

# Public Document Pack



To: Councillor Milne, Convener; and Councillors Lawrence and Jean Morrison MBE

Town House,  
ABERDEEN 23 August 2016

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in Committee Room 2 - Town House on **TUESDAY, 30 AUGUST 2016 at 2.00 pm.**

FRASER BELL  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### **BUSINESS**

- 1 Procedure Notice (Pages 5 - 6)

Copies of the relevant plans / drawings are available for inspection in advance of the meeting and will be displayed at the meeting

### **TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

#### **PLANNING ADVISER - NICHOLAS LAWRENCE**

- 2 Prime Four, Kingwells Business Park, off A944, Kingwells - Erection of 25m Tall Lattice Tower - 152002
- 3 Delegated Report, Plans and Decision Notice (Pages 7 - 20)  
Planning Reference – 152002

The plans associated with this application can be found at:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Enter the above planning reference number and click 'Search'.

4 Planning policies referred to in documents submitted

Members, the following planning policies are referred to:-

**National Policy and Guidance**

Scottish Planning Policy

Scottish historic Environmental Policy

**Aberdeen Local Development Plan**

Policy LR1 – Land Release Policy

Policy D1 – Architecture and Placemaking

Policy D5 – Built Heritage

Policy D6 – Landscape

Opportunity Site 40 – West Hatton and Home Farm, Kingswells

**Proposed Aberdeen Local Development Plan**

Policy B2 – Specialist Employment Areas

Policy CI2 – Telecommunications Infrastructure

Policy D1 – Quality Placemaking by Design

Policy D2 – Landscape

Policy D4 – Historic Environment

Opportunity Site 29 – Prime Four Business Park

**Other Material Considerations**

PAN 62 – Radio Communications

Historic Environment Scotland (HES) *‘Managing Change in the Historic Environment – Setting’*

Kingswells Development Framework & Masterplan

The policies can be viewed at the following link:-

[http://www.aberdeencity.gov.uk/planning\\_environment/planning/local\\_development\\_plan/pla\\_local\\_development\\_plan.asp](http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_local_development_plan.asp)

5 Notice of Review with supporting information submitted by applicant / agent  
(Pages 21 - 50)

6 Determination - Reasons for decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

7 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

**PLANNING ADVISER - LUCY GREENE**

8 Oldtown Farm, Station Road South - Erection of Farm Workers Dwellinghouse - 160258

- 9 Delegated Report, Plans and Decision Notice (Pages 51 - 66)  
Planning Reference – 160258

The plans associated with this application can be found at:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Enter the above planning reference number and click 'Search'.

- 10 Planning policies referred to in documents submitted

Members, the following planning policies are referred to:-

**National Policy and Guidance**

Scottish Planning Policy – paragraphs 49 and 52

**Aberdeen Local Development Plan**

NE2 – Green Belt

**Proposed Aberdeen Local Development Plan**

NE2 – Green Belt

The policies can be viewed at the following link:-

[http://www.aberdeencity.gov.uk/planning\\_environment/planning/local\\_development\\_plan/pla\\_local\\_development\\_plan.asp](http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_local_development_plan.asp)

- 11 Notice of Review with supporting information submitted by applicant / agent  
(Pages 67 - 90)

- 12 Determination - Reasons for decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

- 13 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Mark Masson on [mmasson@aberdeencity.gov.uk](mailto:mmasson@aberdeencity.gov.uk) / tel 01224 522989

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## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions.**
13. The LRB will give clear reasons for its decision in recognition that these will require to be intimated and publicised in full accordance with the regulations.

# Agenda Item 3

Signed (authorised Officer(s)):

PRIME FOUR, KINGSWELLS BUSINESS  
PARK, OFF A944, KINGSWELLS

ERECTION OF 25M TALL LATTICE TOWER  
TO SUPPORT 3 ANTENNA, 3 REMOTE  
RADIO UNITS (RRUS) AND 2 X 300MM DIA  
DISH ANTENNA. PLUS PROVISION OF 3  
GROUND LEVEL CABINETS ALL WITHIN  
2.1M HIGH PALISADE FENCE COMPOUND

For: Telefonica UK Limited

Application Type : Detailed Planning  
Permission

Application Ref. : P152002

Application Date : 12/01/2016

Advert : Can't notify

neighbour(s)

Advertised on : 27/01/2016

Officer : Ross McMahon

Creation Date : 28/04/2016

Ward: Kingswells/Sheddocksley/Summerhill  
(L Ironside/S Delaney/D Cameron)

Community Council: Comments

## RECOMMENDATION:

**Refuse**

## DESCRIPTION

The application site is located to the north of the A944, and to the west of the C89C (Kingswells) within the north most section of the 'Prime Four' Business Park, currently under construction. The site is bound to the east by an access road and pedestrian footpath, and to the south east by an area of visitor parking. The Kingswells Consumption Dyke (otherwise known to as 'Broad Dyke') – a Category B Listed Building and Scheduled Monument – runs east west and sits at the foot of an embankment approx. 90m to the north of the application site.

## RELEVANT HISTORY

P130863: Application for Approval of Matters Specified by Conditions of Planning Permission in Principle P12064: Condition 3 parts (i) means of access; (vi) motor vehicle and cycle parking (viii) landscape – Approved Conditionally 06/09/2013. Non-Material Variation to landscaping scheme – Approved 20/04/2016.

Emergency Notice / Prior Notification: The planning authority was notified by Galliford Try Communications on 15/12/16 of their client's intention to erect a 31.3m tall temporary guyed pole supporting 3no. sector antennas, 3 remote radio units (RRUs) and 2no. 300mm diameter dish antenna approximately 10m to the north of the application site as described above, under Class 67 in Part 20 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 – As amended.

## **PROPOSAL**

Planning permission is sought to erect a lattice tower to support 3 antenna, 3 remote radio units and 2 x 300mm diameter dish antenna, forming an overall height of 25m from ground level. Consent is also sought for the installation and provision of 3 ground level cabinets which, in addition to the proposed mast, would be wholly contained within an area bound by a 2.1m high palisade fence.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref.=152002>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

- Supplementary Information

## **CONSULTATIONS**

**Aberdeen International Airport** – No objection.

**Historic Environment Scotland (HES)** – No objection or comments.

**Roads Development Management** – No observations.

**Communities, Housing and Infrastructure (Flooding)** – No observations.

**Environmental Health** – No observations.

**Community Council** – Objection from the Kingswells Community Council (KCC) on the following grounds:

1. The application for planning permission should be considered on the merits of a fresh application;
2. The planning authority should not be unduly influenced by the presence of the current structure or any costs that the developer has incurred;
3. The area proposed for the mast is within the 'protection zone' which precludes development and limits the height of buildings;
4. Detrimental impact on the visual setting of the Kingswells Consumption Dyke;
5. Concern with the visual impact of mast set adjacent to nearby pylons;
6. No background justifying the need for a new mast submitted with the application;
7. No attempt made to mitigate the visual impact of the mast;
8. Requests that other less visually intrusive sites within 'Prime Four' are investigated.



## REPRESENTATIONS

None received.

## PLANNING POLICY

### National Planning Policy

- Scottish Planning Policy (SPP)
- Scottish Historic Environment Policy (SHEP)

### Aberdeen Local Development Plan

- Policy LR1 – Land Release Policy
- Policy D1 – Architecture and Placemaking
- Policy D5 – Built Heritage
- Policy D6 – Landscape
- Opportunity Site 40 – West Hatton and Home Farm, Kingswells

### Other Material Considerations

- PAN 62 – Radio Communications
- Historic Environment Scotland (HES) ‘Managing Change in the Historic Environment – Setting’
- Kingswells Development Framework & Masterplan

### Proposed Aberdeen Local Development Plan

The following policies substantively reiterate policies in the adopted local development plan as summarised above:

- Policy B2 – Specialist Employment Areas
- Policy CI2 – Telecommunications Infrastructure
- Policy D1 – Quality Placemaking by Design
- Policy D2 – Landscape
- Policy D4 – Historic Environment
- Opportunity Site 29 – Prime Four Business Park

## EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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.

### Principle of Development

Scottish Planning Policy (2014) (SPP) highlights the importance of digital infrastructure and states that the planning system should support:

- development which helps deliver the Scottish Government’s commitment to world-class digital connectivity;

- the need for networks to evolve and respond to technology improvements and new services;
- inclusion of digital infrastructure in new homes and business premises; and
- infrastructure provision which is sited and designed to keep environmental impacts to a minimum.

Accordingly, the planning system has an important role to play in strengthening digital communications capacity and coverage across Scotland. However, all components of equipment should be considered together and designed and positioned as sensitively as possible, with cumulative visual effects of equipment being taken into account as part of the decision making process.

The application site is located within an area designated as an Opportunity Site (OP40) and is therefore subject to Policy LR1 (Land Release Policy), as identified in the Aberdeen Local Development Plan (ALDP) (2012) proposals map. The OP site designation – now the partially completed ‘Prime Four’ business park development – identifies the opportunity for a 50ha development of business land which *“will attract high quality businesses or be suitable for company headquarters”*. Policy LR1 requires that development on an allocated site or in close proximity to an allocation that jeopardises the full provision of the allocation will be refused. With regard to the above, the proposed mast is considered to be acceptable in terms of SPP – ‘A Connected Place’, the OP site designation and Policy LR1, in that there is an identified need for digital communications capacity in this location – which would serve a business park development – and the provision of a mast in this location would not detriment the overarching aspirations of the land use allocation, given the size, scale and footprint of the proposal relative to the wider ‘Prime Four’ development.

### **Kingswells Development Framework & Consumption Dyke**

In terms of the historic environment, SPP states that the planning system should:

- promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and
- enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

SPP para. 141 states that where planning permission is sought for development affecting a listed building, special regard must be given to the importance of

preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from work that would adversely affect it or its setting. SPP para. 145 states that where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances. This is further reinforced in PAN 62 para. 103 which states that all radio telecommunications development, including the siting of masts, equipment housing, access tracks and power supplies, must be planned to avoid adverse impact on the site and setting of scheduled monuments and other significant archaeological sites.'

The "OP40 – Kingswells Development Framework" was adopted as Supplementary Guidance in December 2012 and clearly identifies the setting of the Kingswells Consumption Dyke and the 120m 'no build zone' to south of the dyke, for the wider development. The Prime Four development is visually set into the landscape from the dyke and has little visual impact on its setting as a result of controlled building heights, orientation and position of structures relative to the dyke's wider setting. Whilst the proportions, scale and form of a lattice type mast structure would differ significantly from that of consented and completed office blocks – located to the south of the application site – it is considered that the 120m 'no build zone' was intended for all development which could have an adverse impact on the visual setting of the Consumption Dyke, and it is therefore considered that this zone is applicable to the assessment of this proposal.

Historic Environment Scotland's *'Managing Change in the Historic Environment – Setting'* gives a number of definitions for what contributes to setting, in this instance "*visual envelope, incorporating views to, from and across the historic asset or place*" would best relate to the dyke. The context of this monument has been altered to a degree as a result of development at Prime Four, however, such development has been carefully considered through a masterplanning process, and executed through detailed assessment, natural planting and development setbacks, to ensure that the setting of the dyke is suitably protected. The dyke sits in a valley and land slopes up to the south and north, making any development within proximity of it highly visible and would have a significant impact. One of the characteristics of the dyke is its defined horizontality – just above ground level – whereas the mast would be an isolated, vertical structure in an exposed and prominent location and would immediately draw the eye upwards and away from the dyke's horizontality; therefore it is considered that the setting of the dyke would be compromised. The archaeology assessment carried out to inform the Supplementary Guidance for Prime Four identifies development within 100m of the dyke as having "sever" magnitude of visual impact on the setting of the dyke. The lattice tower would be located approximately 90 metres from the Consumption Dyke, well within the identified,

"sever" impact to setting zone. While it is acknowledged that this archaeology assessment was produced with the Prime Four development in mind – i.e. office / commercial blocks and associated landscaping, parking etc. – it is considered that its findings, in this instance, are pertinent in the consideration and assessment of any development in close proximity to, and the potential resultant visual impact on, the setting of the Kingswells Consumption Dyke.

Accordingly, it is considered that the proposal fails to comply with SPP – *'Valuing the Historic Environment'*, PAN 62 – *'Historic Environment'*, SHEP, the associated HES Managing Change guidance – *'Setting'* and therefore Policy D5 (Built Environment) of the ALDP. Furthermore, the proposal would be at odds with the general aspirations of the Prime Four Development Framework and the measures therein that seek to protect the setting of the Kingswells Consumption Dyke.

### **Visual Impact**

It is considered that the site selected for the proposed mast would have a significant adverse impact on surrounding landscape character, contrary to Policy D6 (Landscape) and D1 (Architecture & Placemaking) of the ALDP. The proposal would be sited on an exposed ridge in a prominent location, close to existing infrastructure and vertical structures, including pylons, overhead wires and street lamps. It is also considered that a lattice type structure would be inappropriate in this location, in such close proximity to an existing lattice pylon, visible alongside other pylons in the area. This is due to visual complexity caused by the combination of two different lattices, and the visual 'bulk' this introduces, particularly when viewed from the north and east of the application site.

For the aforementioned reasons, it is considered the proposed mast would not comply with the requirements of Policy D6 (Landscape) and Policy D1 (Architecture and Placemaking) of the ALDP, in that it would negatively affect landscape character and would not make a positive contribution to its setting.

### **Supplementary Information**

The conclusions reached in supplementary information – submitted with the application – about visual impacts (in the section Visual Impact and Appearance) are not supported by evidence of an assessment, with no information on how the conclusions have been reached. Alternative sites in the vicinity are proposed but have been discounted, as detailed in the supporting information submitted with the application. As a mast is required in this vicinity, and the proposed siting and design is unacceptable, other alternatives need to be fully explored for avoiding and reducing adverse impacts to both landscape setting and resultant visual impacts on the Consumption Dyke. A building mounted mast has been discounted due to the response from the Prime Four *"not keen to allow the installation on buildings"*. This wording suggests that the idea has not been dismissed out of hand. Given the effort expended on retaining and enhancing the setting of the dyke, this dialogue should be brokered. The option for mounting on

the pylon is not discussed. Additionally, there is no assessment of the effectiveness of proposed tree planting on the adjoining site and how this will mitigate the impacts. The drawings show an assumed tree height of approximately 5 metres, however, the effectiveness of this planting in screening the lower part of the 25m high lattice when viewed from sensitive locations is not discussed.

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

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In relation to this particular application, proposed policies B2 (Specialist Employment Areas), CI2 (Telecommunications Infrastructure), D1 (Quality Placemaking by Design), D2 (Landscape) and D4 (Historic Environment) substantively reiterate policies, LR1 (Land Release Policy), D1 (Architecture and Placemaking), D5 (Built Heritage) and D6 (Landscape) of the adopted Aberdeen Local Development Plan and therefore raise no additional material considerations.

## **RECOMMENDATION**

### **Refuse**

#### **REASONS FOR RECOMMENDATION**

While the proposed mast complies with Policy LR1 (Land Release Policy), it fails to comply with SPP – *'Valuing the Historic Environment'*, PAN 62 – *'Historic Environment'*, SHEP, the associated HES Managing Change guidance – *'Setting'* and therefore Policy D5 (Built Environment), in addition to Policy D1 (Architecture and Placemaking) and D6 (Landscape) of the adopted Aberdeen Local Development Plan. Furthermore, the proposal would be at odds with the general aspirations of the Prime Four Development Framework Supplementary Guidance and the measures therein that seek to protect the setting of the Kingswells Consumption Dyke. The proposal would have a detrimental impact on the visual

character and amenity of the surrounding area and would have a significant detrimental impact on the setting of an adjacent category B Listed Building and Scheduled Ancient Monument. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that are of sufficient weight to warrant approval of the application. Full regard has been given to all matters raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify approval of the application.

## THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### Refusal of Planning Permission

A & K Solutions Ltd  
31 Churchill Drive  
Bishopton  
PA7 5HF

on behalf of **Telefonica UK Limited**

With reference to your application validly received on 12 January 2016 for Planning Permission under the above mentioned Act for the following development, viz:-

**ERECTION OF 25M TALL LATTICE TOWER TO SUPPORT 3 ANTENNA, 3 REMOTE RADIO UNITS (RRUS) AND 2 X 300MM DIA DISH ANTENNA. PLUS PROVISION OF 3 GROUND LEVEL CABINETS ALL WITHIN 2.1M HIGH PALISADE FENCE COMPOUND**

at **Prime Four, Kingswells Business Park, Off A944, Kingswells**

the Council in exercise of their powers under the above mentioned Act hereby REFUSE Planning Permission for the said development as specified in the application form and the plan(s) and documents docketed as relative thereto and numbered as follows:-

Document No: 170183;

Detail: Location Plan; Drawing No: 100;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=170183>

Document No: 179989;

Detail: Proposed Site Plan; Drawing No: 201 C;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=179989>

Document No: 179990;

Detail: Proposed Site Elevation; Drawing No: 301 C;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=179990>

PETE LEONARD  
DIRECTOR

## Continuation

The reasons on which the Council has based this decision are as follows:-

While the proposed mast complies with Policy LR1 (Land Release Policy), it fails to comply with SPP - 'Valuing the Historic Environment', PAN 62 - 'Historic Environment', SHEP, the associated HES Managing Change guidance - 'Setting' and therefore Policy D5 (Built Environment), in addition to Policy D1 (Architecture and Placemaking) and D6 (Landscape) of the adopted Aberdeen Local Development Plan. Furthermore, the proposal would be at odds with the general aspirations of the Prime Four Development Framework Supplementary Guidance and the measures therein that seek to protect the setting of the Kingswells Consumption Dyke. The proposal would have a detrimental impact on the visual character and amenity of the surrounding area and would have a significant detrimental impact on the setting of an adjacent category B Listed Building and Scheduled Ancient Monument. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that are of sufficient weight to warrant approval of the application. Full regard has been given to all matters raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify approval of the application.

The plans, drawings and documents that are the subject of this decision notice are numbered as follows:-

Document No: 170183;

Detail: Location Plan; Drawing No: 100;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=170183>

Document No: 179989;

Detail: Proposed Site Plan; Drawing No: 201 C;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=179989>

Document No: 179990;

Detail: Proposed Site Elevation; Drawing No: 301 C;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=152002&index=179990>

**Date of Signing 28 April 2016**



**Daniel Lewis**

Development Management Manager

Enc.

PETE LEONARD  
DIRECTOR



**NB. EXTREMELY IMPORTANT INFORMATION RELATED TO THIS REFUSAL OF PLANNING APPROVAL**

The applicant has the right to have the decision to refuse the application reviewed by the planning authority and further details are given in Form attached below.

Regulation 28(4)(a)

Form 1

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

1. If the applicant is aggrieved by the decision of the planning authority to –
  - a. refuse planning permission for the proposed development;
  - b. to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c. to grant planning permission or approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at <http://eplanning.scotland.gov.uk/>.

Notices of review submitted by post should be sent to –

Planning and Sustainable Development  
 Communities, Housing and Infrastructure  
 Aberdeen City Council  
 Business Hub 4  
 Ground Floor North  
 Marischal College  
 Broad Street  
 Aberdeen  
 AB10 1AB

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in it's existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PETE LEONARD  
 DIRECTOR



**PLANNING & SUSTAINABLE DEVELOPMENT**  
Business Hub 4, Marischal College, Broad Street,  
ABERDEEN. AB10 1AB

PETE LEONARD  
DIRECTOR

**From:** Ian Cox <ian@kwells.org>  
**Sent:** 07 February 2016 15:35  
**To:** PI  
**Subject:** Planning Application 152002

<b>Application Reference:</b>	152002
<b>Local Authority Reference:</b>	000140364-001
<b>Proposal Description:</b>	Erection of 25m tall lattice tower to support 3 antenna, 3 Remote Radio Units (RRUs) and 2 x 300mm dia dish antenna. Plus provision of 3 ground level cabinets all within 2.1m high palisade fence compound
<b>Application type:</b>	Detailed Planning Permission

Kingswells Community Council comments on the above application are as follows:

The application is retrospective as we currently have a temporary mast in place. KCC takes a dim view of this practice and hopes that the planning authority will consider the merits of this application as a fresh application. The authority must not be unduly influenced by the presence of the structure and any costs the developer may have already incurred. KCC is looking for the best solution and not necessarily the cheapest.

The area proposed for the new mast is within the 'protection zone' for the Prime Four development where the Masterplan for the area precludes development and limits the height of buildings at the edge of the exclusion zone to two storeys. KCC and the Kingswells community value the consumption dyke and the setting which Drum Group have tried to protect and enhance. This mast is as high as a six-storey building and has an unacceptable visual impact on the setting of the dyke. The proximity to the nearby pylons makes the visual impact more significant than either structure on its own. The combination focuses the eye and makes the structures more noticeable.

There is no background provided justifying the need for this mast. It has been said that the mast needs a clear line of sight to the telecoms mast on Brimmond Hill. We cannot see how height and positioning of the mast is necessary to achieve this. Do the buildings within Prime Four obstruct the line of sight between

existing telecoms masts? If so, then Prime Four should bear the brunt of providing a solution to any telecoms issues and not the community of Kingswells.

The provision of a telecoms mast within an area designated as employment land is not an unreasonable request. However, the mast is at the edge of the Prime Four development and is located at the highest part of the site. The visual impact from outside the Prime Four site is unacceptable. There has been no attempt made to mitigate the visual impact of the mast. KCC requests that alternative locations within the Prime Four site are investigated where the full effect of the mast can be screened by buildings. Further scarring of the northern boundary of the Prime Four site is not acceptable to KCC or the Kingswells community. An alternative solution for the mast may be the provision of smaller masts (probably more than one) located on the high ground adjacent to the AWPR north of the Prime Four site. The high ground allows the masts to be smaller and the distance from the community minimises their visual impact.

KCC seeks to have the application rejected and asks that the applicant consults with KCC and the community to find a more acceptable solution to the telecoms issue.

Yours Faithfully

Ian Cox

Secretary

Kingswells Community Council



Marischal college Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100018110-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	A & K Solutions Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Andrew	Building Name:	
Last Name: *	Swain	Building Number:	31
Telephone Number: *	01505 862550	Address 1 (Street): *	Churchill Drive
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Bishopton
Fax Number:		Country: *	Renfrewshire
		Postcode: *	PA7 5HF
Email Address: *	andrew_swain@aandsolutions.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="280"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Bath Road"/>
Company/Organisation	<input type="text" value="Telefonica UK Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Slough"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="SL1 4DX"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Prime Four, Kingswell Business Park, Off 944, Kingswell, Aberdeen AB15 8PJ"/>
---

Northing	<input type="text"/>	Easting	<input type="text"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

ERECTION OF 25M TALL LATTICE TOWER TO SUPPORT 3 ANTENNA, 3 REMOTE RADIO UNITS (RRUS) AND 2 X 300MM DIA DISH ANTENNA. PLUS PROVISION OF 3 GROUND LEVEL CABINETS ALL WITHIN 2.1M HIGH PALISADE FENCE COMPOUND

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Failed to give consideration to discussions undertaken through the processing agreement in place with Prime Four, and has acted contrary to the core values of the Scottish Government. Over exaggerated the impact of the proposal on the Consumption Dyke Misinterpreted the 'No Build Zone' as applied to the proposal. We contend that the Council by approving subsequent amendments to the original consent have approved the site location as now shown on 'stamped approved drawings.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Review Statement Appendix 1	Full Planning Submission Pack Appendix 2	Timeline documents
Appendix 3	Site specific Pre application correspondence with Council Appendix 4	Post application
correspondence with LPA Appendix 5	Report of Handling Appendix 6	Decision Notice as issued by LPA, dated
28th April 2016 Appendix 7	Coverage Plots Appendix 8	Photomontages Appendix 9
Plan Policy		Local Development

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

P152002

What date was the application submitted to the planning authority? \*

30/12/2015

What date was the decision issued by the planning authority? \*

28/04/2016

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Allow the Board to consider the actual impact of the proposal on the recognised historic asset that is the Consumption Dyke with full regard to its existing setting dominated by electricity pylons.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No



## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Andrew Swain

Declaration Date: 13/07/2016

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**CTIL REFERENCE  
151096**

**TELEFONICA O2  
CELL REFERENCE 73730**

**CTIL**

**NOTICE OF REVIEW**

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR SITE LOCATED**

**AT**

**PRIME FOUR, KINGSWELL BUSINESS PARK OFF A944, KINGSWELL**

**LOCAL AUTHORITY REFERENCE NUMBER: P152002**

**JULY 2016**

## **CONTENTS**

- 1 The Proposal
- 2 Grounds for Review
- 3 Site Description
- 4 Background to the Review
- 5 Planning Policy and Other Material Considerations
- 6 Case for the Applicant
- 7 Conclusion

## LIST OF APPENDICES

Appendix 1	Full Planning Submission Pack, <ul style="list-style-type: none"><li>- Cover letter, dated 30 December 2015</li><li>- Full Planning Application Forms</li><li>- Site Specific Supplementary Information</li><li>- ICNIRP declaration</li><li>- Associated drawings</li><li>- CTIL (Scotland) General Background Information v.2</li><li>- CTIL Health and Mobile Phone Base Stations Document v.1</li><li>- Owner Notification</li></ul>
Appendix 2	Timeline documents <ul style="list-style-type: none"><li>- OPEN_497_NP_H001(Rev8) Proposed GF Hard/Soft Landscape Layout – North</li><li>- OPEN_497_NP_H003 (REV02) Parking Area – Northern Park</li><li>- P131501 Committee Report (clarification of No Build Zone)</li><li>- Home Farm Pre-app</li><li>- Processing Meeting Minutes</li></ul>
Appendix 3	Site specific Pre application correspondence with Council
Appendix 4	Post application correspondence with LPA
Appendix 5	Report of Handling
Appendix 6	Decision Notice as issued by LPA, dated 28 <sup>th</sup> April 2016
Appendix 7	Coverage Plots
Appendix 8	Photomontages
Appendix 9	Local Development Plan Policy

## **1.0 THE PROPOSAL**

1.1 The subject proposal consists of the following:-

- Erection of 25m tall lattice tower to support 3 antenna, 3 Remote Radio Units (RRUs) and 2 x 300mm dish antenna.
- 3 ground level cabinets and ancillary development
- all within 2.1m high palisade fence compound.

1.2 The application site is located at:-

- Prime Four, Kingswells Business Park, Off A944, Kingswells
- NGR: 386150 806850

## 2.0 THE GROUNDS FOR REVIEW

- 2.1 This review request is being made under Section 43A (8) of the Town and Country Planning (Scotland) Act 1997 (as Amended) in Respect of decisions on Local Developments and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 on behalf of CTIL/Telefónica (“the Applicant”) against the refusal of full planning permission by Aberdeen City Council (“the Council”).
- 2.2 The application was refused by the Council by Notice dated 28<sup>th</sup> April 2016 in line with case officer’s recommendation. The reason for refusal was stated as being:

*While the proposed mast complies with Policy LR1 (Land Release Policy), it fails to comply with SPP - 'Valuing the Historic Environment', PAN 62 - 'Historic Environment', SHEP, the associated HES Managing Change guidance - 'Setting' and therefore Policy D5 (Built Environment), in addition to Policy D1 (Architecture and Placemaking) and D6 (Landscape) of the adopted Aberdeen Local Development Plan. Furthermore, the proposal would be at odds with the general aspirations of the Prime Four Development Framework Supplementary Guidance and the measures therein that seek to protect the setting of the Kingswells Consumption Dyke. The proposal would have a detrimental impact on the visual character and amenity of the surrounding area and would have a significant detrimental impact on the setting of an adjacent category B Listed Building and Scheduled Ancient Monument. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that are of sufficient weight to warrant approval of the application. Full regard has been given to all matters raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify approval of the application.*

- 2.3 However, we believe that in refusing this proposal the Council have failed to take full account of the site specific requirements of international oil operator ‘Statoil’ who have through the owner/developer of the business park requested enhanced mobile phone coverage in the park or of all relevant national planning policy, including Scottish Planning Policy SPP (June 2014), Planning Advice Note (PAN) 62 – Radio Telecommunications and importantly the Governments support for telecommunications infrastructure as contained in “Scotland’s Digital Future - Infrastructure Action Plan” (January 2012). Failed to give any consideration to the extensive background pre-application discussions undertaken through the processing agreement meetings, and as such has acted contrary to the core values of the Scottish Government which expects and has actively promoted the use of processing agreements as a project management tool to guide the implementation of largescale developments.

### 3.0 SITE DESCRIPTION

- 3.1 The subject cell forms an integral part of the Applicant's aim to provide effective 2G, 3G and 4G network coverage and capacity to Prime Four Business Park and the wider area.
- 3.2 The application site is located adjacent to an existing high voltage electricity pylon line which traverses the area to the north of the Business Park, known as the Northern Park.



Fig 1 General location.



## 4.0 BACKGROUND TO THE REVIEW

4.1 The requirement for a high quality telecommunications service throughout Prime Four Business Park has been an integral component of the park development since its inception by the parks developers. The Kingswells Development Framework Supplementary Guidance (2012) para 4.4.2.stated *“The calibre of occupier envisaged ..... require cutting edge telecommunication technology...the development...therefore affords a real opportunity to provide ‘future proof ‘technology to ensure the vision of a world class Business Park is maintained”*. The applicant was approached by the park’s developer on behalf of a corporate customer ‘Statoil’ who, in April 2014, had chosen Prime Four Business Park for their new Aberdeen HQ. Statoil fully utilise mobile communications technology with all employees using mobile phones. This request plus the need for a base station development within or serving the park in order to establish an effective network for the park and the wider area is in line with their Government issued Licence. The current location has been identified on drawings since October 2014.

4.2 It is stressed that by locating an installation within the business park it enables the obvious economic benefits of a high quality mobile network to be had by all the users and visitors to the business park whilst providing wider benefits to local community (see coverage plots Appendix 7) yet avoiding any more sensitive locations closer to residential areas or schools etc.

4.3 Telefónica Group have formed a strategic partnership with the Vodafone Group to share mobile assets here in the UK and across Europe. In the UK this means O2 will be working closely together with Vodafone. In essence this agreement allows both organisations to:

- Consolidate the number of base stations required through sharing which is in accordance with Government Policy
- Significantly reduce the environmental impact of network development. In this regard we would highlight that there are 76 existing installations throughout Aberdeen of which 8 will be removed.

O2 and Vodafone will continue to compete in the telecoms market to retain and win customers and both will continue to differentiate themselves on the quality of the customer experience. Although they're sharing infrastructure, they'll operate entirely independently as businesses with separate network strategies. Accordingly the key focus will be on the upgrade of the existing network installations and where necessary joint build of new sites and the consolidation of existing 2G and 3G sites and the introduction of a new 4G capacity across the networks.

4.4 **Timeline of events leading to decision subject to current review request. (See Appendix 2 for documents referred to and for the avoidance of doubt current revisions of drawings OPEN\_497\_NP\_H001 and OPEN\_497\_NP\_H003 have been downloaded from Aberdeen City Council Website 29/06/16)**

06/09/2013 P130863 (Application for Approval of Matters specified by Conditions -Northern Park, Phase 2/3 in relation to Conditions 3 parts (i) access, (vi) motor vehicle & cycle parking (vii) landscape; and 15 - plot specific landscape treatment of Planning Permission in Principle P120649) approved (including drawing numbers OPEN\_497\_NP\_H001 (REV01) and OPEN\_497\_NP\_H003 (REV01)

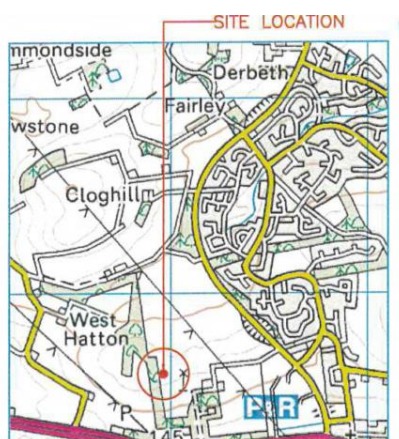
20/03/2014 Planning Committee approved a reserved matters in respect of planning application P131501 for various issues subject to a Committee report which include the following clarification “*The intent of the no build zone relates to buildings and other ‘structures’ of mass...*”. The printed minutes of the meeting do not show any committee disagreement with this clarification so it must therefore be considered as the council’s settled position on the matter.

10/04/2014 Statoil announce Prime Four Business Park as location of new Aberdeen office.

22/10/2014 Vodafone mast site incorporated into Drawing No OPEN\_497\_NP\_H001

03	Revisions to coordinate development progress; C89 Link; visitor car park position adjusted; C89 SUDs scheme; Vodafone mast compound; PrimeFour management storage area; planting around the sealing end compound; Platform levels based on WAF 93911-150-H	05	22/10/14
----	--	----	----------

29/01/2015 Emergency notice submitted by Daly International for a 20.3m tall Vodafone only temporary mast



03/04/2015 Extract of Processing meeting minutes “Vodafone Mast” Discussions were undertaken in regards to the temporary Vodafone mast on the site. PD confirmed that a permanent location is required. GM was of the impression that Vodafone would of contacted ACC about this directly. Tommy Hart (TH) advised that to his knowledge this was not the case. A number of locations were discussed, and GM advised that the preferred location would be adjacent to the ceiling end compound. This would also be next to an area to be

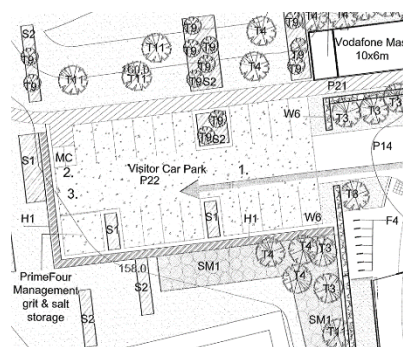
used for services to the Business Park etc. TH advised that the concern raised by this location would be the visibility of this from the approach along the C89 and visibility from the consumption dyke.”

21/04/2015 Extract of Processing meeting minutes “Vodafone Mast”

TH advised that no application had been made as yet. PD and TH agreed that the identified location of the mast on Northern Park was acceptable, but TH advised that a separate application was required. This will need to deal with the visual impact.”

24/04/2015 Pre-app re home farm (24m tall lattice) this illustrated the required height and design of mast required.

30/04/2015 Current version of OPEN\_497\_NP\_H003 (REV02) uploaded to LPA web site. Named ‘Parking Area – Northern Park’. This clearly shows application site annotated as Vodafone Mast



05/05/15 telephone conversation with Tommy Hart who confirmed he would be happy to see a temporary installation for TEF and VF on the site identified by SP for telecoms location and furthermore would be happy to accept an ‘Emergency Notice’ for a temp installation and subsequently consider a permanent solution at this location given the setting against the existing larger and taller pylons.

12/05/15 Amendment to condition 1 of application P130863 approved on basis Drawing No OPEN\_497\_NP\_H001 Rev 08

02/06/2015 Extract of Processing meeting minutes “Vodafone Mast”

TH advised that correspondence had been going back and forth, but that no conclusion had been reached with regard to that and still looking for clarity with regard to the number and position of phone masts going forward. PD advised that DRUM would pick this up and confirm this with ACC.

15/12/2015 Pre-app re current site (24m tall lattice) and Emergency Notice served for temporary mast

30/12/2015 Planning application submitted (Registered 12/01/16)

11/1/2016 LPA response to Pre app – “From the information submitted, I do not foresee any issues with the proposed development at this stage”.

03/03/2016 Advised by case officer that Aberdeen Airport had submitted a holding objection to the proposal and therefore decision would be delayed.

15/03/2016 Advised by case officer that Airport objection had been withdrawn.

17/03/2016 Advised by case officer that in addition to airport objection an objection had also been received from the Community Council. The effect of which was that the **favourable** determination of the application would require to be made by the Planning Committee due to Standing Orders in respect of the objection from Community Council. Advised that first available committee would be 21<sup>st</sup> April.

24/03/2016 Drawing No OPEN\_497\_NP\_H001 Rev 08 uploaded to LPA web site which again highlights site for Vodafone mast and retains 22/10/2014 revision.



08	Revisions to proposed contours. Adjustments made to path network to ensure accessible route.	cb	17/04/15
07	Redline boundary edited and changes made to verge and footpath along C89 link road. Review of tree specification to match existing proposals.	cs	12/03/15
06	Rationalised footpath material; added silt & grit storage area	sw	03/03/15
05	Revisions to proposed contours	cs	26/01/15
04	Revisions to address comments from client design team.	rw	10/11/14
03	Revisions to coordinate development progress; C89 Link; visitor car park position adjusted; C89 SUDs scheme; Vodafone mast compound; PrimeFour management storage area; planting around the sealing and compound; Platform levels based on WAF 83911-160-H	cs	22/10/14
02	Revisions to address comments from planning.	ah	24/7/13
01	Issued for planning	ah	3/8/13
Issue	Revision	Initial	Date

25/03/2016 Advised by case officer that application was to be recommended for refusal and consequently did not need to be referred to Committee and would be determined under delegated powers.

24/04/2016 Amendment to planning application 130863 to landscaping approved on basis of drawing No OPEN\_497\_NP\_Pha3\_H001 Rev 01 **It should be noted that this drawing is clearly 'stamped approved'** and now to all intents and purposes constitutes the up to date drawing relative to application 130863 and subject to the original conditions.

25/04/2016 Alternative structure, 22.5m tall monopole suggested (See Appendix 4 for details) as an alternative structure but received the following comment

*"The proposed 22.5m high monopole is considered to be visually less intrusive than the 25m lattice type structure, however, the principle of erecting a defined vertical element in this exposed location and within the identified 'no build zone' remains a concern. Accordingly, our current position remains".*

29/04/2016 Decision issued.

- 4.4 As can be seen from the above there is a recognised need for a telecommunications installation in this general location. This need was first highlighted in the Development Framework and Phase One Masterplan September 2011 which stated in Para 4.4.2

*“The calibre of occupier envisaged at Kingswells (such as those in the oil and gas industry) often require cutting edge telecommunication technology. The development at Kingswells therefore affords a real opportunity to provide ‘future proof’ technology to ensure the vision of a world class Business Park is maintained”.*

During this time the business park owners identified the current site as a location for a mast and this was subsequently incorporated into detailed site drawings. In this respect the Local Review Boards attention is drawn toward –

1. The minutes of the processing meetings between the developers of the business park and the allocated liaison officer where the site was subject to repeated discussions (See Appendix 2)
  2. The Council’s own web site (application 130863) and in particular to the drawings OPEN\_497\_NP\_H003 Rev02 annotated as ‘Parking Area – Northern Park’ and OPEN\_497\_NP\_H001 Rev08 annotated as ‘Northern Park hard/Soft landscape GA’, both drawings were uploaded onto web site on 30<sup>th</sup> April 2015 and both clearly show the site subject to this review as a mast location. (See Appendix 2)
- 4.5 It was against this background that the proposal was subsequently subject to standard Telecommunications Code of Best practice voluntary pre-application consultation on 15<sup>th</sup> December 2015 to which no response was received and this was followed by the formal submission of the planning application now subject to this review on the 30<sup>th</sup> December 2015. An emergency notice was also submitted on the same date for a temporary installation to ensure ongoing coverage to the area.
- 4.6 It should be noted that the case officer did however issue a response to the pre-application consultation on the 11<sup>th</sup> January 2016 after the planning application had been submitted in which he stated

*“From the information submitted, I do not foresee any issues with the proposed development at this stage”*

## **5.0 PLANNING POLICY FRAMEWORK**

### **National Planning Policy Guidance**

#### **5.1 National Planning Framework (NPF3) – issued June 2014**

The National Planning Framework (NPF3) sets out a long term vision for the development of Scotland, one vision is that of a connected place where the whole country has access to **high-speed fixed and mobile digital networks**.

#### **5.2 Scottish Planning Policy (SPP) – Issued June 2014 and subject to a recent reminder of the importance of digital connectivity in a statement issued November 2015 ‘Digital Scotland’. The SPP, is the statement of the Scottish Government’s policy on nationally important land use planning matters.**

#### **5.3 Scotland’s Digital Future - Infrastructure Action Plan (January 2012)**

The Infrastructure action plan outlines the Government’s commitment to a world class future proofed infrastructure that will deliver digital connectivity across the whole of Scotland.

#### **5.4 Planning Advice Note (PAN) 62**

In addition to the recommendations of the SPP, PAN 62 sets out the specific advice regarding the siting and design selection process for any new telecommunications development in every manner of land use area. In this regard the PAN recognises that the option with the least impact upon the local environment will vary according to site conditions, technical constraints, coverage and capacity requirements, and landscape character.

#### **5.5 Scottish Historic Environment Policy (SHEP) and the associated HES Managing Change guidance – ‘Setting’**

The above guidance rightly seeks to protect the setting of the historic assets.

### **Local Planning Policy**

Neither the Aberdeen City and Shire Structure Plan 2009 or the Aberdeenshire Local Development Plan 2012 (adopted 1 June 2012) contain a policy directly relevant to Telecommunications although the former does recognise the importance of strong telecommunication networks for economic growth. The Council rely on above National Policies and Guidance and local land use policies.

5.6 **Policy D1 – Architecture and Placemaking**

To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

5.7 **Policy D5 – Built Heritage**

Proposals affecting ... will only be permitted if they comply with Scottish Planning Policy. Planning permission for development that would have an adverse effect on the character or setting ... will be refused **unless**...any **significant** adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic and strategic benefit of national importance.

5.8 **Policy D6 – Landscape**

Development should avoid significant adverse impacts upon existing landscape elements, including linear and boundary features or other components, which contribute to local amenity, and provide opportunities for conserving, restoring or enhancing them.

5.9 The Development Plan policies are discussed in detail in the appellants case for review in paras 6.11 – 6.20 below and the manner in which they were applied in respect of the assessment of the proposal against these policies in the Report of Handling and the composite reason for refusal.

## **6.0 THE CASE FOR THE APPLICANT**

6.1 As we have outlined previously, the implementation of the proposed apparatus will provide Telefonica and Vodafone 2G, 3G and 4G mobile coverage to Prime Four Business Park area and in particular to meet the demands of Statoil, a major corporate customer. In this regard this site will act also as an integral part of the wider cellular network. It is considered that the site identified is appropriate and will not have a significant effect on the surrounding area or the adjacent 'Consumption Dyke'. The provision of the installation will provide an essential service to the developing business park, and the surrounding area, with the attendant economic and social benefits. The provision of a high quality digital communications service is central to the Governments vision of development throughout Scotland.

6.2 The application was refused by notice dated 28<sup>th</sup> April 2016. However, we will clearly demonstrate below that the Appointed Officer has:-

1. Notwithstanding the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which requires 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"* failed to give sufficient weight to national policies on the handling of planning applications where an agreed processing agreement is in place and failed to give sufficient weight to the provision of digital telecommunications.
2. crucially over-stated the visual impact and paid limited regard to the mitigation provided by the existing site setting provided by the overhead pylons and landscaping proposed as part the Prime Four development.
3. incorrectly applied the 'No build zone' as contained within Kingswell development Framework & masterplan.

## **6.3 PLANNING POLICY FRAMEWORK**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires 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"*. In this instance the relevant Development plans comprise the Aberdeen City and Shire Structure Plan 2009 or the Aberdeen Local Development Plan 2012 neither of which contain a policy directly relevant to Telecommunications although the former does recognise the importance of strong telecommunication networks for economic growth.



6.4 **Local Planning Policy** (full details in Appendix 9)

The Council rely on local Aberdeen Local Development Plan 2012 land use policies below

- Policy D1 – Architecture and Placemaking
- Policy D5 – Built Heritage
- Policy D6 – Landscape
- OP40 – Kingswells Development Framework Supplementary Guidance.

6.5 In respect of the above local policies D1, D5 and D6 the report of handling states

*“The dyke (Consumption Dyke) sits in a valley and land slopes up to the south and north, making any development within proximity of it highly visible and would have a significant impact. One of the characteristics of the dyke is its defined horizontality – just above ground level – whereas the mast would be **an isolated, vertical structure in an exposed and prominent location** and would immediately draw the eye upwards and away from the dyke’s horizontality; therefore it is considered that the setting of the dyke would be compromised.”*

This assessment singularly fails to address the current situation and the impact that the existing pylons have on the setting of the dyke. It is accepted that the dyke is low and horizontal in nature but the existing pylons already draw the eye upwards and away from the dyke’s horizontality and therefore form an established setting for the dyke. To state that the current proposal would form “*an isolated, vertical structure in an exposed and prominent location*” is factually incorrect and clearly an overstatement of the impact and prejudicial to the objective assessment of the proposal.

6.6 The telecommunications installation proposed must be assessed against the cumulative impact of it and the pylons. Given that the experience of visitors to the dyke is already impacted by the pylons it is considered that a lower narrower open lattice mast in the same view would not be significant. In this regard please see attached photomontages (appendix 8). The dyke is 440m in length and runs generally east /west. It is built in 4 sections with steps deliberately incorporated at the ends of each section providing walkers access to the paved top sections. The photomontages are taken from its eastern and western ends CTIL 151096.1.1 (east) and CTIL 151096.2.1 (west). Both photomontages clearly illustrate the existing impact of the pylons and the mitigation offered by them in respect of the proposed lattice mast.

6.7 In respect of OP40 – Kingswells Development Framework Supplementary Guidance it is noted that it contains the following statement in Para 4.4.2

*“The calibre of occupier envisaged at Kingswells (such as those in the oil and gas industry) often require cutting edge telecommunication technology. The development at Kingswells therefore affords a real*

*opportunity to provide 'future proof' technology to ensure the vision of a world class Business Park is maintained".*

Notwithstanding the above the appointed officer focussed on the 120m 'no build zone' to the south of the dyke. The master plan and previous assessments of the potential adverse impacts on the setting of the dyke consistently refer to '**buildings**'. This zone is not a 'no development zone' as interpreted by appointed officer (and the Community Council). Indeed this issue was subject to prior clarification to the planning committee 20/03/2014 when the committee approved a reserved matters application in respect of application P131501 for various issues subject to a committee report which include the following clarification

*"The intent of the no build zone relates to buildings and other 'structures' of mass..."*

The printed minutes of the meeting do not show any committee disagreement with this clarification so it must therefore be considered as the council's settled position on the matter.

6.8 It is our contention that the given the above clarification the proposal which is clearly not a building nor structure of 'mass' does not offend the aims of the 'No build zone' requirement. This view was clearly in the mind of the council liaison officers who attended the processing meetings and agreed the mast location during early 2015 and also when agreeing the subsequent amendments to the plans which are now integral to the wider planning consent.

6.9 The central and overarching consideration applied in the determination of the application was the appointed officers assessment that the proposed lattice mast would, when seen from the Consumption Dyke, be an "*isolated, vertical structure in an exposed and prominent location and ..... it is considered that the setting of the dyke would be compromised*". It was on this single basis that the application was considered to be worthy of refusal despite all previous discussions through the processing agreement meetings and the council's own actions in approving the location of a mast at this location on 'Stamped approved plans' used in the process of discharging original conditions. As discussed in para 6.6 above and illustrated in the attached photomontages (Appendix 8) this is not the case. Whilst visible from the dyke the proposed telecommunications installation will be always be seen in the context of a taller more imposing electricity pylon which presently provides the setting for the dyke.

6.10 **Other material considerations**

6.11 **National Planning Framework (NPF3)** – issued June 2014

The National Planning Framework (NPF3) sets out a long term vision for the development of Scotland, one vision is that of a connected place where the whole country has access to **high-speed fixed and mobile digital networks**.

- 6.12 **Scottish Planning Policy (SPP)** – Issued June 2014 and subject to a recent reminder of the importance of digital connectivity in a statement issued November 2015 ‘Digital Scotland’. The SPP, is the statement of the Scottish Government’s policy on nationally important land use planning matters

Paragraph 4 states the Core value of the planning service:-

“focus on outcomes, maximising benefits and balancing competing interests; play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the **strengthening of economic capacity** and resilience within communities; be plan-led, with **plans being up-to-date** and relevant; make decisions .... to provide a supportive business environment and **engender public confidence** in the system;....”

Paragraph 13 states:-

“The following four planning outcomes explain how planning should support the vision. The outcomes are consistent across the NPF and SPP and focus on creating a successful sustainable place, a low carbon place, a natural, resilient place and a **more connected place**. For planning to make a positive difference, development plans and new development need to contribute to achieving these outcomes”

Paragraph 15 states:-

“....By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well-being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities. Delivering high-quality buildings, **infrastructure** and spaces in the right locations helps provide choice over where to live and style of home, choice as to how to access amenities and services and choice to live more active, engaged, independent and healthy lifestyles”

Paragraphs 22-23 state:-

“...investment in infrastructure, to strengthen transport links within Scotland and to the rest of the world. **Improved digital connections** will also play a key role in helping to deliver our spatial strategy for sustainable growth..... By aligning development more closely with transport and **digital infrastructure**, planning can improve sustainability and connectivity. Improved connections facilitate accessibility within and between places – within Scotland and beyond – and support economic growth and an inclusive society”.

Paragraphs 292-300 state the Government support for Digital Connectivity.

“....Our economy and social networks depend heavily on high-quality digital infrastructure. To facilitate investment across Scotland, planning has an

important role to play in strengthening **digital communications capacity and coverage** across Scotland”

Paragraph 298 states:-

“Development Management consideration should be given to how proposals for infrastructure to deliver new services **or infrastructure to improve existing services** will contribute to fulfilling the objectives for digital connectivity set out in the Scottish Government’s World Class 2020 document.

The SPP also offers guidance on general planning issues in relation to telecommunications installations and the manner in which authorities treat such applications, clearly stating that...the matter of health and safety is not an issue that should be considered in the determination of a planning application.

#### 6.13 **Scotland’s Digital Future - Infrastructure Action Plan (January 2012)**

The Infrastructure action plan outlines the Government’s commitment to a world class future proofed infrastructure that will deliver digital connectivity across the whole of Scotland.

*“The purpose of the plan is to deliver a step change in people’s ability to access the internet, enabling people to connect from their homes, businesses and while on the move. These improvements to our digital infrastructure are essential if we are to maintain and improve the ability of our businesses to compete in a global market place; be successful in attracting inward investment; transform the delivery of public services; respond to the challenges of a low carbon economy and have vibrant, strong and connected communities in our cities, towns and rural areas. This will make a major contribution to the Government’s purpose of making Scotland a more successful country, with opportunities for all to flourish, through increasing sustainable economic growth for all of Scotland. Modern digital connectivity is one of the essential components of creating a successful country. For businesses and social enterprises, it enhances productivity and drives innovation.”*

The Infrastructure Action Plan sets out four critical programmes, the Government recognises that mobile phone coverage is an essential component and states :-

*“Improving **mobile** coverage across Scotland is also an important element of the plan to ensure people have good access, wherever they are, to telephone and data services from hand held platforms such as mobile and smart phones, and tablets”*

#### 6.14 **Planning Advice Note (PAN) 62**

In addition to the recommendations of the SPP, PAN 62 sets out the specific advice regarding the siting and design selection process for any new telecommunications development in every manner of land use area. In this regard the PAN recognises that the option with the least impact upon the local

environment will vary according to site conditions, technical constraints, coverage and capacity requirements, and landscape character.

PAN 62 further confirms the Scottish Executive's aim to secure a world class telecommunications service whilst safeguarding the natural and built environment, offering a "series of options" which should be considered when selecting a siting and design solution. In this regard, Paragraph 34 states:-

*"The option with the least impact will vary according to site conditions, technical constraints, coverage and capacity requirements and landscape character.*

*The series of options is therefore a guide or checklist rather than a sequence to be rigidly followed.*

*The options are:*

- *installing small scale equipment;* We would take this opportunity to confirm that the applicant has kept the proposed height and girth of the mast structure, antennas to an operational minimum.
- *concealing or disguising equipment;* Given that standard lattice type mast have already become an accepted part of the wider landscape we would not consider the further disguise of the proposed equipment to be appropriate
- *mast sharing;* This proposal allows the installation to accommodate both O2 and Vodafone at a single location thereby reducing the need for 2 separate installations within the locality
- *site sharing;* As above.
- *installing on existing buildings or other structures;* There are no tall buildings, structures or other telecommunications installations within the area which could accommodate the proposal.
- *erecting a new ground based mast."* As above.

We would, however, reiterate that this is a checklist rather than a rigid sequence of steps.

6.15 PAN 62 gives advice on the process of site selection and design of mobile base stations and masts, and illustrates how the equipment can be sensitively installed. The PAN aims to keep environmental impact to a minimum; equipment should become an unobtrusive feature of urban and rural areas. It is acknowledged that the development of telecommunications equipment will be concentrated in urban areas, where demand is greatest, visually sensitive locations in urban areas are considered to be conservation areas, scheduled ancient monuments and their settings, listed buildings and their settings, and recreational area e.g. public open space. Operators are encouraged to explore alternative sites and design to find the solution with the least landscape impact and allay public concern. The PAN further states that if the consideration of alternative sites is not thought to be satisfactory that the planning authority may be justified in refusing planning permission.

6.16 In respect of alternative sites investigated the Board are reminded that the first site which was progressed was within Home Farm but the land owner at that

location withdrew from negotiation so that site had to be aborted. Whilst roof top installations are technically feasible the buildings throughout the business park are now in individual ownerships. Drum as developer do not control access to all the buildings. Furthermore the building owner's, mainly offshore operators or suppliers, are very particular about access and even supplier proximity to their buildings for security / sensitivity reasons. This is something the management company at the park experiences and deals with every day.

This constraint on rooftop installations is particularly relevant for telecommunications operators as 24 hour access is required to enable non routine maintenance to be undertaken thus ensuring resilience of the service.

Notwithstanding the above the application site remains as the optimum location for an installation as it provides excellent coverage to the whole of the business park and also to the wider Kingswell community from a single installation. This is clearly demonstrated in the coverage plots (Appendix 7) please note that the coverage plots only show coverage from the installation subject to this review; the present service available to the area is only available due to the presence of the temporary emergency installation on site. Existing buildings in the business park are lower and any single rooftop installation within the business park would not provide the same level of coverage as the proposed installation and more than one rooftop installation would be required to provide the same level of coverage as the proposed installation.

The review site was only progressed after it had been identified and agreed by all parties including the Planning Authority during the processing agreement meetings.

6.17 **Scottish Historic Environment Policy (SHEP) and the associated HES Managing Change guidance – ‘Setting’**

The above guidance rightly seeks to protect the setting of the historic assets but does so with the following comment/consideration:-

“the presence, extent, character and scale of the **existing built environment** within the surroundings of the historic asset or place and how the proposed development compares to this”

- 6.18 It is clear from the tone of The National Planning Framework (NPF3), Scottish Planning Policy (SPP) – Issued June 2014 and subject to a recent reminder of the importance of digital connectivity in a statement issued November 2015 ‘Digital Scotland’ is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. Section 3D of the Town and Country Planning (Scotland) 1997 Act requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to sustainable development. **As a statement of Ministers’ priorities the content of the SPP is a material consideration that carries significant weight...** By way of

clarification the SPP also states that where 'should' is used it reflects Scottish Ministers' expectations of an efficient and effective planning system. It is also clear from the ROH that the appointed officer whilst aware of the above national policy guidelines failed to give sufficient weight to the economic and social benefits provided by the proposal and consequently failed to have regard to the express will of Government.

6.19 An integral component of the Government's stance on the Core Values of the Planning service is the encouragement of the use of 'processing agreements'. The Scottish Government has actively promoted the use of processing agreements as a project management tool for planning applications since 2012. The government issued the document "Benefits of using Processing Agreements: April 2015" in which the following statement is to be found "The Scottish Government worked with Aberdeen City and City of Edinburgh Councils to identify good practice".

6.20 In this regard, and in good faith, a processing agreement was entered into with the developers of Prime Four Business Park. The minutes of the monthly processing meetings clearly show that the LPA liaison team were aware of the need for a mast in the area and agreed a location. In addition to the processing meetings 2 amendments were made to the original consent P130836 in both instances the accompanying drawings which clearly illustrated the mast location were approved and uploaded onto the LPA web site as the current approved drawings. A detailed timeline of events is shown above on para 4.3 above (full details of documents referred to are attached in Appendix 2). It is clear from the above that the processing agreement should have been a material consideration in the determination of the application yet the Report of Handling (ROH) fails to make a single reference to the agreement.

6.21 **Siting and Design Merit**

6.22 **Siting**

6.20 As the Board will appreciate, it is extremely difficult for any new telecommunications development to enhance any local environment never mind one that is an area with sensitive uses or structures. All that can be done is to make every effort to ensure that any potential impact is kept to an absolute minimum through careful site selection and design consideration.

6.21 On receipt of the request from business park operator for an enhanced telecommunications service to the wider business park and in particular to the needs of a large corporate customer, the first consideration was to consider if any existing sites could be upgraded. However, there are no existing VF/O2 sites which could be upgraded to meet the coverage/capacity requirements of the Business Park. Nor were there any other operator's masts which could be used. See extract of Ofcom Sitefinder map below. The site identified by the park owners and confirmed through the processing agreement meetings was then progressed. It is highlighted that whilst the installation will undoubtedly provide the high quality communications service required by the business park occupants and visitors, the installation will also provide enhanced 3G and 4G

service to the wider residential community of Kingswell. This follows from the amenities and services the park already delivers for local residents across childcare, gym, health, restaurant, pub, Starbucks etc



## 6.22 Design

6.23 The submitted proposal is for a shared use installation which would accommodate both O2 and Vodafone. The lattice mast proposed meets the current requirements of the operators and also allows for future upgrades. The submitted drawings show the existing and as yet immature planting in the area but it is highlighted that the approved landscape plans show a mixture of trees in this area Rowan (*Sorbus aucuparia*), Himalayan Birch (*Betula utilis jacquemontii*) and Silver Birch (*Betula pendula*) which will variously grow to between 12 and 20m in height. This landscape setting will ultimately have a significant impact on the apparent height of the structure and help to absorb the development into the wider landscape. It is noted that the Report of Handling did not take into consideration the mitigating impact of this landscape setting.



## **7.0 CONCLUSION**

7.1 In refusing full planning permission for this much-needed telecommunications development the Appointed Officer has:-

- Failed to give any consideration to the extensive background pre-application discussions undertaken through the processing agreement meetings, and as such has
- acted contrary to the core values of the Scottish Government which expects and has actively promoted the use of processing agreements as a project management tool to guide the implementation of largescale developments.
- over exaggerated the impact of the proposal on the recognised historic asset that is the Consumption Dyke without regard to its existing setting dominated by electricity pylons.
- misinterpreted the concept of the 'No Build Zone' as applied to the proposal. This is despite a committee approved interpretation made in 2014 which clearly states that the no build zone relates to "Buildings and structures of mass".
- Notwithstanding the above we contend that the Council by approving subsequent amendments to the original consent and by incorporating these amendments into 'Stamped approved' plans have consciously embodied the site location as approved into the statutory consents.

7.2 As such, given the numerous errors/omissions and different interpretations placed on issues surrounding the application we would therefore respectfully request that the Board upholds this request for a review and grants the applicant planning permission for the subject proposal.

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# Agenda Item 9

Signed (authorised Officer(s)):

OLDTOWN FARM, STATION ROAD SOUTH

ERECTION OF FARM WORKERS  
DWELLINGHOUSE

For: Mr K and L Pratt

Application Type : Planning Permission in  
Principle

Application Ref. : P160258

Application Date : 03/03/2016

Advert : Can't notify

neighbour(s)

Advertised on : 16/03/2016

Officer : Dineke Brasier

Creation Date : 26 April 2016

Ward: Lower Deeside (M Boulton/A

Malone/M Malik)

Community Council: Comments

## **RECOMMENDATION:**

### **Refuse**

### **DESCRIPTION**

Old Town Farm is an existing farm complex comprising a substantial two storey granite and slate farmhouse, a pair of semi-detached one and a half storey dwellings, a converted bothy, and various large agricultural buildings all set around an informal large area of hardstanding.

The complex is set in a rural location in the Green Belt and accessed via a narrow single lane road. The Peterculter Golf Club course runs to the east of the farm, although it is separated by fields, with the club house and parking area located to the north east. The town of Peterculter is approximately one mile to the north.

The rectangular site subject of this application is a grassed area measuring approximately 740m<sup>2</sup>. It is part of a larger field, roughly double the size of the site, which is marked by a post and wire fence.

### **RELEVANT HISTORY**

150710 – Planning in principle for the erection of a house in the same location was refused in June 2015 on the grounds that the proposal was contrary to Policy NE2 (Green Belt) of the Aberdeen Local Development Plan in that it had not been demonstrated that the house was essential to accommodate an

agricultural worker and that it would set an undesirable precedent. An appeal to Local Review Body was dismissed in January 2016.

The overall farm has a long and complex planning history. The main relevant implemented planning applications are the following:

040126 – Construction of a dwelling to replace the existing farmhouse – Approved conditionally

031953 – Alterations and extensions of old bothy to form a new dwellinghouse – Approved conditionally

021663 – Change of use of steading to form 2 new dwellings – Approved conditionally.

In addition, during the 1990s three planning applications (900015, 911585 and 950376) for the erection of a dwelling were refused.

## **PROPOSAL**

Planning permission in principle is sought for the construction of a dwelling. Only the site with a proposed residential curtilage is shown, with the only information being a supporting statement and a labour requirement report. No indication has been given of the design, massing, siting, access or landscaping of the proposal. As such, the only issue considered in this report of handling is the principle of the application.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref.=160258>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

Supporting Statement

Labour Requirement Report

Ground Assessment and Drainage Requirement Report

## **CONSULTATIONS**

**Roads Development Management**- No observations

**Environmental Health** – No objection subject to conditions

**Communities, Housing and Infrastructure (Flooding)** – No observations

**Community Council** – No objection subject to conditions in relation to finishes and adding an agricultural tie to the dwelling.

## **REPRESENTATIONS**

None received

## **PLANNING POLICY**

### Scottish Planning Policy:

Paragraphs 49 and 52: Sets out the Scottish Government's approach towards development in the Green Belt. The purpose of Green Belts is to support the spatial strategy in a local development plan by directing development to the most appropriate locations and supporting regeneration, protecting and enhancing the character, landscape setting and identity of the settlement and protecting and providing access to open space. The following types of development could be considered appropriate:

- Development associated with agriculture (including the reuse of agricultural buildings);
- Development associated with woodland and forestry;
- Development associated with horticulture;
- Recreational uses compatible with an agricultural or natural setting;
- Essential infrastructure;
- Development meeting a national or established need, if no other suitable site is available;
- Intensification of established uses subject to the development being of a suitable scale and form.

## **Aberdeen Local Development Plan**

### NE2 – Green Belt

## **Proposed Aberdeen Local Development Plan**

### NE2 – Green Belt

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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.

### Principle of the development:

The site is located in the Green Belt and policy NE2 (Green Belt) of the Aberdeen Local Development Plan applies. This policy clearly sets out 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 or restoration or landscape renewal.

As noted in the Relevant History section above, planning permission in principle has previously been refused for a house on this site, with that decision upheld on review by the Local Review Body. Supporting documentation (Labour Requirement Report) submitted with that planning application stated that 0.94 labour units would be required to run the farm. As such the labour requirement

for the farm could be accommodated by the existing farmhouse. Given this previous decision, it is necessary to consider and assess any material change in circumstances, any new information provided by the applicant and any change in planning policy, both national and local, that may have subsequently occurred. With regard to the latter, there has been no change in planning policy. Accordingly, the main consideration is whether the applicant has provided a clear and robust justification for an additional house on the farm.

In considering this proposal, it is important to establish whether the proposed dwelling is *essential* for the running of the existing farming business at Oldtown Farm. A supporting statement and labour requirement report have been submitted as part of the application. This labour requirement report sets out that the labour requirement based on the current number of ewes, rams and lambs is 1.42, but highlights that for a period of approximately five months per year, two full time workers are needed at the farm for lambing, sales etc, whilst for an overall period of eight months per year more than one worker is required. The lambing period itself takes approximately six weeks. Crucially, even though the work load on the farm would be sufficient for two farm workers, neither the labour requirement report nor the Planning Supporting Statement specify that both farm workers need to live at the site. The distance to the nearest settlement with sufficient available residential accommodation, Peterculter, is, as set out in the Supporting Statement, approximately one mile. As such, this means that if the farm worker would need to work until late at night during peak times, the distance between the farm and this residential area is not so great to necessitate staying over at the farm. This short distance also implies that if urgent assistance were to be required, then it would take only a short time for the farm worker to travel from Peterculter to the farm. It is accepted that it might be necessary to have full-time presence on the farm during the lambing period. However, that would be achieved by the existing farmhouse being occupied by a person or persons employed on the farm. The lambing period occurs for only a short period of the year, and that this in itself would not justify the construction of an additional dwelling in the green belt.

The labour requirement report further sets out that for security of livestock and equipment, it is important to have a responsible person living on the farm at all times. In this case, the overall Oldtown Farm complex comprises four occupied residential dwellings, including the farmhouse directly associated with the agricultural business. This in itself should ensure that there is sufficient supervision and security at the site at all times by the occupants of these existing properties on the site.

Policy NE2 (Green Belt) sets out that development in the green belt would only be permitted for development *essential* for agriculture, woodland etc. Taking account of the above, it is contended that it has not been demonstrated that the proposed development is *essential* for the running of Oldtown Farm. The proposal would therefore not comply with policy NE2 (Green Belt).

As the dwelling is not considered to be essential for agriculture, and therefore does not comply with this first criterion of policy NE2 (Green Belt), it is considered as an additional dwelling in the green belt. When looking at Scottish Planning Policy, the purpose of the green belt is to direct growth to the right locations, to protect and enhance the quality, landscape setting and identity of towns and cities. In this case, the proposed development would result in residential sprawl outside of an identified residential area, and would increase the built-up appearance of this part of the green belt. This would be contrary to this overarching function of the green belt, which is aimed at concentrating development within designated cities, towns and villages to ensure the open countryside retains its existing open character and landscape qualities. The proposal would therefore present an undesirable precedent based on the construction of additional dwellings in the green belt, which could ultimately result in further residential development in the green belt, which would have an adverse impact on the open landscape qualities of this part of the green belt.

Other matters arising:

In their supporting statement, the applicant argues that the proposal complies with policy D1 (Architecture and Placemaking) as the proposal would make a positive contribution to its setting. However, no drawings other than the one outlining the site and the residential curtilage have been submitted. As such, no other issues, e.g. scale and design, have been considered as this information was not available. Policy D1 is therefore not relevant in this context as there is no design to consider.

The Supporting Statement argues that the 'exception' policy of policy NE2 would apply, as the proposal would be an intensification of an existing use. In this case, this policy would not apply, as there is no existing residential curtilage on this part of the site, and its use would therefore be considered agricultural and not residential.

The supporting statement further argues that, even though Scottish Government Document PAN 72 (Housing in the Countryside) would not be directly relevant, the proposal would comply with the aims set out in this document. This document does not discuss the principle of residential development within the green belt, or even the open countryside, but provides direction as to issues that need to be taken into consideration when designing a dwelling within the open countryside. The failure of the proposal to comply with the green belt policy as set out in Scottish Planning Policy has been discussed above.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material

consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis.

In this case, policy NE2 (Green Belt) is relevant. Representations have been lodged in relation to this policy, and it therefore carries limited weight. However, it substantially reiterates existing policy NE2 (Green Belt) and the proposal would therefore fail to comply with this policy as well.

## **RECOMMENDATION**

**Refuse**

## **REASONS FOR RECOMMENDATION**

1. The proposal has not satisfactorily demonstrated that the proposed dwelling is essential for the running of Oldtown Farm. Even though it is demonstrated that for part of the year there is sufficient work to support more than one worker on the farm, it is not demonstrated that it is *essential* that this second worker resides on the Oldtown Farm complex, especially given the proximity of the nearest residential settlement, Peterculter, to the site. The proposal would therefore undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to the erosion of the character of such areas. This is contrary to the requirements of policy NE2 (Green Belt) of the Aberdeen Local Development Plan and policy NE2 (Green Belt) of the Proposed Local Development Plan.
2. The proposal would set an undesirable precedent for applications of a similar nature which would result in the proliferation of additional housing in the Green Belt, which would result in the erosion of the character and appearance of the Green Belt, and the landscape setting of the city.





**PLANNING & SUSTAINABLE DEVELOPMENT**  
Communities, Housing and Infrastructure  
Business Hub 4, Marischal College, Broad Street,  
ABERDEEN. AB10 1AB

## THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

# Refusal of Planning Permission in Principle

William Lippe Architects Ltd  
4 St James Place  
Inverurie  
AB51 3UB

on behalf of **Mr K and L Pratt**

With reference to your application validly received on 3 March 2016 for Planning Permission in Principle under the above mentioned Act for the following development, viz:-

### **ERECTION OF FARM WORKERS DWELLINGHOUSE** at **Oldtown Farm, Station Road South**

the Council in exercise of their powers under the above mentioned Act hereby REFUSE Planning Permission in Principle for the said development specified in the application form and the plan(s) and documents docketed as relative thereto and numbered as follows:-

Document No: 175000;  
Detail: Site Plan; Drawing No: 5132/02A;  
<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175000>

Document No: 175001;  
Detail: Location Plan; Drawing No: 5132/01A;  
<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175001>

Document No: 175003;  
Detail: OS Map; Drawing No: 5132/OSA;  
<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175003>

The reasons on which the Council has based this decision are as follows:-

1. The proposal has not satisfactorily demonstrated that the proposed dwelling is essential for the running of Oldtown Farm. Even though it is demonstrated that for part of the year there is sufficient work to support more than one worker on the farm, it is not demonstrated that it is essential that this second worker resides on the Oldtown Farm complex, especially given the proximity of the nearest residential settlement, Peterculter, to the site. The proposal would therefore undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to the erosion of the character of such areas.

Pete Leonard  
Corporate Director

This is contrary to the requirements of policy NE2 (Green Belt) of the Aberdeen Local Development Plan and policy NE2 (Green Belt) of the Proposed Local Development Plan.

2. The proposal would set an undesirable precedent for applications of a similar nature which would result in the proliferation of additional housing in the Green Belt, which would result in the erosion of the character and appearance of the Green Belt, and the landscape setting of the city.

The plans, drawings and documents that are the subject of this decision notice are numbered as follows:-

Document No: 175000;

Detail: Site Plan; Drawing No: 5132/02A;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175000>

Document No: 175001;

Detail: Location Plan; Drawing No: 5132/01A;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175001>

Document No: 175003;

Detail: OS Map; Drawing No: 5132/OSA;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=160258&index=175003>

**Date of Signing 5 May 2016**

**Dr Margaret Bochel**

Head of Planning and Sustainable Development

Enc.

Pete Leonard  
Corporate Director

**NB. EXTREMELY IMPORTANT INFORMATION RELATED TO THIS GRANT OF PLANNING PERMISSION IN PRINCIPLE**

1. The applicant has the right to have the decision to refuse the application reviewed by the planning authority and further details are given in Form 2 attached below.

- 2.

Regulation 28(4)(a)

Form 1

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

3. If the applicant is aggrieved by the decision of the planning authority to –
  - a. refuse planning permission for the proposed development;
  - b. to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c. to grant planning permission or approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at <http://eplanning.scotland.gov.uk/>.

Notices of review submitted by post should be sent to –

Planning and Sustainable Development  
 Communities, Housing & Infrastructure  
 Aberdeen City Council  
 Business Hub 4  
 Ground Floor North  
 Marischal College  
 Broad Street  
 Aberdeen  
 AB10 1AB

Pete Leonard  
 Corporate Director

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Pete Leonard  
Corporate Director

# CULTER COMMUNITY COUNCIL



1 Brighton Place, Peterculter AB14 0UN

e

20 March 2016

Ms Dineke Brasier, Planning Officer  
Planning and Sustainable Development  
Aberdeen City Council  
Business Hub 4, Ground Floor North, Marischal College, Broad Street  
Aberdeen AB10 1AB

Dear Ms Brasier

**Planning Application P160258: Old Town Farm –erection of farm-workers’ dwelling house**

I have just taken on the role of Planning Liaison Officer for Culter Community Council (CCC), so I am now your first point of contact in CCC.

The application makes a convincing case for housing for an agricultural worker at Old Town Farm, and Culter Community Council is delighted that a successful farming business is thriving in this location.

In order to comply with Policy NE 2 (“no development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry ...”), occupation now and in the future should be restricted to agricultural workers. Further, the building should be of a vernacular design and appearance, to blend as far as possible into the landscape and green belt according to the relevant policies and guidance.

If conditions are attached to ensure that:

- the new house will be tied for the use of an agricultural/farm worker employed for duties on Old Town Farm in line with Policy NE 2 (“no development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry .....”), via a Section 75 obligation or equivalent mechanism enforceable against future owners or occupiers of the land
- the finish of the proposed building is stone, to match the other farm dwellings, rather than light-coloured render which matches none of the existing farm buildings

then Culter Community Council would support this application.

For and on behalf of Culter Community Council,



**Andy Roberts**  
*Planning Liaison Officer*

cc Councillors Boulton, Malik and Malone

## **Additional Comments from CULTER COMMUNITY COUNCIL**

**From:** Culter PLO

**Sent:** 31 July 2016 15:27

**To:** LocalReviewBody

**Cc:** Aileen Malone; M.Tauqeer Malik; Marie Boulton; Andrew Horgan; Heather Edgar; Barry Wink; Catherine Lacy; Anne Russell; David Wakefield; Lavina Massie; Ann Wakefield; Julia Crichton; Val Muir; Doug MacGregor; Nicola Winter

**Subject:** P160258 - review of planning decision, Oldtown Farm Peterculter

Attn: [Mark Masson](#)

As set out in your letter of 21 July 2016, regarding Planning Application P160258 concerning a new dwelling house at Oldtown Farm, Culter Community Council makes the following additional representation.

Culter Community Council wholeheartedly supports the Planning Authority's rigorous application of Green Belt Policies in determining this application, and encourages the Aberdeen City Council Local Review Body to review the decision placing the same priority on these policies.

**Andy Roberts**

*Planning Liaison Officer*

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Good afternoon Mark,

Thank you for the opportunity to comment further on the comments made by Culter Community Council on the local review body appeal for a farm workers dwelling house at old town farm Petetculter.

It is clear from the comments made at the time the application was being processed that both the planning officer and the applicant understood that the community council was supportive of the application.

Their further comments simply state the Councils policies with regard to this type of development and suggest if the application is approved that certain conditions would apply. Naturally there should not be any agricultural tie between the house and the farm if the application is approved as recommended by the Chief Planner for Scotland.

The case made for the house demonstrates compliance with the councils policy for development in the green belt.

Thank you.

Regards

**Stephen Martin**

**Associate**

**Chartered Architect** B.Sc Hons (Aberdeen) Dip Arch RIAS

**Lippe Architects + Planners Ltd**

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## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**Use BLOCK CAPITALS if completing in manuscript**

**Applicant(s)**

Name MR K and L PRATT

Address OLDTOWN FARMHOUSE  
OLDTOWN FARM  
PETERCULTER  
ABERDEEN  
AB14 0LN

Postcode AB14 0LN

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

**Agent (if any)**

Name LIPPE ARCHITECTS + PLANNERS

Address 4 ST JAMES PLACE  
INVERURIE  
ABERDEENSHIRE

Postcode AB51 3UB

Contact Telephone 1 01467 62285

Contact Telephone 2

Fax No 01467 62485

E-mail\* admin@lippe-architects.co.uk

Mark this box to confirm all contact should be through this representative:

\* Do you agree to correspondence regarding your review being sent by e-mail? Yes  No

Planning authority ABERDEEN CITY COUNCIL

Planning authority's application reference number PI60258

Site address OLDTOWN FARM, PETERCULTER

Description of proposed development ERECTION OF DWELLINGHOUSE  
FOR FARM WORKER

Date of application 3/3/16 Date of decision (if any) 5.5.16

**Note.** This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.



**Nature of application**

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

**Reasons for seeking review**

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE SEE ATTACHED STATEMENT AS DOCUMENT 1

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes  No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

- DOCUMENT 1 - PLANNING REVIEW STATEMENT
- DOCUMENT 2 - PLANNING JUSTIFICATION STATEMENT
- DOCUMENT 3 - LABOUR REQUIREMENT REPORT 18/02/16 BY SAC CONSULTING
- DOCUMENT 4 - S.A MCGREGOR DRAINAGE REPORT
- DOCUMENT 5 - LETTER OF SUPPORT FROM CULTER COMMUNITY COUNCIL DATED 20/03/16
- DOCUMENT 6 - REFUSAL NOTICE DATED
- DOCUMENT 7 - OFFICER'S DELEGATED REPORT
- DOCUMENT 8 - REFUSED DRAWINGS S132/05A, S132/01A, S132/02A
- DOCUMENT 9 - INDICATIVE HOUSE TYPE

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration**

I the ~~applicant~~/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

19.7.16



**Planning Statement for Notice of Review for:  
Erection of Farm Workers Dwellinghouse at  
Oldtown Farm, Peterculter – Planning  
Permission Reference P160258**



**For Mr and Mrs K and L Pratt  
July 2016**

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## **Contents**

- 1. Background, Proposal and Grounds of Appeal**
- 2. Planning Policy and Advice**
- 3. Material Considerations**
- 4. Discussion, Justification and Conclusion**

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## 1. Background, Proposal and Grounds of Appeal

This appeal relates to Aberdeen City Council's refusal of Planning Permission in Principle reference P160258 for the erection of a farm workers dwellinghouse at Oldtown Farm, Peterculter. The refusal is dated 5 May 2016. The appeal site measures 740 square metres and seeks permission for an additional farm worker's house at Oldtown Farm.

The reasons for refusal state:

1. The proposal has not satisfactorily demonstrated that the proposed dwelling is essential for the running of Oldtown Farm. Even though it is demonstrated that for part of the year there is sufficient work to support more than one worker on the farm, it is not demonstrated that it is essential that this second worker resides on the Oldtown Farm complex, especially given the proximity of the nearest residential settlement, Peterculter, to the site. The proposal would therefore undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to the erosion of character of such areas. This is contrary to the requirements of Policy NE2 (Green Belt) of the Aberdeen Local Development Plan and Policy NE2 (Green Belt) of the Proposed Local Development Plan.
2. The proposal would set an undesirable precedent for applications of a similar nature which would result in the proliferation of additional housing in the Green Belt which would result in the erosion of the character and appearance of the Green Belt and the landscape setting of the city.

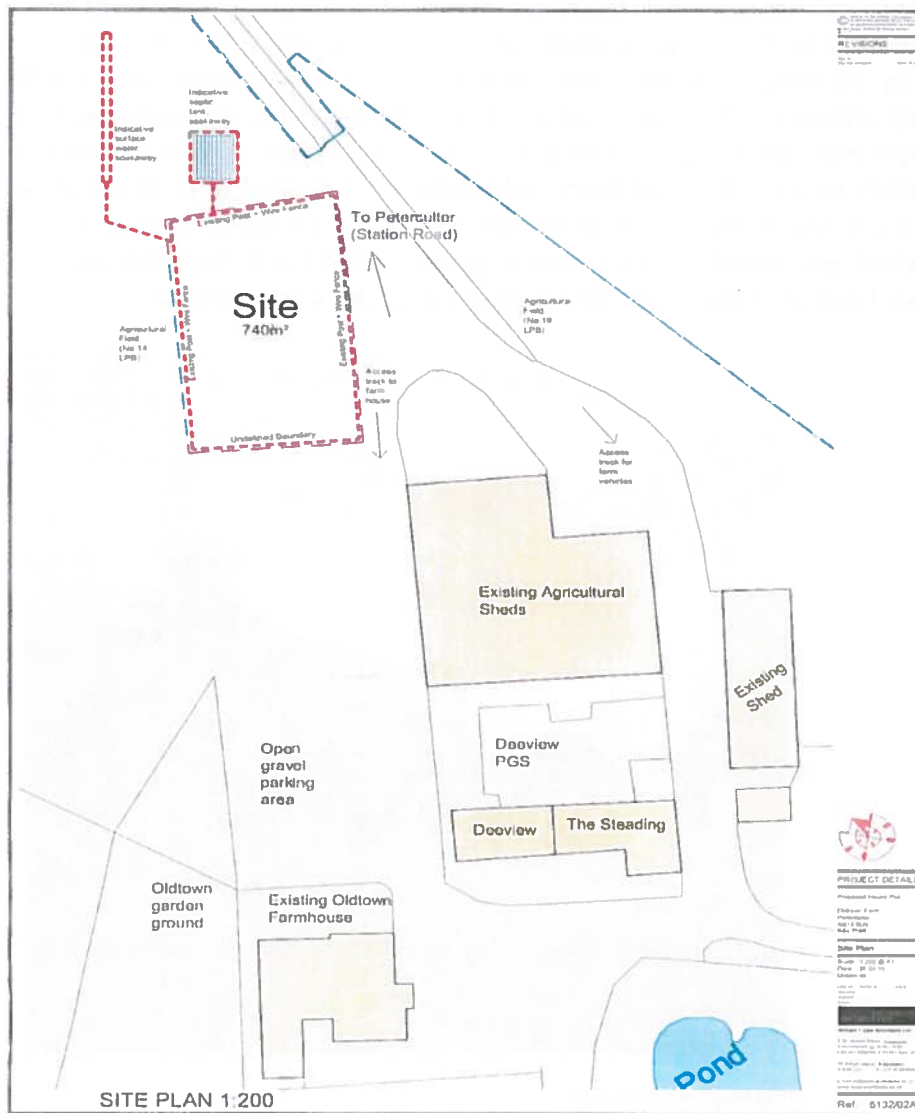


*Aerial photograph of the farm and application site.*

The grounds of appeal are as follows:

- The Planning Authority has accepted that the workload on the farm would be sufficient for two workers. There is therefore an accepted need for two workers at Oldtown Farm to manage the farming operations and animals particularly in terms of manual handling. The supporting documentation demonstrates the need for both workers to be living at Oldtown Farm. There is an ever increasing workload associated with running the farm which cannot be managed on site by the applicant alone.
- There is no alternative accommodation available within the vicinity of Oldtown Farm. Although accommodation may be available in Peterculter, it is not efficient or safe for the worker to live there instead. The intensively farmed pedigree Texel sheep require 24 hour attention and it is essential for the worker to be housed in the immediate vicinity of Oldtown Farm in compliance with Policy NE2 Green Belt.
- The site has been significantly reduced in size from the previous refusal and the indicative house which is modest in size and traditionally designed which is entirely appropriate for a farm worker and their family.
- Notwithstanding an objection to the previous application from Culter Community Council, the Community Council has written in support of the application stating “ The application makes a convincing case for housing an agricultural worker at Oldtown Farm, and Culter Community Council is delighted that a successful farming business is thriving in this location”.
- There are no technical objections to the proposal and no objections from third parties.
- The material considerations of National and Regional Planning Policy and advice have not been adequately taken into consideration.
- The proposal is supported by National Planning Framework 3 which supports the many and varied opportunities to support business and employment and this has not been recognised.
- The proposal is supported by Scottish Planning Policy which supports sustainable small scale development and is clear that development associated with agriculture can be acceptable in a Green Belt location.
- Scottish Planning Policy states that due weight should be given to net economic benefit and making efficient use of existing capabilities of land, buildings and infrastructure which is the case at Oldtown Farm.
- The proposal is supported by the Regional Economic Strategy 2015 which aims to sustain, diversify and grow our regional economic base with particular reference to developing our food and drink, agriculture and fishing, tourism, life sciences, business, financial and professional services, creative industries and new energy technologies.
- The proposal is supported by the Aberdeen City and Shire Strategic Development Plan 2014 as it will help to grow the regional economy, uses land efficiently and will provide for the more efficient running of the farm.
- The proposal is supported by PAN 72 as the development is small scale development within an existing farm, does not impact on prime agricultural land, is accessible and well designed.
- The proposal is supported by PAN73 as the development supports rural life and the rural economy. The farm at Oldtown Farm has particular needs and circumstances from a business and operational point of view. The situation at Oldtown Farm is one where a flexible approach is required to help the farm business realise its opportunities.

- The development is associated with existing activities in the Green Belt and the exceptions to Green Belt Policy NE2 are therefore complied with. The developments is within the boundary of the existing activity (the appeal site is located on the farm), the development is small scale (it is a single dwellinghouse), the intensity of the activity is not significantly increased (the erection of a single small dwellinghouse is not significant development) and any proposed construction is ancillary to what exists (the house would be ancillary to the existing farmhouse, farm buildings and farming operations).
- The development is well located and would not erode the character and appearance of the landscape setting of the City and is appropriately sited and designed. It therefore complies with Policy 1 Architecture and Placemaking and Policy 6 Landscape.



*Proposed Site Plan*

The farm at Oldtown has been operated for the last 14 years by the appellant. It is a very successful farming business and is mostly intensively farmed given the pedigree nature of the pedigree Texel sheep flock. The farmland area extends to 40 hectares with 10 hectares in hay and 30 hectares in grazing.

There are several buildings at Oldtown Farm including Oldtown Farmhouse where the applicant resides. He has no control or interest in any of the other buildings in the vicinity of the farm apart from operational modern farm buildings. The converted buildings are owned and occupied by other family and non-family members who do not work on the farm. There is a bothy which is also in separate ownership and rented out privately. There are three large sheds within the farm complex to the north-east and south-west of the existing farmhouse. There are no other buildings at Oldtown which could be converted for a farm worker. The existing farmhouse will continue to be lived in by the applicant and the new house would be occupied by the farm worker/shepherd.

The applicant employs a full-time shepherd. They have been employed at Oldtown Farm for 18 months since the time when it became absolutely necessary to have the second full-time worker, working and living at Oldtown Farm. However, they live in extremely poor conditions in a small caravan with no toilet or running water, situated in the lambing shed opposite the application site. Clearly it is located here to be close to the animals but it is not a practical, sensible or efficient way to operate the unit. It is inadequate and getting to the point of being completely unreasonable to expect someone to live in such an environment. There are also security issues with livestock and equipment and animal welfare is always an issue. There is a clear need for an additional farm workers house at Oldtown Farm to provide proper on site accommodation.



*Oldtown Farmhouse*

The application site is located to the northeast of the existing farmhouse and is well related to the existing buildings. It is a well contained area of ground currently fenced off with post and wire fencing for horses and with trees along the south eastern and south western boundaries. The access

to the house would be taken from the existing access track to the farmhouse and farm buildings. The site is otherwise surrounded by agricultural land.



*Part of application site looking south-west and towards Oldtown Farmhouse*



*Application site looking north-east and towards Peterculter*

A previous planning application P150170 was refused on 28 July 2015. The first reason for refusal was less explicit and stated that the proposal would undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to an erosion of the character of such areas as the applicant has failed to demonstrate that the proposed house is required to provide residential accommodation for an essential farm worker who must be housed immediately adjacent to Oldtown Farm. The second reason for refusal relates to precedent and impact on the character and appearance of the Green Belt and landscape setting of the City.

An appeal to the Local Review Body was dismissed on 20 January 2016 (decision issued on 28 January 2016). The reasons for the appeal dismissal accord with the reasons given by the Planning Service for refusing the application. However, the discussion at the LRB sought clarification on a number of points.

In seeking to address some of the points of discussion raised by the Local Review Body, the applicant met with planning officers with a view to resubmitting the planning application given the pressing need for the worker and the dwellinghouse and also the changes in the farming practice and requirements in the intervening months.

It has been demonstrated that the application site and the indicative house size and design are commensurate with the farming operation at Oldtown. The original application site measured 1472 square metres but now measures approximately half of that at 740 square metres. The application site forms the northern part of the previously refused site and this particular location has been chosen as it better relates to the existing lambing shed (the other agricultural building lies to the south). This also still fits in well with the other buildings and houses which exist at Oldtown. This is in line with the advice received from planning officers.

At the time of submitting the first application P150170 there were 140 ewes, 10 rams and 210 lambs at the farm, totalling 360 animals. The labour report stated that the labour unit requirement at the farm was 0.94.

The labour unit report was revisited following our discussions with planning officers. There are now 235 ewes, 10 rams and 353 lambs, totalling 598 animals in comparison to the 360 animals at the time of the previous application and dismissal. The labour requirement at the farm is now 1.42, 50% more than at the time of the previous refusal. It is stated within the supporting SAC report that this is also likely to be an underestimate. The graph in the labour report demonstrates that for at least 8 months of the year more than one worker is required and for at least 5 of those 8 months there is a need for two.

The first reason for refusal differs to the original refusal in that it the Planning Service has now accepted there is a need for two workers at the farm but in their view do not accept it is essential that the second worker lives at Oldtown Farm. One house at the farm is not adequate for the day to day running of the farm. Two people are required to look after the sheep all the time notwithstanding the higher intensity times around lambing and showtimes. Lambing timescales require at least 3 months of two permanent workers and around 2 months (4 x sheep sales with two weeks work each time) for the 'two pairs of hands' in addition making up around 5 months of work for two people, notwithstanding the labour unit requirement of 1.42. Security and animal welfare are also important considerations at all times – this is a 24 hour requirement which cannot be met on site by one person on site.

The applicant had been asked to provide details of any other properties in his ownership nearby including Peterculter, however, he does not own any property here. It is also contended that



notwithstanding the relative close proximity of Peterculter, the nature of the farm and its operation, that the worker must be immediately available on site and should not be travelling even ten minutes (in a car) or significantly longer if walking from Peterculter to the site due to the aforementioned physical requirements of sheep handling, welfare and security.

The picture illustrated below shows an indicative house design which the applicant would like to erect on the farm for the farm worker. This is a 4 bedroom house, of a traditional appearance suited to this Green Belt and agricultural location. The Planning Service requested further details of this and we have happily provided it to demonstrate both the modest nature of it and its complimentary design.



*Indicative house design*

The supporting ground assessment and drainage recommendation report as submitted and prepared by S.A McGregor confirms that the site is of a granular gravelly nature and the subsoils below 1m indicated well-draining soils. The underlying strata are considered suitable for the construction of standard sub-surface soakaway systems for the disposal of both foul water and rain/surface waters from the proposed new house.



*One of the farm buildings*

## 2. Planning Policy and Advice

### Local Plans and Policies

#### Aberdeen Local Development Plan 2012

**Policy NE2 – Green Belt** states 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 or restoration or landscape renewal.

The following exceptions apply to this policy:

1. Proposals for development associated with existing activities in the green belt will be permitted but only if all of the following criteria are met:

- a) the development is within the boundary of the existing activity.
- b) the development is small-scale.
- c) the intensity of activity is not significantly increased.
- d) any proposed built construction is ancillary to what exists.

**Policy D1 Architecture and Placemaking** states that to ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

**Policy D6 Landscape** states that development will not be acceptable unless it avoids significantly adversely affecting landscape character and elements which contribute to, or provide, a distinct 'sense of place' which point to being either in or around Aberdeen or a particular part of it; obstructing 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; disturbance, loss or damage to important recreation, wildlife or woodland resources or to the physical links between them; sprawling onto important or necessary green spaces or buffers between places or communities with individual

identities, and those which can provide opportunities for countryside activities. Development should avoid significant adverse impacts upon existing landscape elements, including linear and boundary features or other components, which contribute to local amenity, and provide opportunities for conserving, restoring or enhancing them.

## **Proposed Aberdeen Local Development Plan 2015**

**Policy D1- Quality Placemaking by Design** states that all development must 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. Well considered landscaping and a range of transportation opportunities ensuring connectivity are required to be compatible with the scale and character of the developments. Places that are distinctive and designed with a real understanding of context will sustain and enhance the social, economic, environmental and cultural attractiveness of the city. Proposals will be considered against the following six essential qualities;

- **distinctive**
- **welcoming**
- **safe and pleasant**
- **easy to move around**
- **adaptable**
- **resource efficient**

How a development meets these qualities must be demonstrated in a design strategy whose scope and content will be appropriate with the scale and/or importance of the proposal. To further ensure there is a consistent approach to placemaking throughout the city, the Aberdeen Masterplan Process will be applied to larger sites within the city. Further guidance can be found within the supplementary guidance detailed below and Technical Advice notes listed in Appendix 5 Masterplans and Appendix 6 Supplementary Guidance.

**Policy NE2 - Green Belt** states 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. The following exceptions apply to this policy:

1 Proposals for development associated with existing activities in the green belt will be permitted but only if all of the following criteria are met:

- a) The development is within the boundary of the existing activity;
- b) The development is small-scale;
- c) The intensity of activity is not significantly increased; and
- d) Any proposed built construction is ancillary to what exists.

**Policy D2 – Landscape** states that developments will have a strong landscape framework which improves and enhances the setting and visual impact of the development, unifies urban form, provides shelter, creates local identity and promotes biodiversity. In order to secure high quality development, planning applications for new development must include a landscape strategy and management plan incorporating hard and soft landscaping design specifications. The level of detail required will be appropriate to the scale of the development. 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;
- conserve, enhance or restore existing landscape features and should incorporate them into a spatial landscape design hierarchy that provides structure to the site layout;
- 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;
- provide hard and soft landscape proposals that is appropriate to the scale and character of the overall development. Further guidance can be found within the supplementary guidance detailed below and technical advice notes listed in Appendix 6.

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### 3. Material Considerations

#### National Plans and Policies

**Scottish Planning Policy 2014** has evolved and provides a welcoming approach to small scale appropriately located development in the countryside and introduces a presumption in favour of development that contributes to sustainable development. It allows greater flexibility in residential development and encourages rural development that supports prosperous and sustainable communities while protecting and enhancing environmental quality. Plans should make provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities and recognises that authorities should also set out the circumstances in which new housing outwith settlements may be appropriate, particularly in rural areas. Development Plans should promote the development of rural communities and aim to support and sustain fragile and dispersed communities through appropriate housing development. A factor which guides development decisions includes making efficient use of existing capabilities of land, buildings and infrastructure. Development associated with agriculture can be acceptable in a Green Belt location.

**Scottish Planning Policy 2014** notes that “National Planning Framework 3 supports the many and varied opportunities for planning to support business and employment”.

**Scottish Planning Policy 2014** also states that “in order to support economically, environmentally and socially sustainable places, decisions should be guided by a number of principles, including giving due weight to net economic benefit and making efficient use of existing capacities of land, buildings and infrastructure”.

#### Regional Plans, Policies and Advice

**The Regional Economic Strategy** covering Aberdeen was approved in 2015. This seeks to secure the future of the north east economy and is a 20 year vision for the well-being of the place and our people. It aims to capitalise on the foundations of our economy and focuses on developing activity in the sectors, diversifying within them and into new markets. Its vision seeks to maximise the opportunities from the renaissance scenario and outlines our plans to sustain, diversify and grow our regional economic base and achieve equitable distribution of economic success. The vision also seeks to capitalise on our natural heritage and quality of life, and broaden our economic base by growing and developing our food and drink, agriculture and fishing, tourism, life sciences, business, financial and professional services, creative industries and new energy technologies.

The strategic vision for the **Aberdeen City and Shire Strategic Development Plan 2014** which is for it to be “an even more attractive, prosperous and sustainable European City Region and an excellent place to live, visit and do business”. To help achieve this vision, one of the main aims of the SDP is to “provide a strong framework for investment decisions which help grow and diversify the regional economy, supported by promoting the need to use resources more efficiently and effectively”. It aims to make sure that new development meets the needs of the whole community, both now and in the future, and makes the area a more attractive place for residents and businesses to move to. To achieve the vision the highest standards for urban and rural design must be set, a mix of land uses should be promoted, land should be used more efficiently and previously developed land must be reused. Land brought forward for development must be used efficiently and brownfield and regeneration areas should be given priority.

The aim of **Planning Advice Note 72 on Housing in the Countryside** is to provide widespread and good quality rural housing. It recognises that more people want to live and work in rural areas. Small scale development on brownfield sites is seen as appropriate in rural areas but sites must be accessible and well designed.

In **Planning Advice Note 73 Rural Diversification** the Scottish Government confirms its commitment to supporting rural life, rural communities and the rural economy and recognises that one size does not fit all and a flexible approach is often required to help businesses realise their opportunities. The advice confirms that it is important to take into account the particular needs or special circumstances of a business and be realistic about the resources available to them and that while house-building in itself is not diversification, there are circumstances where in relation to a business where new housing may be acceptable as a complementary part of a development.



#### **4. Justification and Conclusion**

The reasons for refusal are disputed. Firstly, it is not agreed that the development would lead to the erosion of the character of the Green Belt. This is clearly a rural development which is to be encouraged in line with Scottish Planning Policy 2014 and it would not be detrimental to the environment. SPP states that development associated with agriculture can be acceptable in a Green Belt location. The dwellinghouse would also provide good quality housing for a farm worker in line with PAN72 and would be a small scale and accessible development.

Secondly, the Planning Authority has accepted that a case has been made for the two farm workers. However, it has been demonstrated that the agricultural worker must be located immediately adjacent to Oldtown Farm and it is disputed that the second worker can live elsewhere. The farm is clearly growing and the workload at the farm is constantly increasing. The number of farm workers required has increased by more than 50% in a year and as can be seen in the figures the worker requirement has risen from 0.94 under the previous application to 1.42 under the current proposal. The increase clearly cannot be efficiently, effectively or safely carried out by one person. Apart from the 'hands-on' work, the security and safety of livestock cannot be fulfilled by just one worker on site any longer. It also cannot be fulfilled by any other properties at Oldtown Farm as suggested by the Planning Authority as the appellant does not control these properties and it is unreasonable to require them to carry out such work or supervision. The Planning Authority has stated that labour reports do not specify that both farm workers need to live on the site, however, the information in such reports normally only pertains to the work involved at the farm, the number of animals, acreage of land, types of crop and the man hours involved in running the farm. The planning statement and this appeal clearly detail the need for the additional worker to be living at the farm.

Thirdly, there is not any other suitable accommodation on the site and Peterculter is too far away for a worker who needs to be immediately available at all times. The physical work involved with the sheep requires two people to deal with them. Texel sheep are a specialist breed and farm workers need to be located at the farm and it is essential for them to be on site to assist with the flock. The lack of suitable, permanent, full time accommodation does not assist with the efficiency and effectiveness of the business and a dwellinghouse for a permanent, consistent full time worker would support the business moving forward in line with national policy and advice.

Fourthly, there are exceptions to the Green Belt Policy which have not been accurately assessed. Proposals for development associated with existing activities in the Green Belt will be permitted but only if all of the following criteria are met: development is within the boundary of the existing activity (the appeal site is located within the farm); the development is small scale (the erection of a single dwellinghouse is a small scale development); the intensity of the activity is not significantly increased (the erection of a single dwellinghouse is not a significant development); any proposed built construction is ancillary to what exists (the dwellinghouse would clearly be ancillary to the farm operations).

Fifthly, the development would not set an undesirable precedent as the site is not prominent and is well contained within the complex of existing farm buildings and other houses, and it would not erode the character and appearance of the landscape setting of the City given the reduction in size of the site, its sympathetic location and the indicative design proposed. It is important to note that no specific reasons for refusal are given on policy grounds related to layout, siting, design or landscape impact. It is therefore argued that the development complies with Policy D1 on Architecture and Placemaking and Policy D6 on Landscape in that the development would make a positive contribution to its setting and would not significantly affect landscape character and elements which contribute to, or provide, a distinct 'sense of place', no views are obstructed and there would be no disturbance, loss or damage to important recreation, wildlife or woodlands.

Finally, the support of Culter Community Council is extremely welcome and they clearly wish to support the growing business at the farm and recognise its value. The lack of any objection from consultees or third parties is also extremely welcome and an important consideration. Support for agriculture and farming is critical as highlighted in the Regional Economic Strategy.

To conclude, it is appreciated that there is no automatic consideration for a house for another worker but the case has been accepted for the additional worker. PAN 73 recognises that "one size does not fit all" and a flexible approach is often required to help businesses realise their opportunities. In relation to Oldtown there are particular needs of the business which would be supported by the erection of the additional farm workers house. The business cannot continue to operate as it is at the moment, with extremely poor conditions for the farm worker. Major assistance with suitable accommodation is required to suitably support the pedigree Texel flock. It will allow the future of the farm to be planned.

The proposal would be sustainable as it is directly adjacent to the farm unit and the land and infrastructure required is in place for the development and maximises the capability of these. There is a particular and specific need in this case for the development which SPP 2014 clearly supports. A high standard of rural design would be employed at the detailed application stage and the appellant is agreeable to any such conditions considered appropriate. The house will add neatly to the small cluster of houses and buildings at this location. As such, it is respectfully requested that the Local Review Body uphold the appeal and grant planning permission in principle.