the event were also sent to 1356 local properties in the area surrounding the application site.

A selection of indicative site layouts and other information including a list of Frequently Asked Questions were presented on the dedicated pre-application website in advance of the online consultation event. The online consultation event then included a 'live-chat' function, during which members of the project team were available to answer questions. Online questionnaire forms were also made available for completion by website visitors. A total of 314 people visited the website between the 30<sup>th</sup> of July and the 28<sup>th</sup> of August, with approximately 80 people visiting the website on the 6<sup>th</sup> of August when the live event was held. In total 13 questionnaire/feedback forms were returned and 7 'live-chat' conversations were held during the live event. The responses are summarised in the PAC report, along with the applicants' commentary on whether/how the proposal has taken them into account.

On 20<sup>th</sup> August 2020, the applicants gave a presentation to the Council's Pre-Application Forum. The main themes raised related to:

- Whether the affordable housing would be provided on-site or via a financial contribution;
- Ensuring the design of any on-site affordable housing is tenure-blind;
- Provision of Fibre-to-the-Premises (FTTP) broadband;
- The site is at risk of flooding on SEPA flood maps;
- What impact the development would have on school capacity;
- Whether there has been any consideration for providing a local retail use within the development;
- Proximity, access and impact on local healthcare facilities;
- Proximity to leisure facilities;
- Whether the development could provide, or contribute toward, a new pedestrian link across the River Dee; and
- Whether the properties would be freehold or leasehold.

### **Pre-Determination Hearing**

The proposed development is classed as a 'major development' and a significant departure from the Development Plan. Under Regulation 27 of The Town and Country Planning (Development

Management Procedure) (Scotland) Regulations 2013 the Planning Authority was therefore required to give those who made representations an opportunity to appear before and be heard by a committee of the authority at a Pre-Determination Hearing.

A Pre-Determination Hearing was held by PDMC on the 9th of September 2021.

The hearing was addressed:

- By officers from Aberdeen City Council on the planning and roads considerations pertinent to deciding the planning application.
- By the applicant and the applicant's representatives in terms of the merits of the proposed development; and
- By two objectors, including one from the organisation group 'Protect Banchory Devenick', who spoke on behalf of a number of objectors to the application.

Questions were asked in relation to the matters of transportation, accessibility, affordable housing, school capacity, flooding and landscape impact.

It should be noted that the information presented to the Pre-Determination Hearing was in relation to the original proposal prior to the removal of 33 units in the western part of the site.

## **CONSULTATIONS**

**Aberdeenshire Council** – Object for the following reasons:

- The site was identified in Aberdeen City Council's Main Issues Report 2019 (MIR) as being "undesirable", in response to a development bid for 235 homes (ref: B13/08 – Royal Devenick Park);
- Bid 13/08/OP46 is part of a larger development proposal in Aberdeenshire, identified in Aberdeenshire's MIR as bid sites KN069-072, Banchory-Devenick for up to 1310 homes, commercial and employment land, and a primary school. These bids, KN069 to KN072, were also not identified as preferred sites due to issues relating to landscape setting, loss of green belt, impact on natural heritage, distance from facilities, and accessibility and infrastructure concerns. These issues were also identified in the City's MIR for site B13/08 (OP46).
- Development of the application site will result in the unnecessary loss of green belt land and could have long-term negative implications on the green belt;
- The application site is not well related to any settlement and is in essence a standalone site which shoehorns into one of the last remaining landscape buffers at the edge of Aberdeen City and Aberdeenshire. The development of the site would result in suburbanisation in a highly sensitive and visible landscape.
- The site is in an environmentally sensitive area, which provides important habitat and green corridor between River Dee and Tollo Hill. It is also located within the Green Space Network, includes the Den of Leggart Local Nature Conservation Site, and the proposal could result in the loss of trees, including ancient woodland.
- The proposed development could also have a cumulative negative impact on the River Dee, a Special Area of Conservation, from surface water runoff.



- ACC's Main Issues Report stated that the site is "not well-related to any settlement; it is poorly located to public transport and community facilities, and therefore would be car dependent." As such, the site is contrary to the Strategic Development Plan which seeks to reduce travel distances and make walking, cycling and public transport more attractive to people.
- There are concerns in respect of infrastructure, road network capacity and deliverability. Aberdeenshire Council's Transportation Service has advised that works, including the widening of the Causey Mounth would be necessary, junction visibility improvements, two points of road access would be required to accord with Aberdeenshire Council's standards for access, and there are pinch points to the north of the Causey Mounth with Leggart Terrace (the B9077), which would appear to be outwith the site proposer's control.
- Aberdeenshire Council believe that the site can be removed from the ACC Proposed Aberdeen Local Development Plan (PALDP) without creating a deficit in the housing allowance. Thus there is no strategic need or requirement to release the site for housing and its development would be premature at this time.
- Due to the foregoing concerns the proposal would not constitute the right development in the right place and the application is therefore contrary to Scottish Planning Policy (SPP).

**Archaeology Service** – No objection. There are references within records to the presence of historic Aberdeen City boundary stones within the site that require to be identified and retained in their existing location. Conditions are required in respect of the implementation of a programme of archaeological works prior to the commencement of development and the provision of protective fencing around the stones during construction works.

The programme of archaeological works shall comprise an archaeological written scheme of investigation (WSI), to be agreed with the planning authority and subsequently carried out, prior to the commencement of development. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development shall not be brought into use unless a post excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority.

**ACC - City Growth** – No response.

**ACC - Contaminated Land Team** – No objection and no comments.

**Dee District Salmon Fishery Board** – No response.

**Aberdeen International Airport** – No objection. The proposed development would not conflict with aerodrome safeguarding criteria. Request that the applicant is made aware of the requirement to comply with the British Standard Code of Practice for the safe use of cranes.

**ACC - Developer Obligations** – The following developer obligations are required, to be secured via legal agreement:

- Core Path Network - £35,563
- Healthcare Facilities - £55,161

- Community Facilities - £174,805

The Core Path contribution is required toward the delivery of Aspirational Core Path 9 (Kincorth – Tollohill Wood via Den of Leggart) and/or the enhancement of Core Path 79 (Kincorth Hill).

The Healthcare contribution is required towards the internal reconfiguration of the Cove and Kincorth Medical Practice, or other such healthcare facilities serving the development.

The Community Facilities contribution would go towards the creation of additional capacity at the Kincorth Community Centre.

No Open Space contribution is sought as the open space requirements for the development would be met on-site.

**ACC - Education** – No objection. The site is zoned to Abbotswell Primary School and Lochside Academy. Latest forecasts indicate there is sufficient capacity at both schools to accommodate the number of pupils expected to be generated by this development.

**ACC - Environmental Health** – No objection. The findings of the applicant's Air Quality Impact Assessment are accepted, including the conclusion that mitigation measures in relation to road traffic emissions are not necessary. Require the mitigation measures set out in the AQIA to be implemented, including the submission of a detailed Dust Management Plan to ensure adequate construction-phase dust control measures (this can be conditioned).

The findings of the applicant's Noise Impact Assessment (NIA) are accepted, subject to the implementation of the recommended mitigation measures which include: The installation of an acoustic barrier adjacent to the A92, the provision of specified glazing with acoustic properties throughout the development and the provision of acoustic trickle vents in certain properties.

Environmental Health also recommend an advisory note in respect of construction hours, in order to protect the amenity of neighbouring residential properties.

**ACC - Structures, Flooding and Coastal Engineering** – No objection.

**ACC - Housing Strategy** – The applicant's proposed affordable housing tenure (mid-market rent) is not acceptable to the Council as it does not meet the city's housing need and demand. The affordable housing provision should be reviewed, with the Council's preference being for social rented accommodation. The developer should enter into early discussions with a Registered Social Landlord (RSL) regarding the purchase of the affordable homes. The mix of affordable units also requires to be reviewed as there is very little requirement for 2-bed flats in the city. Furthermore, a minimum of 15% of all new affordable housing is required to be fully wheelchair accessible.

**ACC - Estates Team** – The land comprising the layby to the west of the A92 appears to be in Council ownership. This requires to be confirmed by the Council's Legal Team however and if the land is indeed owned by ACC then the applicant shall require to enter into separate discussions with the Council, as Corporate Landlord, regarding the possible acquisition of the land required. No roads infrastructure shall take place on the land in question until such time as appropriate paperwork is in place.

**Police Scotland** – No objection. Note that the surrounding area is a low crime area and that the proposed development is unlikely to increase crime. Do note some concern however from a Roads Policing perspective, with the entry of vehicles on to a busy main road with vehicles potentially travelling at high speed, albeit from a traffic control system.

**ACC - Roads Development Management Team (RDM) – Object to the application for the following reasons:**

- The new signalised junction onto the A92 would have a detrimental impact on traffic flows into and out of the city on a major arterial route. Any new junction on the A92 should have a strategic link carrying a significant amount of traffic (away from the Bridge of Dee) and it is not acceptable to reduce the capacity of a strategic road to serve the relatively small number of houses proposed;
- The design of the signalised junction is not acceptable, with the northern central pedestrian island being of an insufficient width;
- The swept path analysis for the proposed secondary, emergency vehicle access to the site is not detailed enough to determine whether the access would be sufficient to meet Council standards.

RDM expand on the above points and note the following:

#### Development Vehicle Access

- As per ACC guidelines, any proposed housing development comprising more than 50 units requires two vehicular accesses (one standard access and one emergency access). The constrained nature of the site does not allow for two accesses and only one formal access is proposed (via the new signalised junction on the A92).
- Various issues remain to be resolved in relation to the design, layout and traffic signals of the signalised junction, including that the pedestrian central refuse island on the north side is only 2.0m wide, which does not meet the current guidelines. This requires to be at least 3.0m wide as proposed on the south side to allow two wheelchairs to pass each other. The use of 3.0m wide crossings also helps prevent overcrowding of narrow footways.

#### Loss of Layby

- The proposed development would result in the loss of an existing layby off the A92 which is currently used by abnormal load vehicles for waiting, prior to being escorted by Police through the city. No alternative suitable location for a replacement layby has been identified.

#### Bridge of Dee STAG Options

- The proposed development would preclude the formation of a new junction on the A92 and a strategic link road connecting the A92 with South Deeside Road, which is outlined as a potential strategic transport option for easing congestion in the Bridge of Dee area in the Council's Strategic Infrastructure Plan.

#### Local Network Impact

- A TRICS assessment has been undertaken by the applicant which finds that the proposed development would not result in an additional number of vehicle trips that would have any detrimental impact on the local road network (impact on the A92 traffic flows aside).

#### Internal Roads Layout

- The internal roads layout is largely acceptable. However, some driveways and crossing points require to be adjusted to meet ACC policy for driveways and standards for kerbing. Such details could be conditioned.

#### Walking and cycling

- A footpath link would connect into the existing footpath that runs alongside the A92 towards the Bridge of Dee, although that footpath requires to be upgraded by the developer (to a 3m wide shared pedestrian and cycle path), as does a footway extension to the south. Such details could be provided by way of a condition. The proposed pedestrian link to Kincorth via the new signalised junction is acceptable.
- Sufficient cycle parking facilities, or space for cycle storage, is proposed for all properties.

#### Public Transport

- The site has two bus stops within 400m, one on each side of the A92. The bus service for both stops provides a half-hourly service between Aberdeen City Centre, Portlethen and Stonehaven.
- To encourage the use of public transport, the bus stops should be upgraded to provide a shelter, seating, lighting a timetable and raised kerbs.
- More frequent bus services, within 400m distance from the site, would be available to residents in Kincorth on Nigg Way / Gardner Drive.
- The existing bus stop south of the proposed junction on the A92 requires to be relocated;
- Details could be conditioned.

#### Parking

- Sufficient parking (private, disabled and visitor) for each dwelling is to be provided across the development.

#### Refuse & Servicing

- All plots would have access to suitable areas for bin storage and the bin store areas would all be within 30m of the collection points.

#### Travel Plan Framework / Safe Routes to School

- The Safe Routes to School plan submitted by the applicant is not sufficient as it requires additional information including an assessment of the routes to school and to identify any required improvements. Further information could be conditioned.

#### Drainage Impact Assessment

- This is acceptable with regards to SUDS provision.

**Scottish Environment Protection Agency (SEPA)** – No objection. The site levels drawings (14722-550 & 14722-551 Revision A) show that the finished floor levels of the dwellings would have in excess of 0.6m freeboard above the design flood levels.

The applicant's Flood Risk Assessment notes that site investigations reveal there is no inflow to the field drain running across the site from land to the east of the A92, or from the A92 itself and, as such, conclude the drain is limited to drainage of the site itself. As site drainage will be provided for

the site it is proposed to remove this feature.

The proposals are to upgrade the existing culvert carrying the field track crossing over the Burn of Leggart within the site as this is posing a restriction to flow with surcharging at the design flood events. Storage upstream of this is limited and the upgrade is shown not to have any associated increase in flood risk downstream.

**Scottish Water** – No objection. There is sufficient capacity in the Nigg PFI Waste Water Treatment works to accommodate the proposed development. Scottish Water are unable to confirm capacity in the Invercarnie Water Treatment works at this time however and request that the applicant engages with Scottish Water to allow a full appraisal of the proposals with regard to water capacity.

**NatureScot** – No objection. Agree with the findings of the Council's Habitat Regulations Appraisal (HRA), which considers that the development would not have significant effects on the qualifying features of the River Dee Special Area of Conservation (SAC), subject to the implementation of appropriate mitigation measures.

**ACC - Waste and Recycling** – No objection.

**Aberdeen City & Shire Strategic Development Planning Authority** – No response.

**Kincorth and Leggart Community Council** – No response.

## **REPRESENTATIONS**

One hundred and twenty-one (121) representations have been received in relation to this application, including from the Cults, Bieldside and Milltimber Community Council, the North Kincardine Rural Community Council (in Aberdeenshire) and The Woodland Trust. The representations all state objection or raise concern in relation to the proposed development. The issues raised in the representations can be summarised as follows:

### National Planning Policy

- The development is contrary to Scottish Planning Policy

### Aberdeen City and Shire Strategic Development Plan

- The development is inconsistent with the Aberdeen City & Shire Strategic Development Plan - specifically the following policies:
  - Shaping Development in the Countryside (Chapter 5)
  - Natural Heritage and Landscape (Chapter 8, Policies E1 and E2)
  - The Historic Environment (Chapter 9, Policies HE1 and HE2); and
  - Protecting Resources (Chapter 10).

### Principle

- The site is zoned as Green Belt in the adopted Aberdeen Local Development Plan 2017 (ALDP) and the proposal is contrary to Policy NE2 (Green Belt) of the ALDP;
- The site is not allocated for housing in the ALDP;
- The site is zoned as Green Space Network and the development would be contrary to Policy NE1 (Green Space Network) of the ALDP.

### Allocation in the Proposed Aberdeen Local Development Plan (PALDP)

- The site was noted as being 'undesirable' in the 2019 Main Issues Report;
- The site was allocated as an Opportunity Site (OP46) for 150 homes by Members as a late addition, contrary to the recommendation of the ACC Planning Service;

- There were numerous objections to the allocation of the site in the PALDP submitted in the public consultation period, which are yet to be addressed;
- The application is premature and undemocratic as the PALDP is not adopted and has not yet undergone Examination;
- The site was allocated by Councillors without any rationale and at a stage of the PALDP which avoided full scope for public feedback;
- The applicants are presuming that there are no representations to the PALDP that oppose the allocation of the site for housing;
- Aberdeen City Council have chosen to ignore their own policies on Green Belt, Natural Heritage and Landscape in allocating the site in the PALDP.

#### Housing Supply & Demand

- The site could be removed from the PALDP without resulting in a deficit in housing land supply;
- The development of the greenfield site is unnecessary. Greenfield sites should be protected unless absolutely necessary, with ample brownfield sites in the city that should be developed first;
- A nearby site at Loirston has already been identified for a new community. It should be built out before allocating land west of the A92;
- The city's housing market is saturated and no further housing is required.

#### Cumulative Impacts

- The development would contribute toward the cumulative, incremental erosion of the green belt;
- The recent expansion of Portlethen to the west of the A92 and of Badentoy Industrial Park means there is no scope for the southern extension of the green belt outwards to compensate for the loss of green belt within the city.

#### Transport & Accessibility

- The development of the site for housing would be unsustainable as it would be almost entirely accessed by car, contrary to the Council's 'Green' policies;
- The site is poorly served by public transport;
- The proposed walking and cycling provision would be used for recreation but would not be suitable for practical daily use, particularly by users with mobility issues, due to the steep gradients involved;
- The pedestrian and cycle access would be inadequate until such time as the Bridge of Dee and associated roundabouts have been upgraded as they are currently cycle and pedestrian unfriendly;
- Developer contributions should be required in order to enable upgrades to local infrastructure is active travel is to be promoted;
- The existing path from Deeside Brae to Tollohill Woods is well-used by the public and access to it should be maintained during construction works;
- The development would be split into two parts, with no vehicular access between the two;
- The new signalised junction onto the A92 would have a detrimental impact on traffic flows on a key arterial route into and out of the city, exacerbating existing congestion issues in the Bridge of Dee area;
- Although mitigation measures at the Bridge of Dee roundabout are recommended in the Transport Assessment, they are not noted in the applicant's plans;
- The suggested mitigation measure of widening the road widths at the Bridge of Dee roundabout would impact detrimentally on pavement widths in the area;
- The width of Leggart Terrace was reduced on entry to the Bridge of Dee roundabout a few years ago yet the applicant's Transport Assessment does not include this change in its simulations;



- The amount of additional traffic generated by the development would be significant;
- Access should only be taken from the A92, with no access from the Causey Mounth;
- There would be insufficient parking within the site, which would lead to overspill parking on the access road and verges;
- Each property should have access to cycle storage or a garage.

#### Road Safety

- The proposals would lead to increased usage of the Causey Mounth road (in both north and south directions), to the detriment of road safety (including cyclists);
- The applicant's Transport Assessment quotes crashmap.co.uk as a source of registered road accidents in the area, but that website only includes accidents reported to the police and not more minor accidents.

#### Access to facilities and amenities

- The site has no nearby facilities and/or amenities such as schools, retail, health, hospitality and leisure.

#### Landscape

- The development (and the two blocks of flats in the western portion in particular) would eradicate the classic view of Aberdeen from the Causey Mounth/Tollohill Woods, with the Bridge of Dee and the application site in the foreground;
- The site forms an important landscaped edge to the city at present;
- The City Council previously took a decision not to extend the Deeside Brae development further south, in order to avoid it being visible from Tollohill Woods. Why is this now deemed desirable?;
- The development would have a significant detrimental impact on the landscape character of the area and on key views;
- No visualisations have been provided from receptors in the Pitfodels and East Cults areas, despite lying in the Zone of Theoretical Visibility as outlined in the applicant's Landscape and Visual Appraisal.

#### Procedural Matters

- The planning application was lodged in late December 2020 during the coronavirus lockdown and the festive period, at a time when the Council Planning department is closed for nearly 2 weeks. The timing of the application appears to be an attempt to avoid proper consultation with the public;
- As all residents in the Deeside Brae development would be affected by the proposals, all properties in Deeside Brae should have been notified on the application;
- Why was the application due to be considered at the Planning Committee in January / February 2021, prior to the Full Council meeting in March to discuss public consultation responses to the PALDP?;
- There was no pre-application consultation except for an insufficient online consultation held in August 2020 which lacked sufficient detail of the proposal;
- There are possible irregularities in the planning system which need to be scrutinised.

#### Aberdeenshire Council

- Aberdeenshire Council have formally objected to the allocation of the site in the PALDP;
- The proposal is contrary to the Aberdeenshire Local Development Plan;
- Aberdeenshire Council adhered to their Planning Officers' recommendation that the developer bid by the applicant for housing in the Shire was undesirable;
- The development would create a precedent for further housing development in the Shire;

- As Aberdeenshire Council object to the proposals and consider that an access to the site from the Causey Mounth would be inappropriate due to road safety concerns, the provision of the access is not guaranteed;
- The widening of the Causey Mounth is not desirable, nor feasible due to the narrow nature of the junction with South Deeside Road.

#### Environment / Natural Heritage

- The site hosts wildlife and natural habitats. The development would have a significant detrimental impact on the habitats of numerous species of animal that use the site at present;
- The development would eradicate a significant portion of Green Space Network area no. 73;
- The Den of Leggart LNCS would be compromised by the development, including from a resultant increase in human recreational activity;
- No amount of mitigation could resolve the impact the development would have on habitat connectivity;
- The development could have an adverse impact on the qualifying features of the River Dee Special Area of Conservation;
- Construction phase works could harm the Den of Leggart.

#### Trees

- The Den of Leggart is designated as ancient woodland and the development would cause damage to, and the deterioration of, the woodland;
- There should be a 30m buffer zone between existing trees in the Den and any new development, in order to avoid root damage and to minimise the risk of pollution to the tree roots;
- The non-motorised path across the Den would result in the loss of trees.

#### Design / Layout

- The development layout is not optimised and is an artefact of the irregular City/Shire boundary;
- Three storey housing would be totally out of character within the context of the surrounding area;
- The two blocks of 12m high flats, clad in white brick and zinc, would be incongruous and sited in the most prominent location within the site;
- Little attention has been paid to using suitable building materials for the new buildings, with yellow/brown buff brick not appropriate for the context of the surrounding area which generally sees mostly granite or white rendered buildings.

#### Air Quality

- The resultant impact on traffic flows from the new junction on the A92 would lead to an increase in localised air pollution;
- Increased air pollution could adversely affect localised edible flora.

#### Amenity

- The pedestrian/cycle bridge through the Den of Leggart would allow for residential properties to the north to be overlooked, to the detriment of their privacy;
- Noise emissions from increased vehicular traffic as a result of the development would have a detrimental impact on neighbouring residential properties;
- The proposal would result in the loss of the existing earth bund that lines the southern edge of the Deeside Brae development and gives protection to residents from noise from the A92;
- A row of three-storey houses adjacent to Deeside Brae would overlook existing properties and result in a reduction of natural daylight receipt;
- The increased usage of the path link into Deeside Brae would harm amenity;

### Flooding and Drainage

- The large SUDS basin next to Deeside Brae would increase the risk of flooding to Deeside Brae and the Den of Leggart;
- ACC Officers flagged the Leggart Burn as being prone to a high risk of flooding in their Development Options Assessment of the development bid for the site;
- There are existing flooding issues that have affected Mill Cottage and there is concern that the development would exacerbate those existing issues.

### Developer Obligations

- The developer has made no contribution toward the construction of a separate pedestrian crossing over the River Dee.

### Affordable Housing

- The proposals for affordable housing would not create a sustainable integrated community, nor meet residents' current and changing needs.

### Safe Routes to School

- The nearest schools are situated on the opposite side of the A92 and access for schoolchildren would be unsuitable.

### Informal recreation & Health and Wellbeing

- The development would result in the loss of green space that is well-used by members of the public for informal recreation and contributes toward mental health and wellbeing;
- The development could harm the existing edible vegetation (brambles and elderflower) within / adjacent to the site.

### Economic Benefit

- The development would be of no economic benefit to the city.

### Wider Development

- The developer has the ambition to build a much larger housing development in the Banchory Devenick area, mostly within Aberdeenshire. The developer is intending on using Aberdeen City Council to secure the first phase of development, that would then set a precedent for further development in the area.

### Low & Zero Carbon Technology

- The proposals do not include any environmental provisions such as solar panels, EV charge points, heat pumps etc.

### Climate Change

- The proposals do not adequately address elements of the Council's Local Outcome Improvement Plan (LOIP) – principally the aim to reduce carbon emissions due to the climate change emergency;
- Any decision on the application should be delayed until after the Scottish Climate Change Assembly's recommendations with respect to fair and effective changes to Homes and Communities have been made to the Scottish Government.

### Non-material considerations

- The development would have a negative impact on existing house prices;

- The proposed path between the Den of Leggart and Leggart Terrace runs over land not owned/controlled by the applicant, with no attempts having been made to gain rights over the land;
- The developer proposes to remove an existing earth bund which is not in their ownership;
- The money spent on the development would be better spent on building a better bridge over the River Dee;
- The timing of the application and the willingness of the developer to play Aberdeen City Council off against Aberdeenshire Council suggests an unethical developer who is only interested in profit with no responsibility for the greater good of the city.

#### Positive aspects

In addition to the above concerns and issues raised, one respondent did note that the intention to provide a dedicated pedestrian and cycle link between Tollohill Woods and Leggart Terrace is laudable.

### **MATERIAL CONSIDERATIONS**

#### **Legislative Requirements**

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

#### **National Planning Policy and Guidance**

- National Planning Framework 3 (NPF3) 2014
- Scottish Planning Policy (SPP) 2020
- Creating Places (architecture and place policy statement)
- Designing Streets (2010)
- Planning Advice Note 75 – Planning for Transport (PAN 75)

#### **Aberdeen City and Shire Strategic Development Plan 2020 (SDP)**

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting sustainable economic growth, the need to use resources more efficiently whilst protecting our assets and taking on the urgent challenges of climate change. To achieve those objectives, the SDP aims to:

- make sure the area has enough homes and job opportunities to support the level of services and facilities needed to maintain and improve quality of life;
- protect and, where appropriate, enhance our valued assets and resources, including biodiversity, the historic and natural environment and our cultural heritage;
- help create and support sustainable mixed communities, and the provision of associated infrastructure, which will meet the highest standards of placemaking, urban and rural design, and cater for the needs of the whole population;
- encourage opportunities for greater digital connectivity across the City Region; and,

- make the most efficient use of the transport network, reducing the need for people to travel and making sure that walking, cycling and public transport are available and attractive choices.

### **Aberdeen Local Development Plan 2017 (ALDP)**

- B4: Aberdeen Airport
- CI1: Digital Infrastructure
- D1: Quality Placemaking by Design
- D2: Landscape
- D4: Historic Environment
- H3: Density
- H4: Housing Mix
- H5: Affordable Housing
- I1: Infrastructure Delivery & Planning Obligations
- NE1: Green Space Network
- NE2: Green Belt
- NE4: Open Space Provision in New Development
- NE5: Trees and Woodland
- NE6: Flooding, Drainage & Water Quality
- NE8: Natural Heritage
- NE9: Access and Informal Recreation
- R2: Degraded & Contaminated Land
- R6: Waste Management Requirements for New Development
- R7: Low & Zero Carbon Build & Water Efficiency
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- T4: Air Quality
- T5: Noise

### **Supplementary Guidance and Technical Advice Notes**

- Aberdeen Masterplanning Process TAN
- Affordable Housing
- Air Quality
- Flooding, Drainage and Water Quality
- Green Space Network and Open Space
- Landscape
- Materials TAN
- Natural Heritage
- Noise
- Planning Obligations
- Resources for New Development
- Transport and Accessibility
- Trees and Woodlands

### **Proposed Aberdeen Local Development Plan 2020 (PALDP)**

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the PALDP has since been submitted to the Scottish Government Planning and Environmental

Appeals Division for Examination in Public. The PALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the PALDP (including individual policies) in relation to specific applications will depend on whether –

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

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

The area of the site on which housing is proposed to be built is zoned as 'residential' in the PALDP. In the PALDP the site is also allocated as Opportunity Site (OP46), described as follows:

*'Housing opportunity for 150 houses. Flood Risk Assessment required. A Habitats Regulations Appraisal is required to accompany development proposals in order to avoid adverse effects on the qualifying interests of the River Dee SAC. As part of this process it is likely a Construction Environmental Management Plan will also be required.'*

The PALDP therefore supports the principle of residential development on the site at a scale similar to, but greater than that proposed.

The allocation of the site was not proposed by Officers through the Main Issues Report (MIR), therefore there were no representations received regarding the site as part of the MIR.

The allocation of the site in the PALDP at the Full Council meeting on 2 March 2020 attracted a significant number of third-party objections (189) during the public consultation period on the PALDP between May and August 2020, including a formal objection from Aberdeenshire Council.

The following policies of the PALDP are relevant to the assessment of the application:

- B3 (Airport and Perwinnes Radar)
- C11 (Digital Infrastructure)
- D1 (Quality Placemaking)
- D2 (Amenity)
- D4 (Landscape)
- D5 (Landscape Design)
- D6 (Historic Environment)
- H1 (Residential Areas)
- H3 (Density)
- H4 (Housing Mix and Need)
- H5 (Affordable Housing)
- I1 (Infrastructure Delivery & Planning Obligations)
- LR1 (Land Release)
- NE2 (Green and Blue Infrastructure)
- NE3 (Natural Heritage)
- NE4 (Water Infrastructure)
- NE5 (Trees and Woodland)
- R2 (Degraded and Contaminated Land)



- R5 (Waste Management Requirements in New Development)
- R6 (Low + Zero Carbon & Water Efficiency)
- T2 (Sustainable Transport)
- T3 (Parking)
- WB1 (Health Developments)
- WB2 (Air Quality)
- WB3 (Noise)

## **Other Material Considerations**

### Housing Land Audit 2020 – Aberdeen City & Aberdeenshire Councils, December 2020

The Housing Land Audit (HLA) illustrates the scale and characteristics of the housing land supply in Aberdeen City and Aberdeenshire. It is used to determine if there is sufficient land available for housing development and also to inform the planning of future infrastructure such as roads, schools and drainage.

### Access from the South – [Bridge of Dee Study – STAG Part 2 Appraisal](#)

The Access from the South study looks at various options for an alternative crossing to the existing Bridge of Dee. One option indicates a new link road from the A92 to the B9077 at Leggart Terrace, through the application site.

### Aberdeen City - [Local Nature Conservation Sites \(July 2013\)](#)

## **EVALUATION**

### **Principle of Development**

The planning authority is required to determine this application in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan presently comprises the Aberdeen and Aberdeenshire Strategic Development Plan (2020) and the Aberdeen Local Development Plan (2017). The emerging policy context, as set out in the Proposed Aberdeen Local Development Plan 2020 (approved by Council on 2nd March 2020, representing the ‘settled view’ of the Council and currently undergoing Examination by Scottish Ministers following the Full Council meeting on 21<sup>st</sup> June 2021) is also a relevant material consideration.

Having regard to the provisions of the development plan the key issues in considering the principle of development are:

- the zoning of the land in the Proposed Aberdeen Local Development Plan (PALDP) as an Opportunity Site for 150 homes (OP46) and the relevant Policy H1 (Residential Areas);
- the adequacy of the housing land supply;
- whether the development would provide a quality residential environment that is suitably accessible;
- whether the development would contribute to sustainable development.

### **ALDP Zoning**

The entirety of the area of the application site proposed to be developed is zoned as Green Belt land in the adopted Aberdeen Local Development Plan 2017 (ALDP) and a large portion (including the Den of Leggart and the land to the east of it) is also zoned as Green Space Network. Policies NE2 (Green Belt) and NE1 (Green Space Network) of the ALDP are thus the most relevant in assessing the principle of the proposed development.

## Policy NE2 (Green Belt)

The aim of the Green Belt is to maintain the distinct identity of Aberdeen by defining its physical boundaries clearly. Safeguarding the Green Belt helps to avoid coalescence of settlements and sprawling development on the edge of the city, maintaining Aberdeen's landscape setting and providing access to open space. All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials.

With the foregoing in mind Policy NE2 is explicit in stating that: *'no development will be permitted in the Green Belt for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration; or landscape renewal.'*

Although there are various exceptions to the above statement, these principally apply to small-scale development associated to existing activities or essential infrastructure. There is no provision in Green Belt policy for the formation of new housing developments other than replacement dwellings or the conversion of formerly agricultural buildings and the development is thus contrary to Policy NE2.

## Policy NE1 (Green Space Network)

In relation to Green Space Network, Policy NE1 states that: *'The Council will protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the Green Space Network, which is identified on the Proposals Map. Proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted.'*

Although large parts of the site to be developed are in use as arable fields at present, and are thus of limited biodiversity value, they function as part of the wider Green Space Network (GSN) corridor that runs from north to south to the west of the A92, linking the application site and the Den of Leggart (a Local Nature Conservation Site) with Tollohill Woods and other habitats beyond.

The proposed development would see housing and associated infrastructure, including roads, built on the GSN and around the southern and eastern edges of the Den of Leggart, leaving only the western side of the Den free for the unhindered movement of species. It is thus considered that the development would detrimentally impact upon the wildlife value of the land zoned as Green Space Network, partially surrounding the Den of Leggart LNCS and eroding the character and function of the GSN. The works would therefore, in principle, be contrary to Policy NE1.

The site is located in an area of Green Belt and Green Space Network which acts as a gateway into Aberdeen, alongside the A92 and forming part of the lower Leggart valley, providing a distinct sense of place and a natural, green edge to the city, particularly when viewed from the Causey Mounth & Tollohill Woods. The development would significantly and permanently change the character and landscape value of this section of the GSN and Green Belt, resulting in the dense suburbanisation of open farmland which is currently of an undeveloped, rural character and appearance. Taking the foregoing into account it is considered that its development for housing would have a significant adverse impact on the green belt and landscape setting of Aberdeen.

The proposal for the formation of a major housing development on the site is thus contrary in principle, to Policies NE1 and NE2 and its approval would represent a significant departure from the current, adopted ALDP. In circumstances such as this, where a development is considered to be contrary to the provisions of the development plan, Section 25 of the Planning (Scotland) Act 1997 (as amended) requires the planning authority to consider whether there are any material planning considerations that would allow a departure from policy and this is assessed later in this report.

## Aberdeen City and Shire Strategic Development Plan 2020 (SDP)

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that the application requires to be determined in accordance with the Development Plan, while Section 24 states that, in a Strategic Development Plan area such as Aberdeen, the Development Plan comprises both the Aberdeen City and Shire Strategic Development Plan 2020 (SDP) and the Aberdeen Local Development Plan 2017 (ALDP), together with any supplementary guidance issued in connection with these plans.

There is no primacy given in the legislation to either of these plans in the decision-making process such that, in this case, both the SDP and the LDP should be afforded at least equal weight. Although the SDP is a more recent document, having been published in August 2020, it does not identify specific development sites or allocations; these are set out in the LDP.

Although as a high-level, visionary document the SDP does not identify specific development sites or allocations, it does nevertheless contain several key objectives and targets which it seeks to ensure are incorporated at a local level into Local Development Plans and thus taken into consideration in the determination of applications. Some of the key objectives and targets of the SDP relevant to this application are as follows:

- *For Local Development Plans to maintain a 5-year supply of effective land for housing at all times;*
- *To make sure that development safeguards and, where appropriate, enhances, the City Region's historic and natural environment, and that development will not lead to its loss or damage.*
- *The Spatial Strategy will direct development to areas that can be accessed by a greater choice of more environmentally friendly forms of transport.*
- *Local Development Plan policies will ensure the design and layout of new developments are easily accessed and promote movement within, and links outwith, for walking, cycling and public transport.*

### Housing Land Supply

The SDP was formally approved in August 2020. The document includes a housing land allowance of 5,107 homes in the Aberdeen City area between 2020 and 2032. As has been pointed out in representations from third parties, this target could be met in the Proposed ALDP even without the application site, OP46 (further detail on which is included in the following evaluation below). The absence of delivery of housing on the OP46 site would not therefore impact on the overall delivery of the housing land allowance for the City.

### Safeguarding the natural environment

The SDP notes the importance of protecting the green belt, stating that:

*'The green belt around Aberdeen will continue to protect the character and landscape setting of the City and make sure that development is directed to appropriate locations. It will do so whilst protecting the most important undeveloped areas that contribute to the environment and provide the City with its setting. The green belt is an area that should be positively planned for, and involve integration of approach across Council boundaries.'*

As noted above, the proposal would see a major housing development built on green belt land, contrary to Policy NE2 of the adopted ALDP and also contrary to the aims of the SDP.

## Sustainable and Active Travel

For the reasons noted in the following section of the evaluation on 'Transport and Accessibility', the application site is not considered to be suitably located so as to sufficiently encourage the use of sustainable and active travel by future residents. As such, the proposals are also considered to be contrary to the aims of the SDP in respect of transport and accessibility.

## Summary

The Proposed Local Development Plan 2020 includes the application site as an allocated site (OP46) for the development of 150 homes. The current application must however be considered in the context of its current Green Belt zoning in the ALDP 2017, which still stands as the adopted development plan policy for the site and is afforded more weight in the decision-making process than the Proposed ALDP. Further consideration is provided below on the status and weight to be given to the Proposed ALDP 2020 but, for the aforementioned reasons, the proposed development is considered to be contrary to the Strategic Development Plan and the ALDP 2017

## **Environmental Impacts**

The applicants made a formal request for an Environmental Impact Assessment (EIA) 'screening opinion from the planning authority in June 2020 (200682/ESC). The planning authority concluded that an Environmental Impact Assessment would not be required, as the proposed development was not anticipated to result in significant effects on the environment.

Whilst the statutory EIA process was not considered to be warranted in this instance, there are still environmental matters to be considered by the planning authority in making its decision. The Den of Leggart, which runs through the heart of the application site, is zoned as Green Space Network and designated as a Local Nature Conservation Site (LNCS), with the land to the east of the Den also zoned as Green Space Network.

## Policy NE8 (Natural Heritage)

Policy NE8 states that:

- *Development that is likely to impact a locally designated site should seek to address this through careful design and mitigation measures.*
- *Development should seek to avoid any detrimental impact on protected species through the carrying out of surveys and submission of protection plans describing appropriate mitigation where necessary*

The Den of Leggart incorporates mature woodland and is noted in the applicant's Ecological Impact Assessment (EclA) as hosting commuting and foraging habitat for bats, birds and badgers. The eastern tree-belt, adjacent to the A92, is used by badgers for foraging and the arable fields provide habitat for some bird species, including yellowhammer and whitethroat, although the number detected in surveys was low. Deer and fox are also known to frequent the site.

The proposed development would avoid incursion into the Den of Leggart and would largely be sited on the surrounding open areas of arable farmland, which are of relatively low ecological or biodiversity value in themselves; consequently the direct impact on habitats would be relatively small. However, the arable fields do form part of the wider corridor of Green Space Network that surrounds the Den of Leggart and is used by various protected species for commuting and foraging.

The applicant's EcIA considers that the design and siting of the proposed development and the implementation of several recommended mitigation measures (including significant new planting and the formation of a badger tunnel underneath the new road access off the A92 in the eastern portion of the site) would be sufficient to ensure that there would be no significant impact on natural heritage.

Whilst the Planning Service generally accepts the findings of the applicant's EcIA and considers that there would be no significant impact on natural heritage, in accordance with Policy NE8, the development would nevertheless contribute towards the erosion and fragmentation of the wider Green Space Network corridor, further enclosing the Den of Leggart, contrary to Policy NE1 (as noted above).

Policy NE8 also states that: *'in all cases, a development that is likely to have a significant effect on a Natura site, either alone or in combination with other plans or projects, will require an appropriate assessment (under the Habitats Regulations) to demonstrate that it will not adversely affect the integrity of the site.'*

As the Leggart Burn runs through the application site and is a tributary of the River Dee, a Special Area of Conservation (SAC), the Planning Service undertook an appropriate assessment, to ascertain the likely effects of the development on the qualifying features of the River Dee SAC (Atlantic Salmon, Freshwater Pearl Mussel and Otter). The appropriate assessment found that the only potential impacts of the development on the SAC would be during the construction phase, via the possible pollution and siltation of the watercourse. The appropriate assessment found that, subject to the implementation of appropriate mitigation measures (to be set out in a Construction Environment Management Plan), the proposed development would not have any significant effects on the qualifying features of the River Dee SAC, in accordance with Policy NE8. NatureScot concur with the findings of the appropriate assessment.

#### Policy NE5 (Trees and Woodlands)

Policy NE5 states a presumption against *'all activities and development that will result in the loss of, or damage to, trees and woodland that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation.'*

The proposed development would be largely sited on existing areas of arable farmland, with only two established trees present within the main portion of the site to be developed for housing that would require to be felled, as well as one further (dead) tree within the Den of Leggart. The proposed road access in the eastern portion of the site, taken off the A92, would require the removal of approximately 114 trees within the existing eastern boundary tree belt. The eastern tree belt is relatively young however (circa 12-15 years old) and the trees are not of any particular quality, being classified in the applicant's Tree Survey and Arboricultural Impact Assessment (AIA) as Category 'C' trees (not usually to be retained where they pose a constraint on development). Their removal is required in order to facilitate the primary means of access to the site and the trees to be felled would represent a small portion of the total number of trees in the tree belt.

It is proposed to plant a significant number of new trees (280 in total) in the development. The proposed new tree planting would include street trees along each of the new streets to be created in both the eastern and western portions of the site within the ACC boundary, as well as the formation of a new woodland and other areas of planting in the strip of natural open space proposed on the adjacent land to the west (between the site and the Causey Mounth) in Aberdeenshire.

Initially it was proposed to form a footpath adjacent to blocks of flats in the western part of the site, as well as a pedestrian and cycle link (bridge) through the northern edge of the Den of Leggart, both of which would have encroached into the Den and required the removal of several trees. Due to

concerns in respect of the impact of those proposed works on existing trees and the integrity of the Den, the applicant subsequently omitted the footpaths from the application, as well as all housing from the western part of the site. Consequently, the impact on any existing trees in the Den of Leggart would be minimal.

The proposed development would encroach into the root protection areas (RPAs) of eight trees. However, the applicant's AIA considers that, subject to the implementation of appropriate construction-phase tree protection measures, the works would not have any detrimental long-term impacts on the affected trees.

Given the relatively young age and limited quality of the vast majority of the trees proposed to be felled, combined with the requirement to fell them in order to provide a suitable means of access to the site, as well as the proposed significant amount of new planting, the Planning Service considers that, on balance, any impact in relation to trees and woodland would be acceptable, and the development would meet the requirements of Policy NE5.

## **Design & Layout**

Policy D1 (Quality Placemaking by Design) requires all development to ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. It also requires new development to meet the six essential qualities of successful placemaking.

A Design & Access Statement sets out the vision for the site and outlines the rationale behind the proposed layout, siting, pattern and form of development, as well as the architectural design of the proposed buildings.

### Siting, Layout & Form of Development

This section of the report evaluates the siting, layout and form of the development in so far as it relates to the area within the site boundary. The wider contextual assessment of the landscape impact on the setting of the City is addressed separately in the "Landscape" section below.

The proposed housing and associated access roads would be sited appropriately within the areas of the site that are most suitable for development. Existing woodland and tree belts would be largely retained, with no significant incursion into the Den of Leggart and the works to the eastern tree belt limited to the formation of the main access road into the site from the A92. As such, the siting of the development would be informed by the existing landscape character, topography and existing features to sustain local diversity and distinctiveness.

The signalised access junction taken from the A92 to the east would form the main point of arrival to the site. The road access from the junction would be the focal point, with a low-density boulevard of large, detached dwellings set in spacious plots on either side. The density in the eastern part of the site would then increase on the streets set behind the main point of arrival, with smaller plots of detached dwellings followed by semi-detached dwellings and a high-density terraced street in the central portion of the site. Although the low-density, tree-lined street that would form the main point of arrival into the site could be a relatively attractive entry point, the Planning Service considers that it would result in a misleading sense of place, with the development having an inverse street hierarchy – with a low density semi-rural character on arrival giving way to a much more high-density, urban form and pattern of development beyond – whereas the opposite would be preferable.

The central terraced street would incorporate 27 units on an area of 3,460sqm, equating to a density of 78 dwellings per hectare. Such a density and form of development would exceed that of the



context and character of the surrounding area, which sees virtually no development to the south and west, with just 10 dwellings per hectare in the neighbouring Deeside Brae development to the north. Furthermore, the terraced street would be dominated by a combination of the buildings (with minimal set back from the street) and the hard-landscaping of the road carriageway, with a proliferation of on-street car parking creating a dense urban environment with little in the way of soft-landscaping to soften or break-up the streetscape.

The placement of the communal open space (predominantly meadow grass, with some footpaths and new trees) in the western part of the site, adjacent to the Den of Leggart, is considered to be generally acceptable and would ensure that the impacts of the development on the landscape would be minimised. The Planning Service does consider however that the open space in the western part of the site has significant potential to expand the woodland and habitat of the Den of Leggart, as well as for use as an informal recreation area and children's play space. The Planning Service would thus advise that, should Members be minded to approve the application, a condition be added to secure further details of the landscaping/layout of this area, in order to optimise the recreational and natural heritage quality and value of this open space.

The internal road layout has been reviewed by the Council's RDM Team and is considered to be acceptable, with the internal roads providing adequate access and circulation routes suitable for cars and refuse vehicles. The occupants of the development would have access to nearby bus stops on the A92 to the east, one of which would be relocated slightly from its current position, in order to facilitate the formation of the new junction.

There would be no vehicular access between the eastern and western portions of the site, although they would be linked by a non-motorised path for pedestrians and cyclists. The site would have good pedestrian permeability and access to open space, with pedestrian links to the wider surrounding area and amenities (to Kincorth, via the new signalised junction, to Deeside Brae and Garthdee to the north and to Tollohill Woods to the south-west).

Rear plot boundaries would generally comprise 1.8m high timber fencing, with hedges to be planted along more prominent corner plots where there would be an interface with road carriageways and pedestrian paths. To the front, boundaries would generally be defined by low-level (circa 800mm high) brick walls. Regular street tree planting is proposed within pavement verges throughout to provide a softer appearance to the streets.

### Building Design

The Planning Service considers that, architecturally, due care and attention has been paid to ensuring that the proposed detached and semi-detached dwellings have generally been designed as a result of local context appraisal, incorporating successful local design features from buildings elsewhere in the city and being generally of a good quality, bespoke design. There would be variation in the built form, including differences in house-type design and material specifications. The detached and semi-detached dwellings are considered to be of an appropriate design quality.

For the aforementioned reasons however, the central street of terraced housing and flats in the eastern portion of the site, are of concern to the Planning Service. The terraced street is considered to be an inappropriate form of development given the surrounding low-density, semi-rural context, representing a tension with Policy D1.

### Landscaping

The proposed development would be sited to avoid significant impacts on existing soft landscaping as noted above, with the development predominantly to take place on existing agricultural fields. In terms of new landscape planting, there would be a significant amount of street trees and boundary

hedging planted, which would partly help to assimilate the development into its context and to soften the new streetscapes.

### Summary

To summarise in relation to the design and layout of the proposed development, the Planning Service considers that the majority of the housing (the detached and semi-detached dwellings) would be generally acceptable in terms of design and the associated street layouts within the site boundary. The central, terraced street in the eastern part of the site would be relatively high-density and of a design slightly incongruous with the surrounding small-scale, edge-of-settlement pattern and form of development, resulting in the proposals having a tension with Policy D1. On balance however, the proposed design and layout of the development is considered to be acceptable, in accordance with Policy D1.

## **Landscape**

### Landscape Impacts

Policy D2 (Landscape) seeks to ensure that new developments have a strong landscape framework which improves and enhances the setting and visual impact of the development. The policy notes that quality development will:

- *be informed by the existing landscape character, topography and existing features to sustain local diversity and distinctiveness, including natural and built features such as existing boundary walls, hedges, copses and other features of interest;*
- *create new landscapes where none exist and where there are few existing features;*
- *protect and enhance important views of the City's townscape, landmarks and features when seen from busy and important publicly accessible vantage points such as roads, railways, recreation areas and pathways and particularly from the main city approaches;*

A Landscape and Visual Appraisal (LVA), undertaken by chartered landscape architects on behalf of the applicant, forms part of the supporting documentation. The LVA assesses the likely landscape and visual impacts of the development, with a focus on key views from public viewpoints.

The Planning Service agrees with the findings of the applicant's LVA which considers that from the majority of long-distance viewpoints, the development would either not be visible, or would be seen within a context of existing housing, either in Kincorth to the east, or in the adjacent Deeside Brae development to the north. As such, the Planning Service concurs that the development would not have a significant adverse impact on long-distance views of the site.

The relatively low-level heights of the buildings proposed (generally no higher than two / two-and-a-half storeys), combined with the topography of the site (which slopes down from east to west) and the retention of the vast majority of the tree belt along the eastern edge of the site, would ensure that the development would be largely obscured from views from the A92, apart from through the gap to be created by the new access road.

The most significant impact of the proposed development from a landscape perspective would be, as the applicant's LVIA acknowledges, on the localised character of the lower Leggart valley, particularly from the Causey Mounth Road to the west, and from the existing farm track which provides an informal pedestrian route of access to Tollohill Woods from the Deeside Brae development.

The Planning Service considers that the development would cause some harm to the localised landscape character of the Leggart valley, given the land's Green Belt and Green Space Network status in the extant Local Development Plan, due to the introduction of a significant suburban housing development which would be incongruous within the existing and surrounding rural, natural open landscape setting of the valley. Furthermore, although significant new tree planting would take place outwith the site to the west, which would, in the long-term, provide some element of screening of the development from the west, little in the way of soft landscaping is proposed along the southern boundary to the site. As such, there would be somewhat of an abrupt interface between the development and the immediately neighbouring, open landscaped setting of the agricultural fields to the south.

The 33 units initially proposed in the western portion of the site (and the flatted blocks in particular) were considered to have an additional significant detrimental impact on the landscape but they have subsequently been omitted from the proposals. Nevertheless, the Planning Service considers that although the development would not have a significant impact on any key long-distance views, it would cause harm to the localised landscape character and setting of the lower Leggart valley and the wider Green Belt designation.

### Summary

The Planning Service considers that the development would have a detrimental impact on the landscape character and setting of the site and the immediately surrounding area, having regard to its Green Belt and Green Space Network status. As such, the proposals are also considered to be contrary to Policy D2.

### **Density**

Policy H3 (Density) requires all new residential developments over one hectare in size to:

- *Meet a minimum density of 30 dwellings per hectare (net). Net dwelling density includes those areas which will be developed for housing and directly associated uses, including access roads within the site, garden ground and incidental open space;*
- *have consideration of the site's characteristics and those of the surrounding area;*
- *create an attractive residential environment and safeguard living conditions within the development*

The developable area of the site is approximately 6 hectares in size, across which there would be 100 homes formed, equating to a density of approximately 17 dwellings per hectare. That amount is lower than the minimum density strived for by Policy H3. However, Policy H3 does also note that new development must have consideration of the site's characteristics and those of the surrounding area.

In this regard, the neighbouring Deeside Brae development to the north is of a similar size (c. 6 hectares) and it incorporates 61 dwellings, at a net density of 10 per hectare. The application site and surrounding area to the south and west is largely greenfield land with the occasional detached, rural dwelling, resulting in an extremely low density. As such, taking into consideration the characteristics of the surrounding area, although the density of the development would not meet the minimum requirement of Policy H3, this is justified in some respects, due to the existing low density of the surrounding area.

It is thus considered that, despite not meeting the minimum density requirement set out in Policy H3, the proposed development would, on balance, be of an appropriate density when taking into

consideration the surrounding context and the development would create an attractive residential environment. The proposals are thus compliant with Policy H3.

### **Housing Mix**

Policy H4 (Housing Mix) requires housing developments of larger than 50 units to achieve an appropriate mix of dwelling types and sizes, including smaller one and two-bedroom units. It notes that the mix should be achieved for both the market (mainstream) and affordable housing contributions.

The 100 homes proposed would include:

- 11 x 1-bed flats
- 1 x 2-bed house and 11 x 2-bed flats
- 65 x 3-bed houses
- 12 x 4-bed houses

The proposed development would thus incorporate a reasonable mix of different types and sizes of accommodation, including smaller one and two-bed units and for both the mainstream and affordable tenures. The proposals are thus compliant with Policy H4.

### **Amenity for new residents**

Although there is no specific policy in the adopted ALDP in relation to ensuring that new residential developments would create a satisfactory quality of amenity for the future occupants, it is a clear material consideration in the assessment of the application and the PALDP also introduces Policy D2 (Amenity), which seeks to ensure that an adequate residential environment is created in all new developments.

In terms of ensuring that an adequate amenity is created for future occupants, there are various different aspects of the proposals that require to be assessed:

#### Noise

Policy T5 (Noise) states that: *'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.'*

A Noise Impact Assessment (NIA), undertaken by a noise consultant on behalf of the applicant, forms part of the supporting documentation. The NIA assesses the impact of external noise sources on the amenity of the proposed residential properties.

The NIA finds that the main source of noise that could harm the amenity of the development would be from road traffic on the adjacent A92, with some additional, but minimal, noise emissions also likely from vehicles on the Causey Mounth road to the west and the new internal roads within the site. The NIA finds that, if no mitigation measures were to be applied, the garden areas of a significant number of properties at the eastern edge of the site would experience noise levels in excess of the maximum permitted by Aberdeen City Council. The NIA recommends, however, that if a 2.5m high acoustic barrier were to be formed along the eastern edge of the site (along the eastern edge of the tree belt), then the noise levels within the private garden areas would be adequately reduced to an acceptable level. The recommended noise barrier has been incorporated into the proposals by the applicant.

The NIA also finds that several plots would require a form of alternative ventilation due to internal noise level requirements not being met with open windows. Calculations demonstrate, however, that the use of standard double glazing and acoustic trickle vents to the affected properties, would reduce the internal noise levels to an acceptable level, whilst allowing sufficient ventilation of internal rooms.

The findings of the NIA are accepted by the Council's Environmental Health Service and they do not object, subject to the implementation of the aforementioned recommended mitigation measures. The proposals are thus considered to comply with Policy T5, subject to the application of a condition requiring the mitigation measures to be implemented, in the event of the application being approved.

### Open Space

Policy NE4 (Open Space Provision in New Development) requires the provision of at least 2.8ha of meaningful and useful open space per 1,000 people in new residential development. Using the table at Figure 6 (Average Household Occupancy in Aberdeen) of the Council's supplementary guidance on Green Space Network and Open Space, it is estimated that the development would accommodate approximately 241 residents, resulting in a minimum open space requirement of 6,748sqm.

Other than a relatively narrow (12m wide) c. 2,500sqm strip of green space that would be sited immediately adjacent to the Leggart Burn, there would be no other open space in the eastern portion of the development. However, following the omission of the 33 units from the western part of the site, a significant amount of open space would be available to residents in that area (c. 1.1 hectares), with further open space (in excess of 2 hectares) proposed on the strip of land immediately to the west of the site, which lies within Aberdeenshire. The open space provision outwith the application site would incorporate a large amount of new tree planting, including the creation of a new woodland, as well as a network of footpaths that would provide pedestrian access towards South Deeside Road to the north and Tollohill Woods to the southwest.

Although the Planning Service's preference would be for the incorporation of additional open space in the eastern part of the site, particularly to provide some immediately useable open space for the higher-density affordable units on the central street (which have smaller garden areas than the surrounding mainstream dwellings), on balance it is considered that there would be sufficient open space provision across the site within the boundary of the current application for the occupants of the development, in accordance with the requirements of Policy NE4.

There would also be a new pedestrian footpath link provided between the development and Tollohill Woods to the southwest (subject to securing its delivery via a suspensive condition if a willingness to approve by Members is pursued), which would allow enhanced public access to green space for informal recreation, in compliance with Policy NE9.

### Internal floorspace, daylight / sunlight receipt, outlook and privacy

The development would comprise a mix of detached, semi-detached and terraced dwellings, as well as flats in the central, terraced street. The properties would all have acceptable internal floor areas, incorporate adequate glazing and the vast majority would be at least dual-aspect. Furthermore, the site layout would ensure that minimum window-to-window distances (18m) would be met and no residents would be significantly overlooked by any neighbouring properties to the detriment of their privacy.

### Private external amenity space

In terms of private external amenity space, all of the detached and semi-detached dwellings would

have their own private garden areas. Although some plots would be expansive, the gardens for many of the properties would be relatively small, with some measuring just c. 8m in depth.

Not all of the flatted properties would have access to private gardens but those that don't would have private terraces, thus ensuring that all properties throughout the development would have access to some form of private external amenity space.

### Summary

To summarise, on balance it is considered that, subject to the implementation of the recommended noise mitigation measures and the provision of the proposed open space, the occupants of the proposed properties would benefit from a satisfactory level of amenity.

### **Impact on amenity of existing residents**

Although there is no specific policy in the adopted ALDP to ensure that the amenity of existing residents would not be significantly adversely affected by a proposed development, it is a clear material consideration in the assessment of the application and the PALDP also introduces Policy D2 (Amenity), which seeks to protect the amenity of existing, neighbouring residential uses.

The area of the application site to be developed is bound to the north by Deeside Brae, an early 21<sup>st</sup> Century housing development, with eight detached houses running parallel to the northern boundary of the eastern portion of the application site. To the west, two detached dwellings sit in a more rural setting with one each on either side of the Causey Mounth, adjacent to its junction with the existing farm access track. To the south, a detached dwellinghouse lies 150m away.

Although the proposed development would see ten detached dwellings built along the northern boundary of the eastern part of the site, adjacent to the Deeside Brae development, there is an existing, c. 4m high, landscaped earth bund that runs along the southern edge of the Deeside Brae development. The earth bund would largely screen the existing properties on Deeside Brae from views of the proposed dwellings and would ensure there would be no overlooking of the existing properties' windows or rear garden areas (and vice versa), nor would there be any impact on the Deeside Brae properties in terms of daylight or sunlight receipt, due to the height of the intervening bund and the separation distance between the existing and proposed properties (c. 18m).

The nearest residential curtilage to the existing dwellings on the Causey Mouth would be in excess of 250m away, thus there would be no significant detrimental impact on the existing properties' amenity in terms of privacy, daylight or sunlight receipt.

Therefore, it is considered that the proposed development would not have any significant impact on the amenity currently enjoyed by the existing, neighbouring residential properties in the Deeside Brae development, or to the west on the Causey Mounth.

### **Transport & Accessibility**

#### Sustainable and Active Travel

Policy T2 (Managing the Transport Impact of Development) of the ALDP requires new developments to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

Policy T3 (Sustainable and Active Travel) states that: *new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport, and the internal layout of developments must prioritise walking, cycling and public transport penetration. Links*

*between residential, employment, recreation and other facilities must be protected or improved for non-motorised transport users, making it quick, convenient and safe for people to travel by walking and cycling.'*

The proposed development would incorporate connections into the existing pedestrian footpath network: into Deeside Brae to the north (and Leggart Terrace beyond), to the footpath adjacent to the A92 to the east (required to be upgraded by the applicant, should the application be approved), and to Kincorth to the east, via the proposed new signalised junction. In terms of walking distance, the proposed development would be sited approximately 1600m (c. 20 mins) from the retail provision and supermarkets in Garthdee to the north and approximately 800m (c. 10mins) away from the nearest shops in Kincorth (Gardner Drive) to the east (which could be accessed via the new signalised junction on the A92). Abbotswell Primary School and Kincorth Medical Centre are approximately 1400m from the site in terms of walking distance and Lochside Academy is approximately 2km away via the most direct walking route, which would involve walking along a farm track and Redmoss Road for a large section of the walk, although this route is lit. The site would therefore, with the exception of Lochside Academy, be within 1600m walking distance of local facilities, which is noted as the upper limit for guideline walking distances to local facilities as set out in PAN 75 (Planning for Transport).

However, a proper and full assessment of the accessibility of the site by sustainable transportation requires more than a simple calculation of whether the proposal falls within the maximum walking distances from local facilities. It is also necessary to make a qualitative assessment of the ease of use and attractiveness of those walking (and cycling) routes, in order to estimate how likely it is that future residents would utilise sustainable and active travel. In this regard, not only would the distance from the site to the nearest facilities, schools and shops lie at the upper limit of the guideline walking distances (or beyond, for Lochside Academy) but the pedestrian and cycle infrastructure that would link the site to the nearest shops, schools and facilities would also not be of a particularly good standard, principally due to their location adjacent to a busy road network. The A92 and Bridge of Dee incorporates very narrow pavements and is not pedestrian or cycle friendly. The provision of a pedestrian crossing to Kincorth via the new signalised junction on the A92 would allow residents to access the schools and facilities in Kincorth but the pedestrian environment in waiting and crossing the heavily trafficked A92 on a narrow space would not be attractive. In Kincorth, the sloping topography could make pedestrian movement difficult for those with mobility issues.

Therefore, although new active travel infrastructure and connections into existing infrastructure would be provided, theoretically enabling residents to access local facilities and amenities via active travel (walking or cycling), the Planning Service considers that the heavily trafficked, poor quality pedestrian environments of the A92 and the Bridge of Dee, as well as the topography and level changes between the site and the nearest facilities, would likely act as barriers to the use of active travel by residents.

In terms of public transport, residents would be able to utilise the existing half-hourly no. 7 bus service that runs along the A92 on a route between Aberdeen city centre, Portlethen and Stonehaven. The existing bus stops on the A92 adjacent to the site would require to be upgraded by the developer in the event of the application being approved. Residents would also be able to access more regular bus services nearby in Kincorth to the east (including the no. 17 on Gardner Drive, within 400m). As such, it is considered that the proposed development would be sufficiently accessible by public transport.

Internally, the proposed development would incorporate suitable permeability and provision for pedestrians and cyclists, including a combined foot and cycle path connection towards Tollohill Woods and other informal open space to the west.

To summarise, the proposed development would incorporate connections into the existing, surrounding pedestrian network and sufficient measures have been taken to minimise traffic generated and to maximise opportunities for the use of sustainable and active travel, in accordance with Policy T2 of the ALDP. However, the Planning Service considers that the distance to the nearest employment, recreation, retail and other facilities, combined with the poor quality pedestrian & cycle environment and topography between the site and those facilities would not '*make it quick, convenient and safe for people to travel by walking and cycling*'. It is thus considered that the development would be likely to be accessed predominantly via private vehicles and it would not be suitably sustainably accessible, contrary to Policy T3.

### Impact on Traffic Flows

The applicant proposes to provide the sole means of vehicular access to the site via a new signalised junction on the A92 dual carriageway to the east. The Roads Development Management team (RDM) object to the application primarily on the basis that the new signalised junction would have a detrimental impact on traffic flows into and out of the city on a major arterial route. RDM consider that for any new junction to be supported on the A92 it should have a strategic purpose, carrying a significant amount of traffic, to offset the adverse impact on traffic flows and provide wider benefits. They note that it is not acceptable to reduce the capacity of and increase congestion on a strategic road to serve the relatively small number of houses proposed.

It should be noted that in addition to the number of private vehicle trips predicted by the applicant's Transport Assessment to be generated by the development, all of which would have an impact on the free flow of traffic to and from the already congested Bridge of Dee roundabout, the junction would also provide a safe means of pedestrian crossing both to and from Kincorth from the site. It is thus considered that the potentially frequent requirement for traffic to stop on the A92 as a result of both vehicular and pedestrian trips generated by the development (as well as by any residents in Kincorth accessing Tollochill Woods) is likely to impact on the free flow of traffic on a major arterial route into the city, particularly at peak times.

### Local Network Impact

A TRICS assessment has been undertaken by the applicant which finds that the proposed development would generate an estimated 73 trips during the weekday AM peak hour periods and 61 trips during the weekday PM peak hour periods. The applicant's Transport Assessment notes that the majority of the private vehicle trips generated by the development would travel to and from the north and would largely be distributed evenly between the A92 (Anderson Drive) and the B9077 (Great Southern Road). Without mitigation, the increased volume of traffic generated by the development would add to existing congestion at peak times on the Bridge of Dee and King George VI roundabouts. The Transport Assessment recommends the implementation of various mitigation measures comprising multiple amendments to the geometry of the roundabouts, which would, ensure that the development would have 'no net detriment' on the local road network. The Transport Assessment does note, however, that the practical benefits of the suggested mitigation measures are questionable, therefore the TA advises that a financial contribution is instead agreed with ACC, which could then be used towards promoting and encouraging sustainable and active travel. The Roads Development Management team have confirmed that should members be minded to approve the application then the required mitigation should be provided by way of the applicant upgrading the pedestrian footpath between the site and the Bridge of Dee roundabout, thereby encouraging the use of active travel by residents as an alternative to upgrading the roundabouts.

### Road Safety

Although there are detailed aspects of the proposed signalised junction that remain to be resolved (and would be addressed at Roads Construction Consent stage in the event of planning permission



being granted), there are no particular road safety issues envisaged at this stage in relation to the formation of the junction. The speed limit of the A92 would be decreased from 60mph to 40mph in the vicinity of the new junction. Furthermore, no road safety issues are envisaged within the development itself, again subject to further detail to be agreed at RCC stage.

Concerns were raised in multiple representations in respect of the potential for the development to impact on road safety and traffic volumes on the narrow Causey Mounth road in Aberdeenshire to the west but the omission of all housing from the western part of the site ensures that there would be no additional traffic or road safety issues on the Causey Mounth as a result of the proposed development.

### Loss of Layby

The RDM team have noted that the proposed junction would result in the loss of an existing layby off the A92 which is currently used by HGV drivers as a resting place and by abnormal load vehicles for waiting, prior to being escorted by Police through the city. Whilst the Planning Service agrees that the loss of the layby would be undesirable, it is noted that the Altens Lorry Park is relatively nearby, providing a potential rest-spot and facilities for HGV's. As such, although the loss of the layby is undesirable, it is not considered to be of sufficient weight to warrant a reason for refusal of the application.

### Emergency Vehicle Access

As per ACC guidelines, any proposed housing development comprising more than 50 units requires two vehicular accesses (one standard access and one emergency access). The isolated nature of the site does not allow for two accesses and only one is proposed (via the new signalised junction on the A92). The applicant's proposed solution for providing emergency access is that emergency service vehicles would utilise the footpath connection to the pavement on the western side of the A92 in the north-eastern corner of the site. The proposed route would see vehicles need to mount the kerb off the A92, use a narrow (2m wide) pedestrian footpath and then drive over a verge in front of a private driveway to access the site. The Roads Development Management team consider that there is insufficient detail provided to demonstrate that the proposed secondary emergency access would meet the Council's guidelines for emergency access provision.

### Bridge of Dee STAG Options

The RDM team have also noted that the construction of the proposed development would preclude the formation of a new junction on the A92 and a strategic link road connecting the A92 with South Deeside Road and potentially across the River Dee linking to Garthdee Road, which is outlined as a potential strategic transport option for easing congestion in the Bridge of Dee area in the Council's Strategic Infrastructure Plan. The proposed junction and link road are, at this stage, one of several options however and they do not comprise a committed project. As such, little weight is afforded by the Planning Service to the impact that the development would have on the potential to deliver the future link road.

### Internal Roads Layout

The internal roads layout of the development is generally considered to be acceptable. However, various relatively minor aspects remain to be addressed (such as driveway lengths, extent of adopted verges etc). In the event that planning permission is granted for the development, a condition will be required in order to secure appropriate amended plans to ensure that the internal roads layout complies with the Council's standards.

### Parking

Sufficient parking is to be provided for all dwellings across the development, in accordance with the Council's Transport & Accessibility supplementary guidance (SG), via a mix of off-street (in curtilage) parking for the detached and semi-detached dwellings, and on-street parking for the terraced dwellings and flats. Sufficient disabled and visitor parking spaces are also to be provided in accordance with the SG and passive electric vehicle charge points would be provided for all off-street parking spaces (the detached and semi-detached dwellings) .

### Refuse & Servicing

All plots would have access to suitable areas for bin storage and the bin store areas would all be within 30m of the collection points. Swept Path Analysis drawings have been submitted by the applicant which demonstrate that Council refuse vehicles could adequately enter/exit and collect all waste from the site.

### Travel Plan Framework / Safe Routes to School

The Safe Routes to School plan submitted by the applicant is not sufficient, comprising a map of the walking routes to the nearest primary and secondary schools. Such a document should include an introduction, accident analysis, plan, summary, and overview of each route which should include 'safe' crossing facilities. In the event that the application is given a willingness to approve by Members, a condition requires to be attached, requiring the submission of an appropriate Safe Routes to School document, to be agreed with the Planning Service.

### **Access and Informal Recreation**

Policy NE9 (Access and Informal Recreation) requires new development to not compromise the integrity of existing or potential recreational opportunities including general access rights to land and water, Core Paths and other paths and rights of way. It also seeks to ensure that, wherever possible, developments include new or improved provision for public access, permeability and/or links to green space for recreation and active travel.

At present there is an informal farm track that runs through the site and provides pedestrian access between the neighbouring Deeside Brae development and the Causey Mounth road (and Tollohill Woods beyond). The proposed development would retain the existing farm track and would provide a new, formal pedestrian footpath connection into the Deeside Brae development. Pedestrian crossings would also be incorporated into the signalised junction on the A92, with further remote footpaths proposed on the land to the west, outwith the application site. If the proposed development were to be delivered, along with the footpaths proposed in Aberdeenshire, then the existing access to informal recreation would be retained and significantly enhanced, with new path routes provided for pedestrians to and from Kincorth and from the application site to Tollohill Woods. The paths would be of benefit to the existing community as well as the future occupants of the proposed development, in terms of access and informal recreation, thus the proposals are compliant with Policy NE9.

A Construction Environment Management Plan (CEMP) would be required via a suspensive condition in the event that a willingness to approve is pursued by Members. The CEMP would need to incorporate details of how the existing access routes used by the public would be maintained during the construction works.

### **Flooding & Drainage**

Policy NE6 (Flooding, Drainage & Water Quality) states that development will not be permitted if it would either increase the risk of flooding or it would, itself, be at risk of flooding. It notes that flood

Risk Assessments are required where a development is likely to result in a material increase in the number of buildings at risk of flooding and that Drainage Impact Assessments are required for all new development proposals comprising 5 or more homes. Policy NE6 also notes that connection to the public sewer is a prerequisite of all development.

The Leggart Burn runs through the heart of the site, running from south to north, through the Den of Leggart before discharging into the River Dee. SEPA's flood maps show that parts of the site adjacent to the Leggart Burn are prone to flooding.

A Flood Risk Assessment (FRA) and Drainage Impact Assessment (DIA), including a drainage layout and associated drainage calculations, have been submitted as part of the application. The FRA finds that the development has been designed with due consideration for the flood risk posed by the Leggart Burn. A buffer corridor of green open space would run immediately adjacent to the burn, with a road carriageway beyond. The majority of houses closest to the burn would be sited at least 25m away and outwith the 1 in 200 year flood risk areas. Furthermore it has been confirmed that the finished floor levels for the development would be in excess of 600mm above the post-development maximum water level. An existing field drain that runs on an east-west axis within the site would be removed and re-routed but site investigations reveal that there is no inflow to the drain from outwith the site, thus the rerouting of the drain would not lead to any drainage issues, with all surface water to be dealt with via the new drainage systems associated to the development. The FRA concludes that the development would not be at any significant risk of flooding.

In terms of surface water drainage, a SUDS basin is proposed in the eastern part of the site. New drains would be installed throughout the development, collecting surface water and directing it into the SUDS basin, where it would then be treated to remove contamination before discharging into the Leggart Burn (within the Den of Leggart) at a controlled rate.

The DIA notes that foul water generated by the development would drain to the existing public sewer system that serves the adjacent Deeside Brae development to the north. Scottish Water have confirmed that there is sufficient capacity in the local waste-water treatment works to accommodate the proposal.

Both SEPA and the Council's Flooding team accept the findings of the applicant's FRA and DIA and consider that the proposal would be adequately drained, would not itself be at risk of flooding and would not significantly increase flood risk to any other properties. Subsequently, the proposal is compliant with the general principles of Policy NE6 (Flooding, Drainage and Water Quality) and its associated SG.

## **Waste & Recycling**

Policy R6 (Waste Management Requirements for New Development) requires all new developments to have sufficient space for the storage of general waste and recyclables, with details of storage facilities and means of collection to be included as part of any application.

All of the detached and semi-detached dwellings in the proposed development would have ample space within their curtilages for the appropriate storage of wheeled waste and recycling bins, which could be presented at kerbside for collection by Council refuse vehicles on collection days. Areas are proposed within the central, terraced street, where communal street bins would be stored. The internal roads layout is sufficient to allow for Council refuse collection vehicles to access all of the properties safely and efficiently and the proposals are thus compliant with Policy R6 of the ALDP.

## **Developer Obligations & Affordable Housing**

In instances where a development would either individually or cumulatively place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, Policy I1 (Infrastructure Delivery & Planning Obligations) requires the developer to meet, or contribute towards, the cost of providing or improving such infrastructure or facilities.

The Council's Developer Obligations team were consulted on the application and, following consultation with relevant stakeholders, advised that the following developer obligations would be payable:

- Core Path Network - £35,563
- Healthcare Facilities - £55,161
- Community Facilities - £174,805

The Core Path contribution is required toward the delivery of Aspirational Core Path 9 and/or the enhancement of Core Path 79. The Healthcare contribution is required towards the internal reconfiguration of the Cove and Kincorth Medical Practice, or other such healthcare facilities serving the development. The Community Facilities contribution would go towards the creation of additional capacity at the Kincorth Community Centre.

No Open Space contribution is sought as the open space requirements for the development would be met on-site.

The Council's Education Service have advised that latest forecasts indicate there is sufficient capacity at both schools to accommodate the number of pupils expected to be generated by this development at both Abbotswell Primary School and Lochside Academy.

The applicant has advised that they are agreeable to paying the aforementioned financial contributions. In the event that Members pursue a willingness to approve, a legal agreement will be required to ensure the future payment of the obligations is secured.

Policy H5 (Affordable Housing) requires a minimum of 25% of all units in new residential developments of 5 or more dwellings to be affordable. The applicant has confirmed that 25 of the 100 properties would be affordable. Although there is a discrepancy at this stage between the type of affordable housing tenure that the applicant is proposing (mid-market rent) and that which would be accepted by the Council (most likely social rent, operated by a Registered Social Landlord), the finalised details of the affordable housing provision could be addressed post-determination via an Affordable Housing Scheme to be agreed with the Council as a requirement of a Section 75 legal agreement. Given the applicant proposes to provide the full number of required units as on-site affordable housing however, it is considered that the proposals meet the requirements of Policy H5 at this stage.

## **Air Quality**

Policy T4 (Air Quality) states that development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed agreed with the Planning Authority. It further notes that applications for such proposals should be accompanied by an assessment of the likely impact of the development on air quality.

The applicant has submitted an Air Quality Impact Assessment (AQIA) as part of the application. The AQIA notes that the nearest air quality management area is located at Anderson Drive, approximately 1km to the north of the site, and finds that the proposed development would not have an unacceptable impact on air quality (related to traffic pollutant levels) for any existing or proposed

homes, either from the additional car journeys created by the new development, nor from the impact of the development on traffic flows on the A92 as a result of the new signalised junction. The AQIA concludes that no mitigation measures in relation to road traffic emissions are necessary and the findings of the AQIA are accepted by the Council's Environmental Health Service, thus the proposed development is considered to be acceptable in accordance with Policy T4.

Environmental Health have requested that, should the application be approved, a suspensive condition is attached requiring a construction-phase Dust Management Plan to be submitted to, and agreed in writing with the Planning Authority, in order to ensure that the construction-phase works would not harm the amenity of any existing nearby properties in relation to dust emissions.

### **Aberdeen Airport**

Policy B4 (Aberdeen Airport) requires all development to ensure that the continued safe and efficient operation of Aberdeen International Airport. Although the site lies a significant distance from the airport, and thus does not pose any direct risk to aircraft or the Perwinnes Radar, the Airport were consulted on the application due to the proposed formation of a SUDS pond, which could potentially attract birds (which could pose a risk to low-level aircraft). Aberdeen International Airport have examined the proposals from an aerodrome safeguarding perspective and consider that the proposed development does not conflict with safeguarding criteria, thus they do not object to the application. The proposals are therefore compliant with Policy B4.

In the event that the application is approved, the Airport have requested that the applicant be made aware of the requirement for the safe use of cranes during the construction phase. This can be added as an advisory note for the applicant to be aware of.

### **Historic Environment**

Policy D4 (Historic Environment) requires development to not adversely impact upon archaeological remains of either national or local importance.

The applicant has submitted an Archaeological and Cultural Heritage desk-based Assessment (ACHA) as part of the application. The ACHA concludes that there is a low to moderate likelihood for buried prehistoric archaeological remains to be present within the proposed development area, and a low potential for remains from all other periods. The proposed development would involve works which could have the potential to damage or remove any previously unknown archaeological remains within their footprint, therefore the ACHA recommends that further archaeological investigatory works are undertaken prior to any construction works commencing. The ACHA also identifies that four historic boundary stones are recorded within the application site, although none were located during the site walkover undertaken. Although the stones are modern and of low archaeological importance, the ACHA recommends that, if present, they should be retained in-situ and incorporated into the final design. The Council's Archaeology Service accept the findings of the ACHA and do not object to the application, subject to the imposition of conditions requiring the implementation of a programme of archaeological works prior to the commencement of development and in respect of providing protective fencing around the boundary stones (if located) during the construction works.

The Archaeology Service envisage the programme of archaeological works should consist of a 5% archaeological evaluation of the development site, excluding those areas which form the immediate Den of Leggart Local Nature Conservation site.

The site does not lie within a conservation area, nor do any listed buildings lie within the application site. Elm Cottage, a category 'B' listed, 18<sup>th</sup> Century dwelling lies approximately 300m to the north

of the area of the site to be developed, and the proposed development would have no impact on its setting.

Therefore, subject to the imposition of conditions in relation to the carrying out of archaeological works prior to any construction taking place and the protection of the boundary stones (if present) during the construction works, it is considered that the proposed development would not cause any harm to the historic environment, in accordance with Policy D4.

### **Digital Infrastructure**

Policy CI1 (Digital Infrastructure) requires all new residential development to have access to modern, up-to-date, high-speed communications infrastructure. Details of broadband availability for the site are not yet known at this stage but in the event that the application is approved, a condition would be attached to any permission, requiring the delivery of high-speed broadband for all premises, prior to occupation, in order to meet the requirements of Policy CI1.

The properties in the neighbouring residential development to the north at Deeside Brae are known to have access to high-speed broadband, thus it is anticipated that a high-speed broadband connection would be feasible for the proposed development.

### **Low and Zero Carbon Technologies & Water Efficiency**

Policy R7 (Low & Zero Carbon Build & Water Efficiency) requires all new buildings to meet at least 20% of the buildings regulations carbon dioxide emissions reduction target applicable at the time of the application through the installation of low and zero carbon generating technology. The policy also requires all new buildings to incorporate water saving technologies and techniques, to reduce pressure on water abstraction from the River Dee.

The details required to satisfy the requirements of Policy R7 are not yet known. In the event that the application is approved, suspensive conditions would be added to the permission requiring the incorporation of appropriate low & zero carbon and water saving technologies. Therefore, subject to the imposition of such conditions, the proposals are considered to meet the requirements of Policy R7.

### **Development Plan Summary**

Whilst the proposed development is considered to adequately demonstrate the necessary compliance with a number of policies and requirements of the Development Plan, it nevertheless concerns a site which is zoned in the extant 2017 ALDP as Green Belt (NE2) and Green Space Network (NE1), the corresponding policies for which fundamentally do not allow for new residential use of the type and scale proposed. Furthermore, aside from matters of principle, it is considered that the development would also be incongruous with the context and landscape character of the surrounding area, and the proposals are thus also contrary to Policy D2 of the ALDP. Furthermore, although suitable connections into the existing pedestrian network would be provided, the development would be situated at the upper limit in terms of acceptable walking distance to the nearest local facilities and the pedestrian environment and infrastructure between the site and those facilities is of a poor quality and not considered to be conducive to encouraging the use of active travel. Consequently the proposed development is also considered to be contrary to Policy T3 of the ALDP. The development would also have an undesirable impact on traffic flows on the A92 - a major arterial route into the city - due to the signalised junction required to provide vehicular access to the development. The Planning Service also has concerns that the second means of access to the site for use by emergency service vehicles would not be sufficient to meet the Council's standards.

As well as being contrary to the ALDP for the aforementioned reasons, the application is also contrary to the Strategic Development Plan as it would result in the development of valuable green belt land and would not be sufficiently accessible via sustainable and active modes of travel.

On that basis, it is concluded that the proposal fails to accord with the provisions of the extant Plan, and that it would also have a detrimental impact on traffic flows and not meet Council standards in respect of providing a suitable secondary means of access for emergency vehicles. What remains to be determined is whether there are any other material considerations which would warrant the granting of planning permission as a Departure from the provisions of the Development Plan. This report will now address other material considerations in turn:

### **Proposed Aberdeen Local Development Plan**

In terms of the Proposed Aberdeen Local Development Plan 2020 (PALDP) it is noted that, at the meeting of the Full Council on 2<sup>nd</sup> March 2020 it was agreed to allocate the site as an Opportunity Site for 150 homes (OP46 – Royal Devenick Park) and to rezone the land as a residential area (Policy H1 – Residential Areas) in the PALDP, thus removing the Green Belt and Green Space Network zonings of the current, adopted ALDP. As a result, although contrary to the adopted ALDP for the reasons given in the foregoing evaluation, the principle of developing the site for housing is supported by the PALDP, although it should be noted that the current proposal would only see two thirds of the allocated number of houses delivered.

The materiality and weight to be afforded to the PALDP is an important factor in the consideration of the current application. The Proposed Plan, although described as the 'settled view of the Council' following the agreement on its content by Full Council in March 2020 and agreement prior to Examination in June 2021. The Proposed Plan is a material consideration only, and the current ALDP has primacy in determining planning applications.

As it currently stands, the site is zoned as Green Belt and Green Space Network in the extant 2017 ALDP, which has been in force since its adoption in January 2017. The extant 2017 LDP takes primacy in considering planning applications unless material considerations indicate otherwise. The PALDP is a material consideration and has been evaluated to determine what weight can be applied to it. The PALDP has recently been submitted to Scottish Government for Examination and is not expected to be adopted until Spring 2022 at the earliest.

There is a possibility that the content of the PALDP may be altered prior to adoption, in that the site allocations and policies could be amended by the Scottish Government Reporter(s) when the Plan goes through its Examination process in late 2021 / early 2022. At the time of writing this report, it is not possible to be certain that OP46 will remain in the PALDP at the point of adoption. To recommend approval of this application on the basis of a draft allocation would therefore be premature.

The allocation of the site was not proposed by Officers through the Main Issues Report (MIR), therefore there were no representations received regarding the site as part of the MIR. Following the allocation of the site for housing in the PALDP by Full Council, a further period of public consultation took place over the Summer of 2020. A total of 189 objections were received in response to the allocation of the site for housing in the PALDP, including from Aberdeenshire Council. This level of representation cannot be ignored.

Considering that the extant 2017 ALDP takes primacy and the status of the PALDP is potentially subject to change, the Planning Service must determine planning applications within the context of a Plan-led process in order to provide certainty. Given the uncertainty of the content of the PALDP at this stage, it is considered that less weight must be afforded to it as a material consideration, thus the PALDP is not considered to be of sufficient weight to merit overriding the extant and adopted

2017 ALDP, having regard to the site's Green Belt status, and the application is considered to be premature in terms of the Local Development Plan process.

Aside from the proposed allocation of the site in the PALDP as an Opportunity Site for 150 homes (OP46), the PALDP also incorporates changes to several other relevant policies. The majority of the policies in the PALDP substantively reiterate the corresponding relevant policies of the ALDP, against which the proposed development has been assessed above.

The proposed development can be assessed against the policies that materially differ from those of the ALDP, and any wholly new policies introduced in the PALDP with no equivalent in the adopted Plan, as follows:

- Policy D2 (Amenity)

Policy D2 of the PALDP is a new policy with no direct equivalent in the adopted ALDP. Policy D2 seeks to ensure that where new residential development is proposed, a satisfactory level of amenity would be available to the future occupants, with the development designed to satisfy multiple criteria including: appropriate daylight and sunlight receipt, outlook, privacy, access to external amenity space etc. It is considered that the proposed development would create a satisfactory level of amenity for its future occupants for the reasons given in the foregoing evaluation, thus the proposals are considered to comply with Policy D2 of the PALDP.

- Policy H3 (Density)

Policy H3 increases the minimum net density sought for all housing sites to 50 dwellings per hectare, up from the 30 dwellings per hectare requirement of Policy H3 in the adopted ALDP. Given the proposed development would have a net density of circa 17 dwellings per hectare, it would fall significantly short of the new minimum density strived for by the PALDP. Nevertheless, as noted in the foregoing evaluation, given the semi-rural context of the site and low density of the nearest housing development, it is considered that the proposed development would have an appropriate density for its context, despite not meeting the minimum density sought by Policy H3 in both the adopted and proposed Plans.

- WB1 (Health Developments)

Policy WB1 requires developments to provide healthy environments, reduce environmental stresses, facilitate physical activity and promote physical and mental wellbeing. The corresponding Aberdeen Planning Guidance in relation to the criteria for assessing healthy developments has not yet been written but the Planning Service is satisfied that the development would create an appropriately healthy environment for its future occupants, with generally good access to both public and private external amenity space and nearby woodland and green space providing good opportunities for informal recreation. The proposals are thus considered to comply with the requirements of Policy WB1 of the PALDP.

## **Scottish Planning Policy**

### Contribution to sustainable development

Scottish Planning Policy (SPP) incorporates a presumption in favour of development that contributes to sustainable development. Paragraph 32 of SPP notes that:

*'The presumption in favour of sustainable development does not change the statutory status of the*



*development plan as the starting point for decision-making’ and that ‘For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.*

Paragraph 28 notes that the aim is to achieve the right development in the right place, not to allow development at any cost.

The Planning Service considers that the development would not contribute towards sustainable development, for the following reasons:

- The proposal would result in the development of an existing greenfield site on Green Belt land, to the detriment of the landscape and undermining the character and function of the Green Belt;
- The adopted plan is not out-of-date and there is sufficient housing land supply (see the following section of the evaluation for further detail) and there is, therefore, no urgent need to develop the site for housing;
- It is considered that the site would not be well located in terms of ease of access to local facilities by active travel modes, thus making it likely that the site and local facilities would predominantly be unsustainably accessed by car.

Taking these factors into account it is considered that the proposal would not make a significant contribution towards sustainable development and the presumption in favour of sustainable development, as set out in SPP, is thus not considered to be applicable as a material consideration in this instance.

### Housing Land Supply

The Aberdeen City and Shire Structure Plan 2009 and Strategic Development Plan 2014 set ambitious Housing Requirements which were met through housing allocations in subsequent Aberdeen City and Aberdeenshire Local Development Plans. The Strategic Development Plan 2020 continues this and sets a Housing Supply Target and Housing Land Requirement for the proposed Aberdeen City and Aberdeenshire Local Development Plans. This has resulted in the need for the Aberdeen City Local Development Plan to allocate a limited amount of housing land for the period 2020-2032. Land is required for a total of 5,107 in Aberdeen City and 8,172 homes in the Aberdeen Housing Market Area that includes the City and nearby areas of Aberdeenshire. These allocations should primarily come through brownfield sites and utilise the current “constrained” supply in the first instance.

The SDP 2020’s allocations are the result of modifications resulting from the examination of the Proposed Strategic Development Plan 2018, these modifications increased the allocations from that which were set out in the Proposed Strategic Development Plan. As a result, a number of additional sites, including that of the subject application (added at the Full Council meeting in March 2020), were added to the Proposed Local Development Plan in order to ensure a pipeline of housing sites across the period 2020-2032.

Historically generous levels of housing land allocations have resulted in a continuously robust 5-year and post 5-year effective housing land supply across both the Aberdeen and Rural Housing Market Areas (34,392 homes as per the Housing Land Audit 2020).

The Housing Land Audit 2019 and 2020 shows that for Aberdeen City this has resulted in:

<b>Housing Land Audits</b>	<b>2019</b>	<b>2020</b>
A five-year effective land supply	6,242	6,542
Post five-year effective supply	10,076	10,017
Total effective land supply	16,318	16,559

At a housing market area level this has resulted in:

- The Aberdeen Housing Market Area has a 7.1-year supply.
- The Rural Housing Market Area has a 5.4-year supply.

The consideration of land supply in the context of a planning application is measured against the effective land supply within the Local Development Plan's area and how this relates to the Housing Supply Target. However, housing land allocations are made and monitored on a housing market area basis as opposed to a Council basis.

#### Programming of housing delivery

Paragraph 110 of Scottish Planning Policy 2014 requires a minimum of 5-years housing land supply at all times. The calculation of this comes through the housing land audit and uses programming on all sites and is agreed by Homes for Scotland. This is a key performance measure as defined by the Scottish Government which reflects the very generous land supply position in the Aberdeen Housing Market Area and Aberdeen City. The supply in the Aberdeen Housing Market Area in the Housing Land Audit 2020 equated to 7.2 years and 7.1 years in the Housing Land Audit 2020. This indicates that there is capacity in land supply terms to build well above the housing supply target if demand exists.

A significant factor which influences the amount of land regarded as effective and indeed the amount of housing actually delivered on the ground is the rate of delivery and programmed delivery.

This is an important factor influencing the amount of land regarded as effective, and whilst a development plan can influence the physical amount of land available for development it has less influence over its delivery which is subject to wider market influences. In the context of this proposal the applicant has erroneously conflated two separate measures:

- land available for development; and
- the expected or programmed delivery of that land,

Aberdeen City Council can have significant influence over the amount of land available for development, subject to the willingness of landowners or the ability of the Council to assemble land. However, Aberdeen City Council has significantly less influence over the second measure, delivery of the land, which is significantly influenced by the activities of RSLs, private home builders and the other actors and influences at the sharp end of delivery.

Aberdeen City Council's role in influencing the timing and rate at which a development is built out, is limited to those measures that influence the quality, attractiveness and suitability through the development management process.

Given Aberdeen City Council has influence over land availability it has used this to allocated generous quantities of housing land. In the context of a regional economic downturn the programming and delivery of that land has been influenced by market conditions.

For example, in the period before the regional economic downturn a large site with construction activity on site delivering for example 100 units per annum would have been regarded as having 500 units in the 5-year effective supply. The same site post-downturn delivering at a rate of 80 units per year would be regarded as having only 400 units in the 5-year effective supply.

The Housing Land Audit 2019 states an effective land supply of 28,236 homes for the Aberdeen Housing Market Area. Since the regional economic downturn, the programming of sites in Aberdeen City, which are classed as having deliverable land in both the 5-year and post 5-year Effective Land Supply, has seen future anticipated completions reduced or pushed back (as seen in table 3). These allocations or permissions have therefore not suddenly been removed from the housing land supply simply because anticipated completions have not transpired or been reduced. Their delivery rates have been damped to reflect market conditions and thus there is ample capacity within the housing land supply to react to any surge in demand.

### Conclusion

This focuses the argument on the amount of currently available land or the effective land supply. Consideration can be given to sites that are capable of starting within the 5 years from the date of the Housing Land Audit and what rates of completion are programmed. Therefore, the supply is the land that is made available and the rate that it can be delivered at. Paragraph 33 of Scottish Planning Policy is therefore not a relevant consideration in the assessment of this application nor is the presumption in favour of sustainable development given the robust nature of the City and Aberdeen Housing Market Area's land supply. Therefore, the assessment of this application instead focuses on other elements of the scheme such as design, layout, accessibility and environmental impacts, all of which are addressed in the foregoing evaluation.

### **Aberdeenshire Council objection**

The following matters raised in Aberdeenshire Council's objection to the application have been addressed in the foregoing evaluation:

- *Development of the application site will result in the unnecessary loss of green belt land and could have long-term negative implications on the green belt;*
- *The site is in an environmentally sensitive area, which provides important habitat and green corridor between River Dee and Tollo Hill. It is also located within the Green Space Network, includes the Den of Leggart Local Nature Conservation Site, and the proposal could result in the loss of trees, including ancient woodland.*
- *The proposed development could also have a cumulative negative impact on the River Dee, a Special Area of Conservation, from surface water runoff.*
- *Due to the foregoing concerns the proposal would not constitute the right development in the right place and the application is therefore contrary to Scottish Planning Policy (SPP).*
- *The application site is not well related to any settlement and is in essence a standalone site which shoehorns into one of the last remaining landscape buffers at the edge of Aberdeen City and Aberdeenshire. The development of the site would result in suburbanisation in a highly sensitive and visible landscape.*

- *Aberdeenshire Council believe that the site can be removed from the ACC Proposed Aberdeen Local Development Plan (PALDP) without creating a deficit in the housing allowance. Thus there is no strategic need or requirement to release the site for housing and its development would be premature at this time.*

The remaining matters raised by Aberdeenshire Council not specifically addressed in the foregoing evaluation can each be addressed, in turn, as follows:

- *The site was identified in Aberdeen City Council's Main Issues Report 2019 (MIR) as being "undesirable", in response to a development bid for 235 homes (ref: B13/08 – Royal Devenick Park);*

Response: This observation is correct.

- *Bid 13/08/OP46 is part of a larger development proposal in Aberdeenshire, identified in Aberdeenshire's MIR as bid sites KN069-072, Banchory-Devenick for up to 1310 homes, commercial and employment land, and a primary school. These bids, KN069 to KN072, were also not identified as preferred sites due to issues relating to landscape setting, loss of green belt, impact on natural heritage, distance from facilities, and accessibility and infrastructure concerns. These issues were also identified in the City's MIR for site B13/08 (OP46).*

Response: Development bids for housing land allocations in the Aberdeenshire Local Development Plan, and issues raised in the associated MIR are not relevant to the assessment of the current application to Aberdeen City Council.

- *ACC's Main Issues Report stated that the site is "not well-related to any settlement; it is poorly located to public transport and community facilities, and therefore would be car dependent." As such, the site is contrary to the Strategic Development Plan which seeks to reduce travel distances and make walking, cycling and public transport more attractive to people.*

**Response: As noted in the foregoing section of the evaluation on Transport and Accessibility, the Planning Service agrees with Aberdeenshire Council's comments in this regard and considers that the proposed development, although connected into the existing pedestrian and cycle networks and situated in reasonable proximity to the nearest bus stops, would not be sited in a location such that it would be likely to be accessed via sustainable or active modes of travel.**

- *There are concerns in respect of infrastructure, road network capacity and deliverability. Aberdeenshire Council's Transportation Service has advised that works, including the widening of the Causey Mounth would be necessary, junction visibility improvements, two points of road access would be required to accord with Aberdeenshire Council's standards for access, and there are pinch points to the north of the Causey Mounth with Leggart Terrace (the B9077), which would appear to be outwith the site proposer's control.*

Response: The housing initially proposed in the western part of the site has been omitted from the proposals, thus the concerns in respect of the impact on the Causey Mounth are no longer relevant.

Members should note that due to Aberdeenshire Council's formal objection to the application, should the Planning Development Management Committee give a willingness to approve the application (subject to the conclusion of a legal agreement to secure the necessary affordable housing and developer obligations), then the Planning Service would be required to notify Scottish Ministers of

the intention to approve the application, in accordance with [The Town and Country Planning \(Neighbouring planning authorities and Historic Environment\)\(Scotland\) Direction 2015](#).

### **Matters raised in representations**

The majority of the matters raised in the objections received have been addressed in the foregoing evaluation. The remainder of the matters raised can be summarised and addressed as follows:

#### Strategic Development Plan

- *The development is inconsistent with the Aberdeen City & Shire Strategic Development Plan (SDP) - specifically the following policies:*
  - *Shaping Development in the Countryside (Chapter 5)*
  - *Natural Heritage and Landscape (Chapter 8, Policies E1 and E2)*
  - *The Historic Environment (Chapter 9, Policies HE1 and HE2); and*
  - *Protecting Resources (Chapter 10)*

Response: The above listed policies are not contained within the Strategic Development Plan and instead appear to be policies contained within one or more Aberdeenshire Local Development Plans – which are not relevant to the assessment of this application.

#### Allocation in the Proposed Aberdeen Local Development Plan (PALDP)

- *The site was noted as being 'undesirable' in the 2019 Main Issues Report;*

Response: This statement is correct.

- *The site was allocated as an Opportunity Site (OP46) for 150 homes by Members as a late addition, contrary to the recommendation of the ACC Planning Service;*

Response: This statement is correct.

- *There were numerous objections to the allocation of the site in the PALDP submitted in the public consultation period, which are yet to be addressed;*

Response: The objections to the allocation of the site in the PALDP have been considered by Members and will be considered by a Reporter as part of the forthcoming Examination process.

- *The site was allocated by Councillors without any rationale and at a stage of the PALDP which avoided full scope for public feedback;*

Response: The rationale for adding the site to the forthcoming PLDP was given by Members at the Full Council meeting on 2 March 2020 and a period of public consultation on the PLDP followed in the summer of 2020.

#### Cumulative Impacts

- *The development would contribute toward the cumulative, incremental erosion of the green belt;*

Response: The proposed development is contrary to Policy NE2 (Green Belt) and the Planning Service agrees that it would contribute towards the incremental erosion of the Green Belt.

### Transport & Accessibility

- *The pedestrian and cycle access would be inadequate until such time as the Bridge of Dee and associated roundabouts have been upgraded as they are currently cycle and pedestrian unfriendly;*

Response: Although appropriate connections into the surrounding pedestrian and cycle networks would be provided, the Planning Service concurs that the Bridge of Dee's pedestrian and cycle infrastructure is not ideal and that the poor quality of pedestrian infrastructure would likely discourage the use of active travel by residents.

- *Developer contributions should be required in order to enable upgrades to local infrastructure if active travel is to be promoted;*

Response: If the application is approved, the applicant shall be required to upgrade the existing footpath alongside the A92 to the Bridge of Dee, and to provide a pedestrian crossing to Kincorth.

- *Although mitigation measures at the Bridge of Dee roundabout are recommended in the Transport Assessment, they are not noted in the applicant's plans;*

Response: The Council's Roads Development Management team advise that rather than amending the geometry of the nearby roundabouts, as suggested in the applicant's Transport Assessment, an appropriate alternative mitigation measure would comprise the upgrade of the existing pedestrian footpath to the Bridge of Dee roundabout from the site, to be undertaken by the applicant. Should members be minded to approve the application then such works could be secured by condition.

- *The suggested mitigation measure of widening the road widths at the Bridge of Dee roundabout would impact detrimentally on pavement widths in the area;*

Response: The Planning Service and Roads Development Management team agree that the widening of the road widths at the Bridge of Dee roundabout would have a detrimental impact on pavement widths. As noted above however, alternative mitigation is considered to be acceptable that would not require any narrowing of existing footpaths.

- *The width of Leggart Terrace was reduced on entry to the Bridge of Dee roundabout a few years ago yet the applicant's Transport Assessment does not include this change in its simulations;*

Response: All housing development in the western part of the site has been omitted from the application – therefore there would be no additional traffic entering the Bridge of Dee roundabout from Leggart Terrace as a result of the proposed development.

- *Access should only be taken from the A92, with no access from the Causey Mounth;*

Response: The implications of any such access from the Causey Mounth were assessed separately by Aberdeenshire Council but nevertheless, all housing development has been omitted from the western part of the site.

- *Each property should have access to cycle storage or a garage;*

Response: All properties would either have access to dedicated cycle storage (flats) or would have ample internal or external space in which cycles could be safely stored.

#### Road Safety

- *The proposals would lead to increased usage of the Causey Mounth road (in both north and south directions), to the detriment of road safety (including cyclists);*

Response: All housing development and roads have been omitted from the western part of the site, thus there would be no additional vehicular traffic using the Causey Mounth as a result of the development.

- *The applicant's Transport Assessment quotes crashmap.co.uk as a source of registered road accidents in the area, but that website only includes accidents reported to the police and not more minor accidents.*

Response: The application has been assessed by the Roads Development Management team and the proposed development is not considered to pose a risk to road safety.

#### Access to facilities and amenities

- *The site has no nearby facilities and/or amenities such as schools, retail, health, hospitality and leisure.*

Response: In terms of walking distance, the proposed development would be sited approximately 1600m from the retail shops and supermarkets in Garthdee to the north and approximately 800m away from the nearest shops in Kincorth to the east (which could be access via the new signalised junction on the A92).

#### Landscape

- *The City Council previously took a decision not to extend the Deeside Brae development further south, in order to avoid it being visible from Tollohill Woods. Why is this now deemed desirable?;*

Response: Whether any such restriction was imposed on the Deeside Brae development at the time of that application is unknown but is nevertheless immaterial in the assessment of the current application, which requires to be assessed on its own merits. There is no specific policy that requires development to not be visible from Tollohill Woods.

- *No visualisations have been provided from receptors in the Pitfodels and East Cults areas, despite lying in the Zone of Theoretical Visibility as outlined in the applicant's Landscape and Visual Appraisal.*

Response: The Planning Service is satisfied that the development would largely not be visible from Pitfodels or East Cults due to existing landscaping, screening, separation distance and the intervening topography of Tollohill Woods.

#### Procedural Matters

- *The planning application was lodged in late December 2020 during the coronavirus lockdown and the festive period, at a time when the Council Planning department is closed for nearly 2 weeks. The timing of the application appears to be an attempt to avoid proper consultation with the public;*

Response: Applicants are free to submit planning applications at any time they wish. The documentation for the application was available to view on the Council's website during the period in which third parties could make representations. All neighbouring properties within 20m of the application site boundaries were sent notification of the application by post, as required in accordance with the Development Management Procedure Regulations, and the application was also advertised in the local press due to the proposals constituting a departure from the Development Plan Strategy. A Pre-Determination Hearing also gave third parties who had submitted representations a chance to present their thoughts to the Planning Committee.

- *As all residents in the Deeside Brae development would be affected by the proposals, all properties in Deeside Brae should have been notified on the application;*

Response: There is no provision in the Development Management Procedure Regulations for Planning Authorities to choose which properties are notified of a planning application. As per the DM Procedure Regs, all properties within 20m of the application site were notified and the application was advertised in the local press, as noted above.

- *Why was the application due to be considered at the Planning Committee in January / February 2021, prior to the Full Council meeting in March to discuss public consultation responses to the PALDP?;*

Response: This statement is factually incorrect. The application was submitted in December 2020 and was never to be considered by the Planning Committee in either January or February of 2021.

- *There was no pre-application consultation except for an insufficient online consultation held in August 2020 which lacked sufficient detail of the proposal;*

Response: The applicant carried out an adequate level of pre-application consultation, as required in accordance with the DM Procedure Regs, as evidenced in their Pre-Application Consultation (PAC) Report.

- *There are possible irregularities in the planning system which need to be scrutinised.*

Response: There is no evidence of any irregularities in the planning system in relation to the assessment of this planning application, nor the allocation of the site for housing in the PALDP.

#### Aberdeenshire Council

- *The proposal is contrary to the Aberdeenshire Local Development Plan;*

Response: The Aberdeenshire Local Development Plan is not relevant to the assessment of proposed developments within the Aberdeen City Council boundary.

- *Aberdeenshire Council adhered to their Planning Officers' recommendation that the developer bid by the applicant for housing in the Shire was undesirable;*

Response: The Aberdeenshire Local Development Plan process is not relevant to the



assessment of this application.

- *The development would create a precedent for further housing development in the Shire;*

Response: This is not a material consideration. Each planning application requires to be assessed on its own merits.

- *As Aberdeenshire Council object to the proposals and consider that an access to the site from the Causey Mounth would be inappropriate due to road safety concerns, the provision of the access is not guaranteed;*

Response: The initially proposed 33 housing units in the western part of the site have been omitted from the application, along with the road access.

- *The widening of the Causey Mounth is not desirable, nor feasible due to the narrow nature of the junction with South Deeside Road.*

Response: The proposed upgrades to the Causey Mounth were the subject of a separate application to Aberdeenshire Council.

#### Environment / Natural Heritage

- *The Den of Leggart LNCS would be compromised by the development, including from a resultant increase in human recreational activity;*

Response: There would be only minimal physical incursion into the Den of Leggart as a result of the development, following amendments to the proposals to remove the footpaths originally proposed to run through & over the Den. There would likely be some increased informal human recreational activity within the Den as a result of the development although the amount is not considered likely to be significant. The Planning Service does however consider that the proposals, by increasing the amount of development surrounding the Den, would have a detrimental impact on the Green Space Network and thus also on the Den of Leggart LNCS, in terms of its character and function as part of a wildlife corridor.

- *Construction phase works could harm the Den of Leggart.*

Response: A Construction Environment Management Plan (CEMP) would be required via a suspensive condition, in the event the application is approved. The CEMP would be required to incorporate measures (including buffer strips) to ensure that there would be no adverse impacts on the Den during the construction phase.

#### Trees

- *The Den of Leggart is designated as ancient woodland and the development would cause damage to, and the deterioration of, the woodland;*

Response: The proposed development would involve only a minor incursion into the root protection areas of the trees in the Den of Leggart, with just one tree within the Den proposed to be felled. Two initially proposed footpaths that would have run adjacent to or through the Den have subsequently been omitted from the proposals and the Planning Service is satisfied that the Den of Leggart woodland would not be adversely affected by the proposed development.

- *There should be a 30m buffer zone between existing trees in the Den and any new development, in order to avoid root damage and to minimise the risk of pollution to the tree roots;*

Response: The findings of the applicant's Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan are accepted by the Planning Service and it is considered that the amended plans would minimise the incursion into the Den of Leggart and that the trees within the Den would not be adversely affected by the development.

#### Design / Layout

- *The development layout is not optimised and is an artefact of the irregular City/Shire boundary;*

Response: The development layout has been assessed on its merits and the location of the administrative boundary between Aberdeen City and Aberdeenshire Councils is not considered to significantly affect the proposed layout of the development. Nevertheless, as noted in the foregoing evaluation, the Planning Service considers that the development would fail to satisfy the requirements of Policy D1.

- *Three storey housing would be totally out of character within the context of the surrounding area;*

Response: The Planning Service considers, for the reasons set out in the foregoing evaluation, that the flatted blocks in the western part of the site would have an unacceptable impact on the landscape, partly due to their excessive height. The detached dwellings, albeit relatively tall, would not be fully 3-storeys in height, with the third-floor levels accommodated within the pitched roof space. It is considered that the dwellings would not be excessively tall.

- *Little attention has been paid to using suitable building materials for the new buildings, with yellow/brown buff brick not appropriate for the context of the surrounding area which generally sees mostly granite or white rendered buildings.*

Response: The Planning Service considers the proposed materials to be generally acceptable for the context of the development, were it to be approved. In the event of the application being approved, a condition would be added requiring full details and samples of materials to be submitted for further consideration, prior to the commencement of development.

#### Amenity

- *The pedestrian/cycle bridge through the Den of Leggart would allow for residential properties to the north to be overlooked, to the detriment of their privacy;*

Response: This element was subsequently omitted from the proposals by the applicant.

- *Noise emissions from increased vehicular traffic as a result of the development would have a detrimental impact on neighbouring residential properties;*

Response: The applicant's Noise Impact Assessment finds that noise emissions from traffic within the development would have a negligible impact on the amenity of the proposed new dwellings. By extension, it is considered that the existing properties, situated farther away from the proposed dwellings, would also not be unduly affected by any noise emissions from new traffic generated.

- *The proposal would result in the loss of the existing earth bund that lines the southern edge of the Deeside Brae development and gives protection to residents from noise from the A92;*

Response: It is not proposed to remove the existing earth bund.

- *The increased usage of the path link into Deeside Brae would harm amenity;*

Response: Whilst it is acknowledged that there would likely be increased usage of the existing path link into the Deeside Brae development, and thus more pedestrian activity through the development, it is not considered that the additional pedestrian movement through the site would cause any significant harm to the amenity of the residents.

#### Flooding and Drainage

- *ACC Officers flagged the Leggart Burn as being prone to a high risk of flooding in their Development Options Assessment of the development bid for the site;*

Response: The applicant has submitted Flood Risk and Drainage Impact Assessments, which demonstrate to the Council's Flooding Team and SEPA's satisfaction, that the development would not be at any significant risk of flooding, nor would it result in any significant increase in the risk of flooding to other properties.

#### Developer Obligations

- *The developer has made no contribution toward the construction of a separate pedestrian crossing over the River Dee.*

Response: Whilst a new pedestrian bridge over the River Dee is mentioned as a possible future infrastructure project in some high-level Transport Strategy documents, it is not a committed project, therefore it is not possible to require a contribution from the developer towards this currently speculative, but possible future bridge link.

#### Informal recreation & Health and Wellbeing

- *The development could harm the existing edible vegetation (brambles and elderflower) within / adjacent to the site.*

Response: Any edible vegetation within or adjacent to the site, such as brambles and elderflower, do not have any level of protection in terms of planning policy or guidance. Nevertheless, it is not anticipated that the development would cause any particular harm to any edible vegetation situated outwith the site.

#### Economic Benefit

- *The development would be of no economic benefit to the city.*

Response: The precise level of economic benefit to the city as a result of the proposed development is not known. It is likely that the development would have some economic benefit to the local economy, particularly during the construction phase, but it is not anticipated that any economic benefits would be of a level to constitute a material consideration in the determination of the application.

#### Wider Development

- *The developer has the ambition to build a much larger housing development in the Banchory Devenick area, mostly within Aberdeenshire. The developer is intending on using Aberdeen City Council to secure the first phase of development, that would then set a precedent for further development in the area.*

Response: The developer's potential intentions for nearby land are immaterial to the determination of this application, which requires to be assessed on its own merits.

### Climate Change

- *The proposals do not adequately address elements of the Council's Local Outcome Improvement Plan (LOIP) – principally the aim to reduce carbon emissions due to the climate change emergency and any decision on the application should be delayed until after the Scottish Climate Change Assembly's recommendations with respect to fair and effective changes to Homes and Communities have been made to the Scottish Government.*

Response: The Planning Authority has a duty to assess and determine planning applications, primarily in line with the provisions of the Development Plan. Whilst combating Climate Change is an aim of the Scottish Government and Aberdeen City Council, there is no statutory provision requiring that the assessment of planning applications be delayed to await the outcome of Climate Change-related non-Planning related documents.

### **Heads of Terms of any Legal Agreement**

In the event of the PDMC being minded to approve the application contrary to Officer Recommendation (and subject to notification to Scottish Ministers and appropriate planning conditions), a legal agreement would be required prior to the approval of the application, in order to secure the developer obligations and the affordable housing provision noted above in the foregoing evaluation.

### **Conclusion**

The above evaluation concludes that the proposed development would constitute a significant departure from the adopted Local Development Plan strategy, being contrary to Policies NE2 (Green Belt) and NE1 (Green Space Network) of the ALDP. It is considered that the development as a whole would have a detrimental impact on the localised landscape character and setting of the Leggart Valley, contrary to Policy D2 (Landscape) and that it would not be sited in a location which would encourage the use of active travel, thus the proposed development is also contrary to Policy T3 (Sustainable and Active Travel).

The development would also have an undesirable impact on traffic flows on the A92, a major arterial route into the city, due to the signalised junction required to provide vehicular access to the development. It is recognised that this junction would not serve a strategic function to the benefit of the wider roads network. Roads Development Management and the Planning Service also have concerns that the second means of access to the site for use by emergency service vehicles, would not be sufficient to meet the Council's standards and thus cannot be accepted. These aspects result in the development being contrary to Policy T2 (Managing the Transport Impact of Development).

Some aspects of the proposed development (the terraced street) represent a tension with Policy D1 (Quality Placemaking by Design).

The proposed development is also contrary to the Aberdeen City and Aberdeenshire Strategic Development Plan 2020 as it would result in the development of valuable green belt land and it would not be sufficiently accessible via sustainable and active modes of travel.

Although it is acknowledged that the Proposed Aberdeen Local Development Plan 2020 (PALDP) is a material consideration, and the site has been allocated in that plan as an opportunity site for 150 homes, the Plan has yet to undergo Examination by Scottish Ministers and the allocation of the site in the PALDP has been the subject of a significant level of objection. The application is thus considered to be premature and the allocation of the site for housing in the PALDP is not considered to be of sufficient weight to justify a departure from the adopted ALDP that remains the primary document against which the application should be assessed. Furthermore, there is sufficient housing land supply and thus no urgent need to develop the site to meet housing demand within the City.

The Planning Service does not consider the proposed development would constitute Sustainable Development and there are no other material considerations of any weight sufficient to justify approving the application contrary to the adopted Development Plan Strategy and the application is therefore recommended for refusal for the aforementioned reasons.

It should be noted that if Members are minded to approve the application contrary to Officer recommendation, then the Scottish Ministers would need to be notified of any such willingness to approve, due to Aberdeenshire Council's objection to the application. Following that, a legal agreement would be required to secure the necessary Developer Obligations and affordable housing. Any permission would also require to be subject to a number of suspensive conditions to address various aspects – a brief summary of which are detailed at the end of this report.

## **RECOMMENDATION**

Refuse

## **REASON FOR RECOMMENDATION**

That the proposed major housing development neither represents essential infrastructure nor complies with any of the exceptions contained within Policy NE2 (Green Belt) of the Aberdeen Local Development Plan 2017. Policy NE2 makes no provision for residential development of this scale. As such, the development is contrary to Policy NE2 and would represent a significant departure from the adopted Development Plan Strategy. Furthermore, the proposals would erode the character and function of the Green Space Network zoning which covers much of the site and the proposals would therefore be contrary to Policy NE1 (Green Space Network) of the Aberdeen Local Development Plan 2017.

That the development would result in the creation of a major housing development on undeveloped greenfield land, resulting in harm and significant change to the localised landscape character of the Burn of Leggart valley, a key part of the City's setting from the South, contrary to Policy D2 (Landscape) of the Aberdeen Local Development Plan 2017.

That the development would reduce capacity and have an undesirable impact on traffic flows on the A92, a major arterial route into the city, due to the signalised junction required to provide vehicular access to the development and pedestrian access to Kincorth. The design of the signalised junction is not acceptable, with the northern central pedestrian island being of an insufficient width. The proposed junction is not related to a strategic transportation link. The proposed second, emergency means of access to the development is inadequate. For these reasons, the development proposal is contrary to Policy T2 (Managing the Transport Impact of Development) of the Aberdeen Local

Development Plan 2017.

That the development would not be sited in a sustainable location and does not have safe or quick access by sustainable modes of travel (particularly on foot or by cycle) to essential facilities such as schools and shops which would encourage the use of active travel and is therefore contrary to Policy T3 (Sustainable and Active Travel) of the Aberdeen Local Development Plan 2017.

The proposed development is also contrary to the strategic objectives of the Aberdeen City and Aberdeenshire Strategic Development Plan 2020 as it would result in the development of valuable green belt land and would not be sufficiently accessible via sustainable and active modes of travel.

### **NOTIFICATION TO SCOTTISH MINISTERS**

Should Committee be minded to approve the application contrary to officer recommendation, due to the objection from Aberdeenshire Council, there is a requirement for the planning authority to notify Scottish Ministers of their intention to grant conditional planning permission.

Scottish Ministers will then consider whether to call-in the application for their own determination or clear it back to the authority to decide the matter as it sees fit.

### **CONDITIONS IN THE EVENT OF A WILLINGNESS TO APPROVE**

Should the application be cleared back to the Council for determination, it is recommended that this should be subject to a legal agreement to ensure payment of the required developer obligations and to secure the associated affordable housing provisions as contained within the Development Obligations response.

It is also recommended that conditions should be attached to any grant of planning permission in relation to the following items:

- Full details, and provision of, the new signalised junction on the A92
- Full details of, and control over implementation of pedestrian and cycle links to Tolllohill Wood and adjoining street and path network
- Full details of, and control over implementation of, an appropriate means of access for emergency vehicles
- Implementation of mitigation measures in relation to the impact of the development on the local road network (enhanced footpath link to Bridge of Dee roundabout)
- Full details of, and control over implementation of upgraded footways adjacent to the A92, both north and south of the site
- Details of the relocation and upgrade of bus stops
- Provision of open space
- Building materials – details and samples
- Hard surfaces – details and samples
- Construction Environment Management Plan (CEMP), including Dust Management Plan
- Otter Survey
- Implementation of the Noise Impact Assessment mitigation measures
- Landscaping details, implementation and management including the specification of landscaping and children's play space in the area to the open space to the west of the Leggart Burn in order to optimise its recreational and natural heritage qualities and additional planting along the southernmost boundary of the development

- Low & Zero Carbon technologies
- Water Efficiency measures
- Implementation of appropriate drainage facilities, including SUDS basin
- Full details of, and control over implementation of driveway details
- Full details of, and control over implementation of pedestrian crossing points within the development
- Internal roads and footpaths to be laid out as per approved plans
- Cycle parking details
- Details of wastewater connections
- Residential Travel Pack
- Safe Routes to School
- Full fibre broadband
- Tree Protection Measures
- Play facilities details
- EV charge points
- Programme of Archaeological Works
- Protection of boundary stones during construction
- External lighting

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