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To: Councillor Boulton, Convener; Councillor Jennifer Stewart, Vice Convener; Councillor Donnelly, the Depute Provost; and Councillors Allan, Alphonse, Cooke, Copland, Cormie, Lesley Dunbar, Greig, Hutchison, John, Malik, McLellan, Sellar, Sandy Stuart and Wheeler.

Town House,
ABERDEEN 07 February 2018

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 15 FEBRUARY 2018 at 10.00 am.**

FRASER BELL
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

MEMBERS PLEASE NOTE THAT ALL LETTERS OF REPRESENTATION ARE NOW AVAILABLE TO VIEW ONLINE. PLEASE CLICK ON THE LINK WITHIN THE RELEVANT COMMITTEE ITEM.

MOTION AGAINST OFFICER RECOMMENDATION

- 1.1 Motion Against Officer Recommendation - Procedural Note - for information (Pages 5 - 6)

DETERMINATION OF URGENT BUSINESS

- 2.1 Determination of Urgent Business

DECLARATION OF INTERESTS

- 3.1 Members are requested to intimate any declarations of interest (Pages 7 - 8)

MINUTES OF PREVIOUS MEETINGS

- 4.1 Minute of Meeting of the Planning Development Management Committee of 7 December 2017 - for approval (Pages 9 - 12)

COMMITTEE TRACKER

- 5.1 Committee Tracker (Pages 13 - 14)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1 168-170 Spital - Change of use from Class 9 (Houses) to Class 10 (Non-residential Institutions) (Retrospective) (Pages 15 - 22)

Planning Reference – 171356

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZ5G1TBZH1G00>

Planning Officer: Linda Speers

- 6.2 31 Tullos Crescent - Erection of single storey extension to rear (Pages 23 - 28)

Planning Reference – 171418

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P04EDABZHGO00>

Planning Officer: Roy Brown

- 6.3 39/41 University Road, Old Aberdeen - Change of use of Ground Floor Flat to House in Multiple Occupancy HMO, erection of Single Storey Extension associated to proposed HMO; Extension at First Floor Level to Provide Additional Accommodation to Existing First Floor Flat; and erection of Bike Store in Rear Garden. (Pages 29 - 40)

Planning Reference – 171376

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZES4NBZH5J00>

Planning Officer: Jamie Leadbeater

WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 7.1 Land to rear of 277 North Deeside Road, Milltimber - Subdivision of Residential Curtilage and erection of New Detached Dwellinghouse, including creation of New Access and Landscaping (Pages 41 - 52)

Planning Reference – 171444

All documents associated with this application can be found at the following link:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P0AHT6BZHLG00>

Planning Officer: Jamie Leadbeater

OTHER REPORTS

- 8.1 Confirmation of Tree Preservation Order number 249/2017 Malcolm Road, Peterculter, Aberdeen - CHI/18/003 (Pages 53 - 66)
- 8.2 Confirmation of Tree Preservation Order number 250/2017 Contlaw Road, Milltimber - CHI/18/004 (Pages 67 - 80)

DATE OF NEXT MEETING

- 9.1 Date of Next Meeting - 22 March 2018 at 10am

To access the Service Updates for this Committee please use the following link:
<https://committees.aberdeency.gov.uk/ecCatDisplayClassic.aspx?sch=doc&cat=13450&path=0>

Website Address: www.aberdeency.gov.uk

Please note that Daniel Lewis will be in Committee Room 2 from 9.30am for Members to view plans and ask any questions.

Should you require any further information about this agenda, please contact Lynsey McBain on 01224 522123 or email lymcbain@aberdeency.gov.uk

MOTIONS AGAINST RECOMMENDATION

Members will recall from the planning training sessions held earlier this year that there is statutory requirement through Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 for all planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. All Committee reports to Planning Development Management Committee are evaluated on this basis.

It is important that the reasons for approval or refusal of all applications are clear and based on valid planning grounds. This will ensure that applications are defensible at appeal and the Council is not exposed to an award of expenses.

Under Standing Order 26.9 the Convener can determine whether a motion or amendment is competent, and may seek advice from officers in this regard.

With the foregoing in mind the Convener has agreed to the formalisation of a procedure whereby any Member wishing to move against the officer recommendation on an application in a Committee report will be required to state clearly the relevant development plan policy(ies) and/or other material planning consideration(s) that form the basis of the motion against the recommendation and also explain why it is believed the application should be approved or refused on that basis. Officers will be given the opportunity to address the Committee on the competency of the motion. The Convener has the option to call a short recess for discussion between officers and Members putting forward a motion if deemed necessary.

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Agenda Item 3.1

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether reports for meetings raise any issue of declaration of interest. Your declaration of interest must be made under the standing item on the agenda, however if you do identify the need for a declaration of interest only when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary. The following wording may be helpful for you in making your declaration.

I declare an interest in item (x) for the following reasons

For example, I know the applicant / I am a member of the Board of X / I am employed by...
and I will therefore withdraw from the meeting room during any discussion and voting on that item.

OR

I have considered whether I require to declare an interest in item (x) for the following reasons however, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.

OR

I declare an interest in item (x) for the following reasons however I consider that a specific exclusion applies as my interest is as a member of xxxx, which is

- (a) a devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise; or
- (d) a body being a company:-
 - i. established wholly or mainly for the purpose of providing services to the Councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

OR

I declare an interest in item (x) for the following reasons.....and although the body is covered by a specific exclusion, the matter before the Committee is one that is quasi-judicial / regulatory in nature where the body I am a member of:

- is applying for a licence, a consent or an approval
- is making an objection or representation
- has a material interest concerning a licence consent or approval
- is the subject of a statutory order of a regulatory nature made or proposed to be made by the local authority.... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 7 December 2017. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Jennifer Stewart, Vice Convener; Councillor Alan Donnelly, the Depute Provost; and Councillors Allan, Alphonse, Cooke, Copland, Cormie, Lesley Dunbar, Greig, Henrickson (as substitute for Councillor McLellan), Hutchison, Malik, Sellar, Sandy Stuart and Wheeler.

The agenda and reports associated with this minute can be found at:-
<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&Mid=4371>

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 2 NOVEMBER 2017 - FOR APPROVAL

1. The Committee had before it the minute of the previous meeting of 2 November 2017, for approval.

The Committee resolved:-

to approve the minute as a correct record.

COMMITTEE TRACKER

2. The Committee had before it a tracker of future Committee business.

The Committee resolved:-

to note the information contained in the Committee report tracker.

DEMOLITION OF EXISTING GARAGE AND CONSTRUCTION OF THREE GARAGES AND ONE STORE - SYCAMORE PLACE, ABERDEEN - 170943

3. The Committee had before it a report by the Interim Head of Planning and Sustainable Development, **which recommended:-**

That the application for the demolition of the existing garage and construction of three garages and one store at Sycamore Place Aberdeen, be approved, subject to the following conditions.

- (1) The development hereby approved shall not be used for use as a business premises/use for the operation of a business, for any use specified within the

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

7 December 2017

Town and Country Planning (Use Classes) (Scotland) Order 1997, or for any other sui-generis use other than as lock-up garages and storage space without the express grant of planning permission from the planning authority.

Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

- (2) That no development shall take place unless a scheme detailing property level flood protection measures has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be brought into use unless the scheme has been implemented in complete accordance with the agreed scheme, and remain in place in perpetuity, unless otherwise agreed in writing by the planning authority.

Reason: In order to mitigate any potential flood risk associated with this development.

ADVISORY NOTE FOR APPLICANT

It is recommended that permeable materials, such as block paving or permeable asphalt are used where appropriate in the design. It is advised that the property level flood protection measures include water butts to mitigate water running off the garages into the neighbouring gardens. The incorporation of green roofs would be a suitable method of rainwater harvesting and would help prevent an increase in surface water run off to the surrounding areas.

The Committee heard from Daniel Lewis, Development Manager, who spoke in furtherance of the application and answered various questions from members.

The Committee resolved:-

to approve the application conditionally.

PROPOSED EXTENSION OF YARD AREA INCLUDING ASSOCIATED ENGINEERING AND LANDSCAPING WORKS - STONEYWOOD PARK, DYCE - 171180

4. The Committee had before it a report by the Interim Head of Planning and Sustainable Development, **which recommended:-**

That the application for the extension of the yard area, including associated engineering and landscaping works at unit 1, Stonewood Park, Dyce, be refused.

The Committee heard from Matthew Easton, Senior Planner, who spoke in regards to the application.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
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The Committee resolved:-
to refuse the application.

DATE OF NEXT MEETING - 18 JANUARY 2018 - 10AM

5. The Committee noted the date of the next meeting as Thursday 18 January 2018 at 10am.
- **COUNCILLOR MARIE BOULTON, Convener**

DRAFT

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
7 December 2017

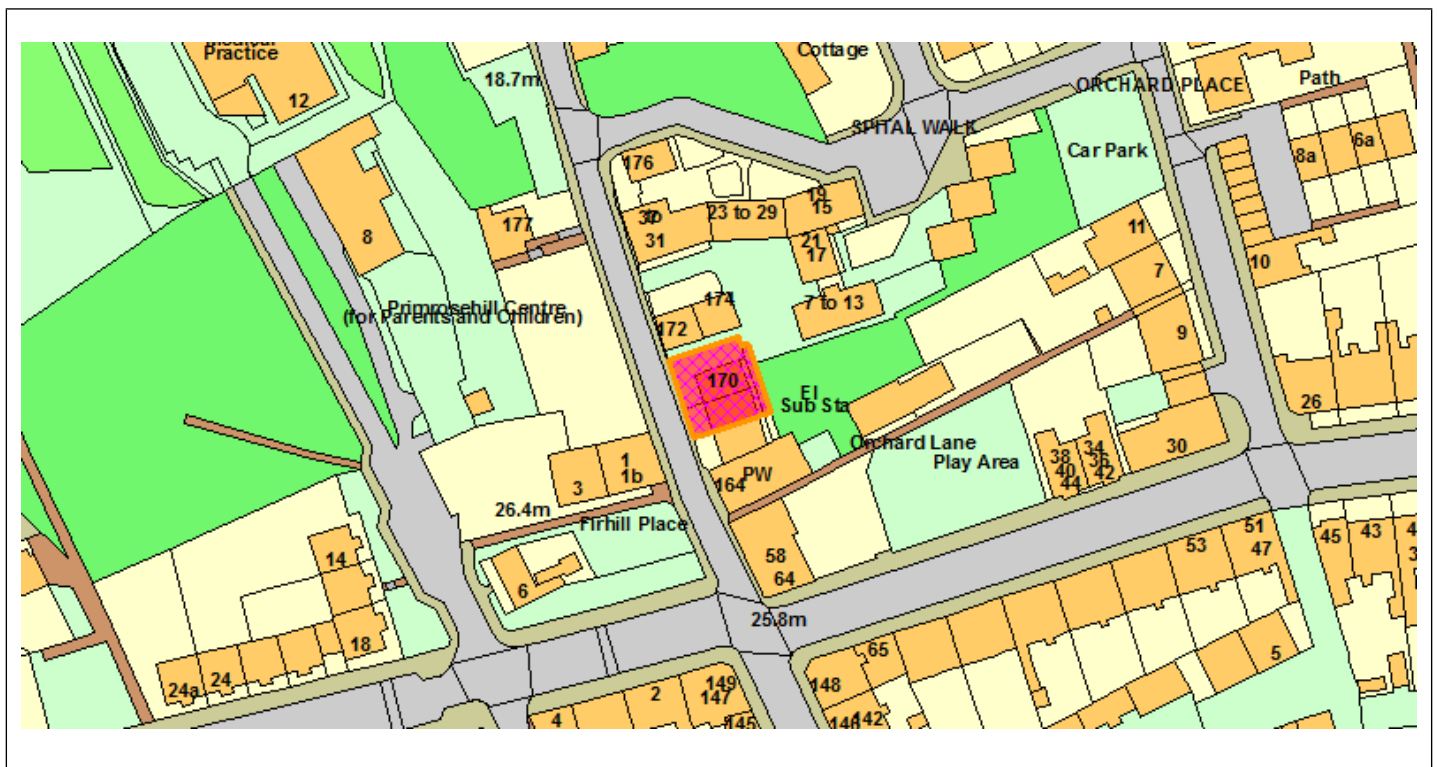
CYCLE 2 - COMMITTEE STATISTICS					
The Tracker Shows the Reports Which are Expected to be Submitted to Future Committee Meetings					
Report Title	Committee date	Report author	Head of Service	Purpose of Report	Explanation if delayed or withdrawn
Confirmation of Tree Preservation Order 249/2017 Land at Malcolm Road	15/02/2018	Kevin Wright	Eric Owens	Tree preservation report	
Confirmation of Tree Preservation Order 250/2017 Land at Contlaw Road	15/02/2018	Kevin Wright	Eric Owens	Tree preservation report	
168-170 Spital	15/02/2018	Linda Speers	Eric Owens	Change of use from Class 9 (Houses) to Class 10 (non-residential institutions) (retrospective)	
31 Tullos Crescent	15/02/2018	Roy Brown	Eric Owens	Erection of single storey extension to rear	
Land to rear of 277 North Deeside Road, Milltimber	15/02/2018	Jamie Leadbeater	Eric Owens	Subdivision of residential curtilage and erection of new detached dwellinghouse, including creation of new access and landscaping	
39/41 University Road, Old Aberdeen	15/02/2018	Jamie Leadbeater	Eric Owens	Change of use of ground floor flat to House in Multiple Occupancy HMO, erection of single storey extension associated to proposed HMO; extension at first floor level to provide additional accommodation to existing first floor flat; and erection of bike store in rear garden.	
Bielside Lodge	15/02/2018	Lucy Greene	Eric Owens	MSC for one dwellinghouse	Deferred to March committee.
Morkeu, Craigton Road	15/02/2018	Nicholas Lawrence	Eric Owens	Construction of Link Road and 26 residential units	Deferred to March committee, further information required.
15 High Street, Old Aberdeen	15/02/2018	Jamie Leadbeater	Eric Owens	Change of Use from vacant dwellinghouse (Class 9) to Public House (Sui Generis)	Deferred to March, due to on-going work on application.
15 High Street	15/02/2018	Jamie Leadbeater	Eric Owens	LBC for internal alterations to form Public House	Applicant to provide further information. Unsure when this will go to committee.
Union Terrace Gardens	15/02/2018	Sepi Hadjisoltani	Eric Owens	Alterations and extension to gardens	Further information required from applicant to clarify and establish impact on trees. Unsure of committee date.

CYCLE 3 - COMMITTEE STATISTICS**The Tracker Shows the Reports Which are Expected to be Submitted to Future Committee Meetings**

Report Title	Committee date	Report author	Head of Service	Purpose of Report	Explanation if delayed or withdrawn
Morkeu, Craigton Road	22/03/2018	Nicholas Lawrence	Eric Owens	Construction of Link Road and 26 residential units	
Bielside Lodge	22/03/2018	Lucy Greene	Eric Owens	MSC for one dwellinghouse	
15 High Street, Old Aberdeen	22/03/2018	Jamie Leadbeater	Eric Owens	Change of Use from vacant dwellinghouse (Class 9) to Public Hosue (Sui Generis)	
15 High Street	22/03/2018	Jamie Leadbeater	Eric Owens	LBC for internal alterations to form Public House	

 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;">Committee Date: 15 February 2018</p>
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Site Address:	168 -170 Spital, Aberdeen, AB24 3JD
Application Description:	Change of use from Class 9 (dwelling house) to Class 10 (non-residential institutions) (retrospective)
Application Reference:	171356/DPP
Application Type	Detailed Planning Permission
Application Date:	9 November 2017
Applicant:	Aberdeen Mosque & Islamic Centre (AMIC)
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council	Old Aberdeen
Case Officer:	Linda Speers



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RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The application site is located on the east-side of College Bounds and 35 metres from the junction with Orchard Street / Sunnybank Road within the Old Aberdeen Conservation Area. The site comprises of 2no. terraced properties (168 and 170); 2-storey traditional granite and slate residential dwellings. The site is situated adjacent to the AMIC (Aberdeen Mosque & Islamic Centre) at 164 and 166 Spital which forms part of the terrace and currently occupied by the Mosque. The wider area is part of the University of Aberdeen campus but the site is bound by both mixed use and residential areas. The site is zoned as 'Existing Community Sites and Facilities' in the Aberdeen Local Development Plan.

Relevant Planning History

120739 – Planning permission granted (approve unconditionally) for Extension and Change of Use (Class 9 to Class 10) at 166 Spital in August 2012.

APPLICATION DESCRIPTION

Description of Proposal

Change of use from Class 9 (dwelling house) to Class 10 (non-residential institutions) for 168 and 170 Spital.

The application is retrospective; 168 and 170 have facilitated the adjacent Mosque for a number of years originally as residential accommodation and more recently as ancillary facilities for the Mosque such as teaching facilities. The properties are not interlinked and each has separate access. The Mosque is open daily from approximately 6.30am to 8pm. Peak usage times are Friday and other special occasions such as Ramadan. On Friday in particular when the occupancy is peak; 168 and 170 are used to accommodate the patrons.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZ5G1TBZH1G00>

The following documents have been submitted in support of the application –

Supporting Statement: has provided the following main points:

The proposed change of use is required to formally change the residential property at 168 and 170 Spital to be an ancillary part of Mosque, to accommodate worshippers attending the Mosque at peak times and also to be used as a teaching facility.

The properties at 168 and 170 Spital have been used as over spill to the main Mosque and teaching rooms for around five years and the proposed change of use will not lead to any new usage or additional worshippers.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application has received in excess of 5 valid objections and thus falls outwith the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Roads Development Management Team – have no objection subject to the following conditions applied to the consent to minimise car travel to the site:

- A travel plan; and
- A scheme detailing cycle storage

ACC - Environmental Health – have no objection to the proposed development. An environmental health assessment has been carried out, including a site visit and concluded a statutory nuisance did not exist. Noise emanating from services within the premises is considered unlikely to create a statutory nuisance.

ACC - Waste Strategy Team – have advised of waste management requirements for the proposed development. An associated informative has been added to the planning consent.

ACC - Flooding And Coastal Protection – have no objection to the proposed development.

REPRESENTATIONS

The application has received a total of 8 valid representations objecting to the proposal. The following material matters of which have arisen:

Use

The residential buildings (168 & 170) used in association with the Mosque does not have the relevant consent from the Planning Authority.

Noise

Noise associated with the entering and exiting of the facility at peak times and the impact from this additional footfall on residential amenity.

Parking

No parking available for the site and the consequent impact on residential parking. Congestion at peak times (Friday). Breaching parking regulations including parking on double yellow lines.

4 invalid representations were received. The scheme of delegation states that a representation will only be counted if it is from a specified e-mail address or street address. The 4 invalid representations did not have either.

A query regarding the proposed facility at Nelson Street was raised by an objector. The Mosque at Nelson Street is an independent and completely different mosque from AMIC.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

National Planning Policy and Guidance

- Scottish Planning Policy (SPP)
- Historic Environment Scotland Policy Statement (HESPS)

Aberdeen Local Development Plan 2017 (ALDP)

- Policy CF1: Existing Community Sites and Facilities
- Policy T5: Noise
- Policy T2: Managing the Transport Impact of Development
- Policy D4: Historic Environment

Supplementary Guidance and Technical Advice Notes

- Noise (Supplementary Guidance)
- Transport and Accessibility (Supplementary Guidance)

Other Material Consideration

- Residential Amenity

EVALUATION

Policy CF1- Existing Community Sites and Facilities

The application site falls within an 'existing community sites and facilities' designation on the ALDP 2017 Proposals Map and designated for 'further education and research' purposes in association with Aberdeen University. The AMIC own the buildings and have done so for circa 30 years; the permitted use is for Class 9 residential and in the past the dwellings have been used as residential accommodation serving the Mosque.

While the AMIC has no association with the University of Aberdeen, the propose use (Class 10) accords with the general principles of Community Facilities; notwithstanding this the proposal is required to be assessed in accordance with the provisions for change of use within Policy CF1 which states;

'Where the CF1 area contains uses other than that for the which the area has been designed i.e. further education and research use, and these uses make a positive contribution to the character and community identify of the area, any proposals for development or change-of-use, whether or not for the use associated with community use recognised in this land-use designation, will be opposed if a likely result would be significant erosion of the character of the area or the vitality of the local community.'

The AMIC caters for the Muslim community close to the University and neighbouring areas and is the largest and main prayer location in Aberdeen. The Mosque also provides a teaching facility for children and a lecture venue for various subjects. The buildings at 168 and 170 provide ancillary facilities for the Mosque; in the past this has been residential accommodation for guests or new patrons and more recently teaching space and additional space for worshippers at peak times. It is not considered that using these properties for ancillary facilities in relation to the existing mosque would have a negative impact on the local community or erode the character of the area. It has been noted from reading the letters of representation to this application that there has been growing concerns for the volume of worshippers at this site; arguably given the large congregation the Mosque is required to serve; the proposed change of use of the residential units would provide essential accommodation for the Mosque and in particular at peak times when over-spill is likely. Without this additional space the likelihood of worshippers having to stand outside would be increased. The supporting statement suggests that the usage would be unaffected; given the fact that the site has been operating as an over-spill area for 5 years this is tenable. The AMIC would continue to provide an essential service to the local community and the proposal is considered to enhance the vitality of the local community rather than adversely affect it.

Policy T5 – Noise

The Supplementary Guidance for noise states that *'New commercial developments where amplified music, singing and speech are proposed must be designed to ensure that noise is contained within the development boundary and is inaudible within any neighbouring noise-sensitive property'*. Environmental Health carried out an assessment of the application and concluded that noise emanating from services within the premises is considered unlikely to create a statutory nuisance. The objectors have voiced concern for the noise associated with the worshippers entering and leaving the facility and particularly at peak times; and specially relates to the present situation. Notwithstanding the concern, the proposal would not lead to any new usage or additional worshippers; by refusing this application the present situation would not change and in fact may lead to further noise related issues with the congregation having difficulty accessing the facility. The noise impact from the proposed change of use is not considered to adversely impact the site and therefore does not warrant a refusal of the application.

Policy T2 – Managing the Transport Impact of Development

Policy T2 in the ALDP states that new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. Roads Development Management has been consulted on the application and has no objection subject to the applicant detailing a travel plan to mitigate the lack of parking associated with the site. The travel plan would be expected to promote more sustainable travel choices to and from a site, with an emphasis on reducing reliance on the private car, thereby lessening the impact of that site on the surrounding road network. The site benefits from good walking, cycling and public transport accessibility; currently there is no cycle storage available at the site and 3no. Sheffield stands are recommended in this location; which can be controlled through condition in order to promote sustainable and active travel in accordance with policy and supplementary guidance: Transport and Accessibility.

It's acknowledged that the site is very active and at peak times may lead to congestion in the immediate area and similar to other areas of the University Campus where public parking availability is limited. College Bounds, Sunnybank Road and Orchard Street are within control parking zones. Indiscriminate parking is considered a separate issue and can be dealt with through effective enforcement of parking restrictions.

Taking the aforementioned considerations into account, it is not considered the proposed use pose any undue road safety impacts along the local road network. To this end, the proposal is rendered compliant with the relevant expectations of Policy T2 in the ALDP.

Policy D4 – Impact on Historic Environment

The property lies within the Old Aberdeen Conservation Area and thus Historic Environment Scotland Policy Statement (HESPS) must be referred to in determination of the application. HESPS states that the planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area when determining applications. No external changes to the building are proposed which would affect the built fabric of the building or the character and appearance of the Old Aberdeen Conservation Area. It is not considered the proposed change of use is at odds with the relevant expectations of Policy D4.

Impact on Residential Amenity

The site lies in close proximity to a number of residential properties on Spital Walk and Orchard Street. The Mosque has coexisted with the local community for 30 years and provides an essential service to the local and wider area. The proposed change of use does not significantly alter the way the existing site operates and therefore is not considered to impact residential amenity. The issues with noise and parking affecting neighbouring properties raised by objectors have been addressed and not considered material to warrant refusal of this application.

Matters raised within public representations

The matters relating to use, noise and parking have been addressed within the above evaluation.

Conclusion

To conclude, the proposal for change of use would provide essential ancillary facilities to the existing Mosque and additional accommodation in times of peak use. The AMIC is considered a service which caters for the demands of the local community and enhances the vitality of Old Aberdeen. It is considered the merits of the proposed use would outweigh any possible drawbacks and it has been operational for 5 years. The proposal would comply with the relevant policies in the ALDP 2017 and the application is recommended for approval subject to the relevant conditions.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The change of use from Class 9 (dwelling house) to Use Class 10 (non-residential institutions) is considered acceptable in the context of the site; using these properties for ancillary facilities in relation to the existing mosque would not have a negative impact on the local community or erode the character of the area of the Old Aberdeen and is more likely to enhance its vitality. The proposed change of use does not significantly alter the way the existing site operates and therefore is not considered to impact residential amenity in terms of noise and parking. Taking the above factors into account the proposed use as Class 10 is considered to be compliant with the relevant provisions of Policy CF1: Existing Community Sites and Facilities, Policy T2: Managing the Transport Impact of Development and Policy T5: Noise and D4: Historic Environment of the Aberdeen Local Development Plan 2017 and the Historic Environment Scotland Policy Statement and the associated Supplementary Guidance: Noise and Transport and Accessibility.

CONDITIONS

- 1) That the use hereby approved shall not continue beyond 3 months of the date of this decision unless there has been submitted to, and approved in writing by the planning authority a detailed travel plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets:-

Reason: In order to encourage more sustainable forms of travel to the development.

- 2) That the use hereby approved shall not continue beyond 3 months of the date of this decision unless a scheme detailing cycle storage (minimum 3no. Sheffield stands) provision has been submitted to, and approved in writing by the planning authority, and the said scheme has been implemented in full:-

Reason: In order to encourage more sustainable forms of travel to the development.

ADVISORY NOTES FOR APPLICANT

Waste Management

As this is a non- residential development; this type of development is supplied with the following:

1 x180l general waste wheeled bin

1x 240l mixed recycling wheeled bin

1x 240l garden waste wheeled bin

Over and above this provision, the developer will have to purchase bins and set up a Trade Waste Agreement.

Please note food waste is a **chargeable trade waste service**

If you require further trade waste information please contact the officers at businesswaste@aberdeencity.gov.uk

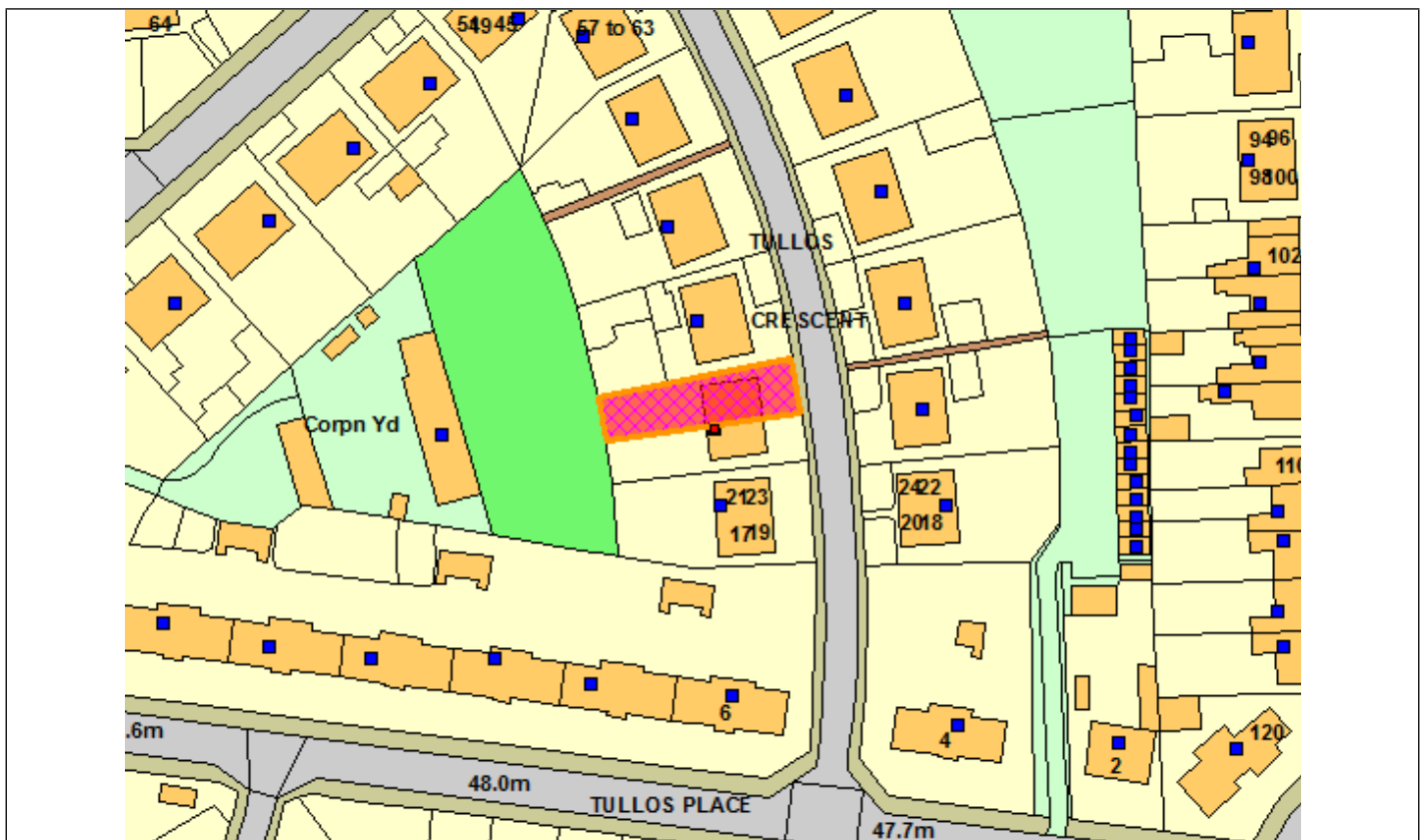
General points

- All the waste containers must be presented on **(insert name of road) only** on the collection day and must be removed from the kerbside as soon as possible. No containers should be permanently stored on the kerbside.
- **No excess** should be stored out with the containment provided. Information for extra waste uplift is available to residents at either www.aberdeencity.gov.uk/wasteaware or by phoning 03000 200 292.

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 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;">Committee Date: 15th February 2018</p>
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Site Address:	31 Tullos Crescent, Aberdeen, AB11 8JW.
Application Description:	Erection of single storey extension to rear
Application Reference:	171418/DPP
Application Type	Detailed Planning Permission
Application Date:	29 November 2017
Applicant:	Mr F Main
Ward:	Torry/Ferryhill
Community Council	Torry
Case Officer:	Roy Brown



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RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The application site relates to a ground floor flat within an early-mid twentieth century four-in-a-block residential building, and its associated rear curtilage. The building has a hipped roof and a northeast facing principal elevation, which fronts Tullos Crescent, close to its junction with Tullos Place. The rear elevation of the application property has a patio door and its curtilage is bound by a fence which is approximately 1.5m in height.

The curtilage of the property is surrounded by grounds associated to the neighbouring properties of this building, 25, 27 and 29 Tullos Crescent. The application site is situated in a residential area of Torry characterised by similar four-in-a-block buildings.

Relevant Planning History

None

APPLICATION DESCRIPTION

Description of Proposal

Detailed Planning Permission is sought for the erection of a single storey extension to the rear of the ground floor flat.

The extension would have an overall built footprint of approximately 10.4sqm, would project 2.98m from the rear elevation and would be 3.5m wide. It would have a lean-to styled roof with an eaves height of approximately 2.8m and a maximum height of approximately 3.7m. It would be finished with roughcast, grey concrete roofing tiles and white uPVC windows.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P04EDABZHGO00>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it has been the subject of six or more timeous letters of representation (following advertisement and/or notification) that express objection or concern about the proposal and thus falls outwith the Council's Scheme of Delegation.

CONSULTATIONS

ACC (Housing) - have advised that the development would not affect Aberdeen City Council as a landowner.

REPRESENTATIONS

Eight letters of objection have been submitted. The matters raised relate to:

- The loss of privacy;
- The height of the roof, which would be directly under the window sill of the upper storey flat and the potential impacts to safety. If the roof is of poor construction, it would adversely affect the upper window as a fire escape;
- Noise from rain landing on the roof of the proposed extension;
- Property maintenance issues relating to water ingress and the potential increased costs regarding window maintenance/replacement due to access issues;
- The proposal could prevent future development in the neighbouring curtilage;
- The loss of outlook/private views;
- Noise associated with construction;
- The impact on property values;
- The proposal would set a precedent for similar extensions in the surrounding area which could cumulatively impact the level of daylight, privacy and overall look of the buildings, parking availability, the requirement for more HMO licenses and overpopulation of the street; and
- The properties not being suitable for extension.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Aberdeen Local Development Plan (2017)

- Policy H1 – Residential Areas
- Policy D1 – Quality Placemaking by Design

Supplementary Guidance and Technical Advice Notes

- The Householder Development Guide

EVALUATION

Principle of Development

The application site is located in a residential area, under Policy H1 – Residential Areas of the Aberdeen Local Development Plan and the proposal relates to householder development. Proposals for householder development will accord with this policy in principle if it: does not constitute over development; does not have an unacceptable impact on the character and amenity of the surrounding area; does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and complies with associated Supplementary Guidance.

As this proposal would be located on existing residential curtilage, the proposal would not result in the loss of valuable and valued areas of open space. The other guidelines mentioned above are assessed in the below evaluation.

Design and Scale

The built footprint of the building as extended would only be 1.08 times that of the original building and only 27% of the rear curtilage would be covered, in compliance with the general principles of

the Supplementary Guidance: 'The Householder Development Guide'. Because of this, the proposal would not constitute over-development, in compliance with Policy H1 – Residential Areas of the Aberdeen Local Development Plan.

In addition to its minor built footprint, the proposed extension would appear ancillary in that it would be a single storey extension on the non-public rear elevation, it would have a maximum height less than the eaves height of the original building, it would not extend the entire width of the rear elevation, it would only project 3m from the rear elevation, and it would have a lean-to roof. It would have no impact on the visual setting of the public streetscape as it would not be publically visible. The materials would be compatible with the modern materials on the existing building.

The Supplementary Guidance: The Householder Development Guide states that proposals for extensions should be architecturally compatible in design and scale with the original house and its surrounding area. Materials used should be complementary to the original building. Any extension proposed should not serve to overwhelm or dominate the original form or appearance of the dwelling and should be visually subservient in terms of height, mass and scale.

This proposal would comply with this Supplementary Guidance as it would be architecturally compatible in both design and scale to the original building and the surrounding area. It would be visually subservient to the original building, it would not serve to dominate its original form or appearance, and the materials used would be complementary. It would therefore comply with Policies H1 – Residential Areas and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan.

Amenity

The proposed extension would not overlook any habitable rooms of the neighbouring properties.

It would, however, have glazing on the southwest and north elevations which face towards the curtilage of the other properties in the block, numbers 25, 27 and 29, and the curtilage of the four-in-block to the north, 33-39 Tullos Crescent. Given the pattern of development in the immediate area where there are gardens and properties facing one another, the proposed extension would not adversely impact the existing level of privacy afforded to the curtilage of the neighbouring residential properties.

In terms of the overall massing of the proposed extension in the context of the adjoining properties in the building, its less than 3m projection from the rear elevation would be minor and would not be overbearing to any of the properties in the building. Calculations, using the 45 degree rules in the Supplementary Guidance: 'The Householder Development Guide', show that the proposed extension would have negligible impact on the level of sunlight and background daylight into the neighbouring residential properties and their curtilage.

The proposed extension would have no adverse impact on the existing level of amenity afforded to the neighbouring residential properties, in compliance with the Supplementary Guidance: 'The Householder Development Guide', and Policies D1 – Quality Placemaking by Design and H1 – Residential Areas of the Aberdeen Local Development Plan.

Matters Raised in the Letters of Representation

Matters relating to design, height, sunlight, daylight, and privacy have been assessed in the above evaluation.

This proposal would be an extension to the existing lounge in the property and would not result in an increase in the number of bedrooms in the property. It would therefore have no impact on the

level of on-street parking provision in the surrounding area or the local transport network. It would not in itself result in any more residents in the surrounding area.

Although the impact of noise is a material consideration, the very minor level of increased noise from rain landing on a roof would be negligible and would not have any adverse impact on the level of amenity of the surrounding properties.

No precedent would be set by this application as every planning application is assessed on its own merits against the relevant current national and local planning policies and guidance. Issues from any other householder applications or HMO change of use applications relating to the impact on parking availability, sunlight, daylight and design would be assessed on their own merits in their own context in separate planning applications.

The effect on property maintenance, private views, property values, and issues relating to construction are not material planning considerations for which the planning authority has powers of intervention. Issues relating to property maintenance would be a civil matter between the relevant parties. Matters relating to the safety and function of the extension are matters relating to building regulations, which would be assessed in a building warrant application under separate legislation.

Summary

The proposed single storey rear extension would be architecturally compatible in terms of design, siting, materials and scale with the original four-in-a-block building and the surrounding area. It would not adversely affect the visual amenity of the public streetscape and would not adversely affect the amenity of the surrounding residential properties in terms of sunlight, daylight and privacy. It would therefore not adversely affect the character and amenity of the surrounding area. The proposal would therefore comply with Policies H1 – Residential Areas and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan; and the associated Supplementary Guidance: 'The Householder Development Guide'. There are no material planning considerations, including matters raised in the submitted letters of representation, that would warrant refusal of planning permission in this instance.

RECOMMENDATION

Approve Unconditionally

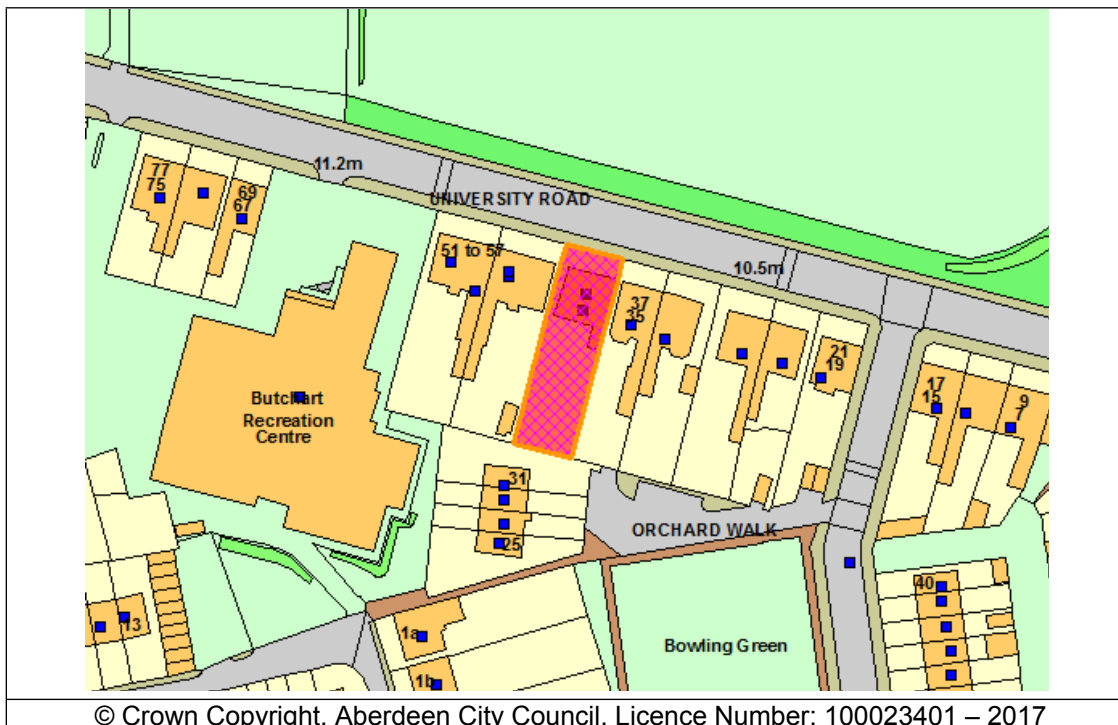
REASON FOR RECOMMENDATION

The proposed single storey rear extension would be architecturally compatible in terms of design, siting, materials and scale with the original for-in-a-block building and the surrounding area. It would not adversely affect the character and amenity of the surrounding area. The proposal would therefore comply with Policies H1 – Residential Areas and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan; and the associated Supplementary Guidance: 'The Householder Development Guide'. There are no material planning considerations which would warrant the refusal of planning permission in this instance.

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 <p>ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date: 15th February 2018</p>

Site Address:	39/41 University Road, Aberdeen, AB24 3DR,
Application Description:	Change of use of ground floor flat to House of Multiple Occupancy (HMO); erection of single storey extension associated to proposed HMO; extension at first floor level to provide additional accommodation to existing first floor flat; and erection of bike and bin stores in rear garden
Application Reference:	171376/DPP
Application Type	Detailed Planning Permission
Application Date:	20 November 2017
Applicant:	Mr Michael McFayden
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council	Old Aberdeen
Case Officer:	Jamie Leadbeater



RECOMMENDATION

Approve Conditionally

APPLICATION BACKGROUND

Site Description

The curtilage of a self-contained 4 bedroom ground floor flat and 4 bedroom first floor flat, both contained within a two and half storey detached granite building on the southern side of University Road in Old Aberdeen. The building includes two storey rear extension projecting along the mutual boundary with number 35/37 University Road and the partial remains of a former adjoining outbuilding to that. There is thus a noticeable variation in height of the eastern mutual boundary wall which extends up to 2.75m in height, whilst the remainder of the boundary wall is around 1.5m. At present, the two storey rear extension contains a bedroom serving the first floor flat and a kitchen at ground floor, associated to the ground floor flat.

The application property is located within the Old Aberdeen Conservation Area and is neighboured to the east and west by buildings of a similar age and scale, predominantly containing flats. University Road and the University of Aberdeen's playing field beyond are located immediately to the north, and to the south a terrace of 4 two storey dwellinghouses accessed from Orchard Walk. Orchard Road branches off University Road to the south and Orchard Place runs parallel to it, is predominantly residential in nature and contains a number of Houses in Multiple Occupation (HMO).

Relevant Planning History

Application Number	Proposal	Decision Date
151558	Demolition of rear extension; Erection of 1.5 and single storey extension to rear of existing dwelling; Erection of bike shed and installation of solar panels to existing rear Dormer, 39/41 University Road	Withdrawn by applicant – March 2016
131212	Erection of rear extension comprising of two and single storey elements, including excavation of basement level in rear garden to create additional floor space, and installation of rooflights, 39/41 University Road	Approved by PDMC – January 2014
130023	Alteration of unused loft space into independent flat with the addition of large box dormer to rear and addition of pended dormers to front, 39/41	Approved under delegated powers – March 2013

APPLICATION DESCRIPTION

Description of Proposal

Change of use of ground floor flat to 7 bedroom House of Multiple Occupancy (HMO), erection of split height (both two and single storey elements) extension to rear, comprising: 3 bedrooms and 2 shower rooms at ground floor level, to serve proposed HMO; and an additional bedroom at first floor level, to serve first floor flat; and the erection of bike and bin stores in the rear garden area.

The two storey element of the extension would project 2.4m outwards from the north-west side elevation of existing two storey rear extension, whilst maintaining the same proportions in all other respects (i.e. projection from principal rear elevation, eaves and ridge height). The new and existing two storey elements would be finished in light brown wet-dash render and a roof of natural slates, all to match existing finishes. A new casement window would be positioned in the new element's south-west elevation, at first floor level, to serve the proposed additional first floor bedroom and a set of bi-folding doors at ground floor level on the north-western side elevation.

The single storey element of the extension would project 9.2m outwards, from the two storey element, with an eaves height of 2.9m and ridge height of 4m. The existing height of the mutual boundary wall with 35/37 University Road would thus be increased by 150mm, to achieve the proposed eaves height. This increased element of wall would be faced using granite rubble, to match the existing. In terms of finishes, the proposed pitched roof would again be finished in a natural slate tile and incorporate 2 Velux rooflights on the east facing slope – whilst the external walls would be finished in a vertical larch timber cladding. Each bedroom would be served by stained timber framed window and doors on the south-west and north-west elevations respectively.

The proposed bike store and bin stores would be faced in timber linings and would be sited against the mutual boundary wall in the rear garden area, opposite the proposed rear extension.

Supporting Documents

All drawings can be viewed on the Council's website at: <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OZES4NBZH5J00> .

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the local community council has objected to the proposal and the Planning Service has recommended the application for approval.

CONSULTATIONS

ACC - Roads Development Management Team – No objection, the proposals entails a lockable cycle shed and the site has good cycle and public transport links which mitigates lack of dedicated car parking.

ACC - Waste Strategy Team – Content with the size of the proposed bin store, and recognise that the proposed bin store location is the most feasible option in this case.

Old Aberdeen Community Council – Object, for the following summarised reasons:

- The proposal would result in the ‘overdevelopment’ of a domestic property in the conservation area;
- Excessive density of accommodation – the building could hold 20 persons which puts further pressure on the local neighbourhood in terms of excessive noise and the creation of litter, further exacerbating an unhappy living environment for local residents; and
- The proposed floor layout appears inadequate to meet the HMO licensing requirements.

REPRESENTATIONS

The application has received one objection, which raises the following material matters:

- Proposal would result in overdevelopment of the site; and,
- The proposal would set an undesirable precedent.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Aberdeen Local Development Plan (2017)

- Policy CF1 – Existing Community Site and Facilities
- Policy D1 – Quality Placemaking By Design
- Policy D4 – Historic Environment

Supplementary Guidance and Technical Advice Notes

- Householder Development Guide (Supplementary Guidance)

Other Material Considerations

- Historic Environment Scotland (HES) – *‘Managing Change in the Historic Environment: Extensions’*. The guidance main requirements are as follows: must protect the character and appearance of the existing building, be subordinate in scale and form, located on secondary elevations, and must be designed in a high quality manner using appropriate materials.
- Scottish Government Circular 2/2012 - Houses in Multiple Occupation: Guidance on Planning Control and Licensing
- Planning history of site.
- Existing HMO license pertaining to ground floor unit (39 University Road)

EVALUATION

Change of Use

The proposed change-of-use of the ground floor flat to a HMO has a two-fold policy consideration. Firstly, the suitability of a HMO use in land-use terms; and secondly, the merits of a HMO use within the context of the specific guidance set out in Section 3.1.12 of the Council’s adopted Householder Development Guide supplementary guidance.

Firstly, the application site falls within an area designated as an ‘existing community site and facilities’ in the ALDP 2017. In such areas, Policy CF1 in the ALDP is applicable and seeks to protect and support the extension of healthcare, nursery, education and research uses where they currently exist. Further, proposals for development or changes of use will be opposed if they result in the significant erosion of the character of the area, or the vitality of the local community.

At present, University Road is characterised by residential properties, some which have been subdivided into flats and HMOs. These largely serve the city’s student and young professional population, whilst some properties remain in use as Class 9 dwelling houses. Taking the aforementioned into account, it is not considered the proposed change-of-use would result in the erosion of the mixed/ residential character of the immediate area – which also sees a bowling club immediately to the south; the Aberdeen University playing fields immediately across the road to the north; and the Aberdeen University Student Association premises a few doors along to the west.

The impact of the proposed physical changes to the building will be discussed further on this discussion. Otherwise, in respect of the impact on the vitality of the local community, it is not considered the proposal would adversely affect this, especially given the proposed change of use would provide the platform for additional persons to reside in the local area, which should only help to further enhance the vitality of the local community.

Secondly, given the application seeks a material change of use from a 4 bedroom flat to a 7 bedroom HMO, consideration is afforded to the main elements outlined in the Householder Development Guide SG - to assess the merits of an HMO. Particularly, the SG states consideration should be afforded to, but limited to, the following:

- Any increased impact on pedestrian or road traffic safety as a result of increased pressure on car parking;
- Significant adverse impact upon residential amenity for any reason, including, but not limited to: adequate provision of refuse storage space, appropriate provision of garden ground/amenity space, and an appropriate level of car parking; and,
- An excessive concentration of HMOs in a given locality, cumulatively resulting in a material change in the character of that area. This should be assessed in consultation with the Council's HMO unit, within the Housing Service; and,
- Where it is not practicable for dedicated car parking to be provided alongside the development, a proposal must not exacerbate existing parking problems in the local area.

In response to the above requirements, the following points are made:

- Travel Impacts: the Council's Roads Service has confirmed they have no concerns on the basis that: cycle storage is to be provided; and the site is easily accessible by bus and on foot, minimising the dependence on private car use;
- Residential Amenity Impacts: The existing and proposed uses are both residential in nature. The fundamental difference being that the proposal would result in an increase in persons living in the self-contained ground floor unit, requiring its approval as an HMO in planning terms. Overall, whilst the proposals would intensify use of the ground floor unit, the proposed uplift in the numbers residing in the property would have a negligible impact on neighbouring units, providing satisfactory additional living space is provided. It is this level of accommodation which is the intention of the extension proposed. The merits of the extension proposal shall be discussed later in this evaluation. Otherwise, additional refuse storage and cycle storage is proposed to sufficiently cater for the proposed increased use, especially there is no scope to provide additional car parking. The site falls within an existing Controlled Parking Zone (CPZ) which seeks to limit vehicular/parking impacts in any case, with the ground floor unit being limited to 2 permits;
- HMO Concentration: the Council's Housing Service has confirmed that at present, 10 out of 77 premises on University Road have valid HMO licenses, whilst 6 out of 14 addresses on Orchard Place and 6 out of 40 addresses on Orchard Road also have these licenses. Whilst it is not known if all such properties are actually operating as HMOs, there is a strong likelihood this is indeed the case. The Council has no specific planning policy which seeks to maintain control over the concentration of HMOs across the city. Scottish Government Circular 2/2012 recommends that planning authorities establish planning policies control concentration of HMOs if it is having a negative impact on the amenity of a community. In the absence of any defined guidance, having

considered the proportions of the current HMOs on the application street and nearest streets branching off it (Orchard Road and Orchard Place), it is not considered approving the proposed HMO would 'tip the balance' on differing residential uses which currently coexist, thus resulting in a significant material change in the character of the immediate locality or adverse impact on the amenity of the local community;

- Car Parking: the Council's Roads Service has not highlighted any existing parking problems along University Road and therefore it is not considered the proposed change of use of the ground floor unit to an HMO would present any excessive parking issues. It is acknowledged that the increase in the number of persons living in the ground floor unit may increase the possibility of using on-street parking but the existing CPZ on University Road should control parking numbers to the maximum the street could accommodate. The use of other more sustainable means of transport would be encouraged by the fact is within easy walking distance of bus services on King Street to the east and High Street to the west, as well as being within a comfortable walking or cycling distance of the University of Aberdeen and the city centre.

Taking the above SG considerations into account, it is considered that the proposed ground floor unit would be appropriate for HMO use.

Alterations and Extension to Building

The primary considerations is assessing the merits of the extension proposals, are: the impacts on the amenity of existing neighbouring residents; and the impact on the character and amenity of the Old Aberdeen Conservation Area. Equally, the given the extensions create additional habitable living space for the two flats it is necessary to consider whether sufficient amenity would be afforded to prospective occupants, especially in light of an intensification of use. The amenity impact is primarily assessed against Policy D1 and its associated SG on householder development, whilst the impact on the conservation is considered within the content of Policy D4 in the ALDP and national Historic Environment Scotland (HES) guidance.

Policy D1 in the ALDP states that new development should ensure a high standard of design, as a result of contextual appraisal. The policy's associated SG titled 'Householder Development Guide' – as referred to above – provides technical guidance on residential extensions. Whilst the application property does not constitute a Class 9 dwellinghouse in its purest form – given the building has been subdivided into flats (Sui Generis) – it does resemble the shell of a detached dwellinghouse and therefore it would be reasonable to apply cognisance of the guidelines set out in the SG on extensions to detached houses. The guidance states the maximum dimensions of any single-storey extension will be determined on a site-specific basis, whilst two storey extensions will be possible subject to considerations set out in the 'general principles' section of the SG, which states the following:

- Proposed extension should be visually subservient to the existing building in terms of height, mass and scale;

- Proposed extension should be architecturally compatible in design and scale to the original building;
- Alterations and extension should not result in a situation whereby the amenity of any neighbouring property would be adversely affected in terms of privacy, sunlight and overshadowing;
- The footprint of extensions should not result in the dwellinghouse exceeding twice that of the original; and,
- No more than 50% of the rear garden ground shall be covered by development.

The proposed extension and alterations to the existing building are considered to be in accordance with the above requirements for the following reasons:

- **Scale:** The proposed extension would replicate the proportions of the existing two storey rear extension, which is visually subservient to the existing building. Whilst the proposed extension would increase the two storey element and slightly increase the height of the existing single storey outbuilding, the cumulative impact would remain minor in scale to the main part of the building;
- **Design/ Architecture:** The proposed extension, as a whole, would incorporate many of the design features already present in the building, such as use of a lean-to roof and a gable end. The proposed finishing materials would also enable a distinction to be formed between the original and newer elements of the building. Taking the above two factors into account, the proposals are considered to be architecturally compatible with the existing situation;
- **Residential Amenity:** The proposed extension, as a whole, would not present any privacy concerns – given it would not create any new overlooking situations through its windows locations. Furthermore, when applying the daylight and overshadowing (sunlighting) calculations – as outlined in the Appendix 2 and 3 of the SG – the proposals would not have an undue adverse effect on the residential amenity of the neighbouring ground floor accommodation and its associated patio area, despite the eastern mutual boundary wall being increased in height by 150mm. This position reflects the fact that the existing two storey element positioned along the eastern side boundary has a greater impact than what is proposed, due to its height and massing. In addition, consideration is afforded to the fact that the neighbouring property to the east has a south-facing garden providing it with lengthy spells of sunlight throughout the day until late at night. Equally, given each proposed new bedroom at first and ground floor level would each be served by a window looking out onto dedicated garden space, prospective residents of the two units would achieve an adequate level of general residential amenity;
- **Plot Coverage:** The proposed extension, by virtue of its modest sized footprint, would not result in the footprint of the building exceeding twice that of the original; and,
- **Rear Curtilage development:** The proposed extension and alterations to the building would not result in more than 50% of the rear curtilage being developed on, even when factoring in the proposed cycle and bin stores.

Taking the above technical merits into account, and the fact that the committee, has already approved a near identical size and shaped extension at the site in January 2014 (Ref: 131212), the proposed physical changes to the building are considered acceptable.

Impact on Conservation Area

Policy D4 in the ALDP states that the Council will protect, preserve and enhance the historic environment in line with relevant national policy and guidance, which underpins the policy. The policy goes on to state that high quality design, that: respects the character, appearance and setting of the historic environment including Conservation Areas will be supported. Historic Environment Scotland's (HES) guidance on extensions is also applicable in this context.

With regards to the proposed change of use of the ground floor unit, there is not considered to be any tangible impacts on the character and visual amenity of the Old Aberdeen conservation area. Rather, the proposed extension and alteration to the rear of the application property would see potential impact on the conservation area.

The proposed physical changes would not be readily visible from University Road, a prominent public thoroughfare within the Old Aberdeen Conservation Area. Instead, the proposed works would be primarily visible from Orchard Walk and Northern Bowling Club's bowling green, both to the rear. At present, this public vista is primarily dominated by large rear extensions to the properties on University Road, which characterise this part of the conservation area. To this end, the proposed minor modification and extension of an existing rear extension would not have an undue adverse impact on the character of the conservation area. Likewise, given their scale, the proposed bin store and bicycle shed would have no undue visual impact on the Conservation Area. The proposed finishes should ensure the proposals do not adversely affect visual amenity within the conservation area, a condition can control the quality of finishing materials. The Council's Senior Conservation Officer has been consulted and is content with the proposed scale and design of the extension, adding further assurance the proposals would not unduly impact on the character and amenity of the Old Aberdeen Conservation Area.

Taking the aforementioned points into account, it is considered the proposed physical changes to the building would be compliant with the relevant requirements of Policy D4 in the ALDP and relevant HES guidance.

Remaining matters yet to be addressed (through representations and the local community council's submission)

- 1) *Proposal would result in overdevelopment of the site* – The proposals would not significantly increase the density of built development within the confines of the site, leaving a generous sized area of dedicated amenity space. For the avoidance of doubt, the existing level of development equates to approximately 23% site coverage and the proposed development see create as increase up to

approximately 28%. To that end, the proposal is not considered to result in overdevelopment of the site.

- 2) *The proposal would set an undesirable precedent* – No definitive precedent would be set if this application is approved, given each application is determined on its own merits. Any future applications of a similar scale and nature both for the application property and neighbouring properties would need to be considered on their own merits line with the relevant policies at that time and any other relevant material considerations dictating the outcome.
- 3) *Excessive density of accommodation – the building could hold 20 persons which puts further pressure on the local neighbourhood in terms of excessive noise and the creation of litter, further exacerbating an unhappy living environment for local residents* – This planning application can only consider the merits of what is proposed in planning terms, which are considered acceptable in respect of the proposed use and the extension. The Council's HMO Licensing team ultimately place restrictions on the number of permanent occupants within the ground, first floor and second floor self-contained units which are presently restricted to 1 person per bedroom under existing licenses meaning the number of permanent residents would not be as many as 20 persons as suggested. Creation of noise from domestic use and litter is out of the control of the planning authority, however, separate Council services such as Environmental Health would have control over statutory nuisances and litter issues. The Council's Waste Service is content that sufficient refuse facilities have been provided to accommodate the needs of the proposed number of residents.
- 4) *The proposed floor layout appears inadequate to meet the HMO licensing requirements* – HMO licensing requirements fall outwith the consideration of this planning application. Planning permission is a prerequisite for being able to obtain an HMO license from the Council's Licensing Service, but does not mean a license would necessarily be granted. An informative can be added to any subsequent planning consent, if members of the PDMC are minded to support the application.

Conclusion

In conclusion, it is considered the proposed change-of-use of the ground floor flat to 7 bedroom HMO would be acceptable within the proposed physical parameters of the building and its curtilage, as well as consideration being afforded to its surrounding context. Furthermore, the proposed alteration and extension of the existing rear part of the building would result in a development that is similar in scale to that approved under application 131212. It is not considered that this would have an undue adverse effect on the amenity of neighbouring properties; or the character and amenity of the Old Aberdeen Conservation Area, by virtue of its quality finished contemporary design. Overall, the proposal is considered compliant with the relevant requirements of relevant policies in the Aberdeen Local Development Plan 2017 and the provisions of relevant supplementary guidance, and relevant Historic Environment Scotland guidance. In the

absence of any overriding other material considerations, the application is recommended for approval.

RECOMMENDATION

Approve Conditionally

REASON FOR RECOMMENDATION

The proposed change of use to the ground floor flat to a House in Multiple Occupation (HMO) would not result in a significant erosion of the existing character of the local area or the vitality of the local community and therefore is considered compliant with Policy CF1: Existing Community Sites and Facilities, in the Aberdeen Local Development Plan 2017. Furthermore, the proposal would satisfy with the relevant considerations for HMO use outlined in the Council's 'Householder Development Guide' supplementary guidance (HDGSG). In addition, the proposed extension and alterations to the existing rear ancillary buildings would be modest in scale and appearance, to the extent it would not unduly jeopardise the residential amenity of neighbouring residential uses balanced with being of an appearance which respects the site's position with the Old Aberdeen Conservation Area. To this end, satisfying the relevant requirements of Policy D1: Quality Placemaking by Design; and Policy D4: Historic Environment in the ALDP 2017, as well as relevant guidance within the Council's HDGSG. Overall, the proposal is considered acceptable.

CONDITIONS

- 1) Prior to commencement of development, the applicant is required to provide details/ samples of the proposed render and timber cladding finishes for approval in writing by the Planning Authority. Thereafter, the approved scheme shall be carried out in accordance with such agreed details.

Reason: In the interests of the character and general amenity of the Old Aberdeen Conservation Area.

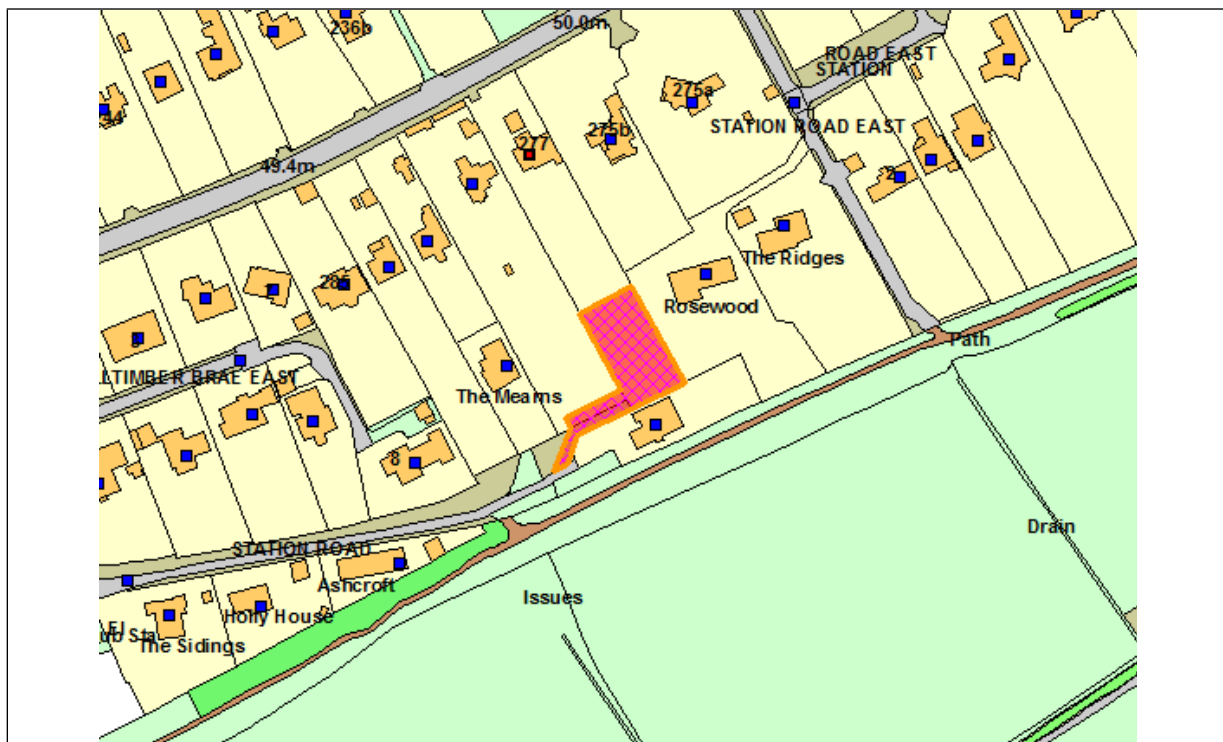
ADVISORY NOTES FOR APPLICANT

- 1) Despite the granting of planning permission to use the ground floor flat as an HMO (House in multiple Occupation), the applicant/owner of the premises would still be required to apply and obtain a variation of to their existing HMO license from the Council before this use can legally be implemented.

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 <p>ABERDEEN CITY COUNCIL</p>	<h2>Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date: 15th February 2018</p>

Site Address:	Land To The Rear Of 277 North Deeside Road, Milltimber, Aberdeen, AB13 0HA
Application Description:	Subdivision of residential curtilage and erection of dwellinghouse with associated new access and landscaping works
Application Reference:	171444/DPP
Application Type	Detailed Planning Permission
Application Date:	4 December 2017
Applicant:	Mr Alistair Macleod
Ward:	Lower Deeside
Community Council	Cults, Bieldside And Milltimber
Case Officer:	Jamie Leadbeater



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site forms part of the rear garden area of a large detached dwellinghouse on the southern side of North Deeside Road in Milltimber. The site sits between a detached bungalow called Rosewood to the east, the rear garden area of 279 North Deeside Road to the west and a detached dwellinghouse to the south. No vehicular access to the site currently exists but pedestrian access can be achieved from either the existing main house to the north of the site or via a raised walkway from Station Road to the south-east currently serves a number of detached houses including the neighbouring house to the south of the site. Trees and shrubs both currently exist within and are sited close to the mutual east, west and southern boundaries of the site within adjoining garden areas. The east and western boundaries are treated within c. 1.2m high stone walls, whilst the northern and southern boundaries are treated within high hedges.

Relevant Planning History

Application Number	Proposal	Decision Date
120317	Erection of new detached dwelling on ground to the rear of 277 North Deeside Road, together with upgraded access from Station Road	Withdrawn by applicant – May 2012

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the subdivision of residential curtilage and erection of detached 4 bedroom dwellinghouse and detached garage, as well as the creation of new access and landscaping works.

The proposed slate tiled, hipped roof dwellinghouse would have a split-level living area with the bulk of living accommodation located on the upper floor level. The principal south-east elevation affords a 'basement level' main access door within its part glazed, part stone façade. The other three elevations would be predominantly finished in a smooth white wet-dash 'K rend' with windows and doors located throughout. A covered balcony area to be located a first floor level on the south-east principal elevation and an uncovered raised decking area to adjoin the north-west side elevation, whilst a flue pipe and 2 rooflights are located within the roof space. Windows and doors would be constructed from dark grey 'alu-clad' frames. Rainwater goods to be made from dark grey cast aluminium.

The proposed detached garage would have a fully rendered exterior and pointed hipped slate tiled roof with both finishes to match those of the main house. The garage would obtain access from a new gravelled driveway and turning area to be formed from an existing pathway leading to the site from the verge of Station Road. As part of these works, it is proposed to remove some existing hedging and a rear boundary wall pertaining to the adjoining neighbour's garden which would be re-built in a new position c. 3m northwards of its present position. Additional landscaping works include the creation of a new 2m high hedge along the northern boundary, laying concrete paving around the northern and eastern perimeter of the house, creation of a garden feature within the northern portion of the site.

Supporting Documents

All drawings, and supporting documents, listed below can be viewed on the Council's website at: <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P0AHT6BZHLG00> .

The following documents have been submitted in support of the application –

- Design & Access Statement;
- Drainage Assessment;
- Shadow Analysis;
- Tree and Bat Report

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because there has been more than 5 objections have been received against the local planning application proposals.

CONSULTATIONS

ACC - Roads Development Management Team – No concerns. Proposed driveway adheres to the appropriate standards and proposed location for presenting waste would be acceptable. Station Road is un-adopted and therefore Roads Construction Consent (RCC) would not be required.

ACC - Waste Strategy Team – Proposed bin storage locations are considered acceptable.

ACC - Flooding and Coastal Protection – No comments or objections as development does not pose a flood risk. However, would recommend use of permeable materials within the design scheme to mitigate increase in surface water run-off.

Cults, Bieldside and Milltimber Community Council – Do not object, but wish for nearby residents concerns to be taken into account. If consent is granted, safety measures should be put in place along Station Road during the construction phase of development as this is the approved route for users of the Deeside Way to go over the

AWPR bridge. Furthermore, it would be preferable if the Council could provide an alternative route for users of the Deeside Way which negates the need for walkers, pedestrians and horse riders having to use Station Road.

REPRESENTATIONS

The application has received 6 letters of representation, all of which object to the proposals. The material issues arising from these letters are as follows:

- Overdevelopment of the site;
- Proposal breaches the relevant requirements of the Council's Supplementary Guidance on the sub-division and redevelopment of residential curtilages;
- Siting of the dwellinghouse would not follow the 'building line' of existing surrounding dwellings;
- The area is already overdeveloped without further infill development to worsen the situation; and,
- Proposal would give rise to additional traffic congestion problems on North Deeside Road.

The letters of representation and local community council response also make reference to a number of other reasons to object to the application or raise other issues which are not considered to be material in determining this application. They are as follows:

- The proposal will result in increased usage of Station Road which will worsen the condition of the road;
- The proposed access road infringes on to a neighbour's land at 8 Station Road which the occupants do not consent to;
- The proposed works fall within close proximity of the retaining wall and drainage system pertaining to Station House, and therefore assessment of the potential impact on these features should be carried out in advance of the works occurring;
- The community council believe safety measures should be put in place along Station Road during the construction phase of development; and,
- The community council believe the Council could provide an alternative route for walkers, cyclists and horse riders along the Deeside Way other than using Station Road.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

Aberdeen Local Development Plan (2017) (ALDP)

- Policy CI1: Digital Infrastructure
- Policy D1: Quality Placemaking by Design
- Policy H1: Residential Areas
- Policy NE5: Trees and Woodlands
- Policy NE6: Flooding, Drainage and Water Quality
- Policy R6: Waste management requirements for new development
- Policy R7: Low and Zero Carbon building, and water efficiency

Supplementary Guidance and Technical Advice Notes

- The Sub-division and Redevelopment of Residential Curtilages (Supplementary Guidance)
- Trees and Woodlands (Supplementary Guidance)
- Householder Development Guide (Supplementary Guidance)

Other Material Considerations

None

EVALUATION

Principle of Development

The application site falls within a designated H1: Residential Area on the ALDP 2017 Proposals Map. Within such land designations, new developments are subject to the provisions of Policy H1 In the local development plan (ALDP). In order for new developments to be considered acceptable within the context of the policy they must comply with the following requirements:

- Does not constitute 'overdevelopment';
- Does not have an unacceptable impact on the character and amenity of the surrounding area;
- Does not result in the loss of valuable and valued areas of open space, as defined on the Open Space Audit 210; and,
- Complies with relevant supplementary guidance.

The above requirements are addressed as follows:

- The footprint of the main house and garage would cover a modest area of the entire application site resulting in the creation of generous associated garden space and therefore would provide some continuity in the creation low density residential development in the area. As such, the proposal is not considered to be 'overdevelopment' of the site;

- The general scale, form and massing of the building would draw upon many design aspects of residential properties in the surrounding area whilst the proximity and orientation of windows serving habitable rooms throughout should not present undue privacy or loss of daylight concerns to neighbours. However, the proximity of the proposed house to existing trees which are proposed to be retained because of their character and visual amenity value could be adversely affected, which will be discussed in greater detail in the next section of the evaluation. As such, whilst the design of the house would not necessarily have an unacceptable impact on the character and amenity of the surrounding area, the positioning of the house may do if it results in long-term tree loss because of the valuable contribution they currently make to the surrounding area;
- The application site currently falls within the private amenity ground of an existing dwellinghouse and does not constitute public open space. As such, the proposal would not give rise to a loss of public open space; and,
- Compliance with relevant supplementary guidance shall be discussed below.

Impact on Trees

As stated above in the site description, both the application site and adjoining gardens areas to the east and west falling outwith the applicant's control contain a number of different trees which help characterise the surrounding area and offer visual amenity. As such, Policy NE5 (Trees and Woodlands) is applicable in this case which sets the following requirements:

- There is a presumption against all activities and development which would result in the loss of, or damage to, trees and woodlands that contribute towards nature conservation, landscape character, local amenity or climate change adaptation or mitigation;
- Permanent and temporary buildings should be sited so as to minimise adverse impacts on existing and future trees;
- Appropriate measures should be taken for the protection and long-term management of existing trees and new planting, both during and after construction;
- Where trees may be impacted by a proposed development, a Tree Protection and Mitigation Plan will need to be submitted and agreed with the Council before any development activity commences on site; and,
- Where applicable, Root Protection Areas (RPAs) should be established and protective barriers erected prior to any work commencing. The associated Supplementary Guidance provides more information on this.

In addition to the above, the policy's associated supplementary guidance titled 'Trees and Woodland' provides more specific advice on how to assess the impact of developments on trees and woodlands, and what is needed in the form of supporting documentation from the applicant to address potential concerns. Section 8.4.2 of the guidance makes specific reference to the term 'Zone of Influence' (ZOI) which is generally considered to be the distance between the base of a tree to the mature height of it. Dwellinghouses should not be sited within the ZOI from each tree which is likely to

be affected. In addition, the SG outlines that the footprint of dwellinghouses should not fall within the Root Protection Areas (RPAs) of trees as construction works would likely compromise the structural integrity of a tree resulting in it most likely needing to be removed unduly on safety grounds.

The applicant has hired a tree specialist (Arboriculturalist) to conduct a Tree Survey in line with the relevant British Standard (BS5837:2012), and the applicant's agent has applied the theoretical RPAs of existing trees to the proposed site plan as well as prepared site cross-section drawings to outline the proximity and scale of existing trees in relation to the proposed dwellinghouse. The Council's Tree Officer has considered the findings of the Tree Survey and associated supporting material, and is of the view that the proposed dwellinghouse would place an unfair burden on the owners of trees outwith the applicant's control to remove trees long-term which would result in a loss of character and amenity for the area. To be specific, the location of the proposed house would fall within the projected 'Zone of Influence' of 3 trees (trees 10, 11 and 12 within the Tree Schedule) in the neighbouring garden area to the east and 1 large mature tree (tree number 5 in the Tree Schedule) located within the south-western part of the site close to the proposed large glazed dining area within the proposed house. Not only this, but the Council's Tree Officer is of the view that the proposed dwellinghouse would also encroach within the defined Root Protection Areas (RPAs) of the above stated trees, which would pose a risk to the trees' health and existence long-term. These concerns were relayed to the applicant at pre-application stage, but despite the applicant's efforts in the intervening period to demonstrate otherwise, the Planning Service remains unconvinced of the mitigating arguments put forward. To this end, it is considered the proposal would contravene the main aim of Policy NE5 in the ALDP and conflict with the guidance set out in its associated SG.

Layout, Siting and Design

Policy D1 in the ALDP states that all new development must ensure high standards of design which is a result of contextual appraisal. Use of quality architecture and materials are implicit to the requirement for high standard of design. In order to address the requirements of this policy in full, it is essential to consider how well the proposal aligns with the requirements of Policy D1's supplementary guidance titled 'subdivision and redevelopment of residential curtilages' for the creation of a new additional dwellinghouse within the curtilage of an existing one. The core requirements set out in the SG are as follows:

- New dwellings must respect the established pattern of development;
- The scale and massing of any new dwelling should complement the scale of surrounding properties;
- No more than 33% of the total site area should be built upon;
- High quality design and materials – including design components - which enhances and respects the character and appearance of the surrounding area will be encouraged and needed in most respects;
- New dwellings should not adversely affect the existing dwellings residential amenity in terms of privacy, overlooking, daylighting or sunlighting;

- Windows – property to property – should be separated by a minimum of 18m;
- Windows serving habitable rooms should not look directly over or down into private amenity areas of adjoining gardens;
- Rear gardens should have an overall length of at least 9m, which should be conveniently located immediately adjoining the residential property and be of a layout which makes it ‘usable’ in respect of functionality and privacy; and,
- Care should be taken to position new buildings to minimise potential disturbance to the root system of tree canopies. The loss of mature or attractive garden trees which make a contribution to the visual amenity of the neighbourhood would not be acceptable.

The above requirements are addressed as follows:

- There is an existing pattern of ‘backland’ development in established rear garden areas pertaining to old properties along the southern side of North Deeside Road. To this end, the proposal would respect the existing pattern of development in the immediate surrounding area;
- As indicated in the abovementioned paragraph addressing the issue of ‘overdevelopment’, the proposed scale of the proposed house is considered proportionate to the size of the plot whilst the dominant single storey aspect of the proposed house would be in-keeping with the main design theme of surrounding neighbouring properties to the east and west. This design, which also is tailored to the site topography, would result in a building with an appropriate level of massing;
- The submitted Design & Access Statement states that the proposed house footprint would take up 15% of the total site area. The addition of the garage would increase to the developed site coverage up to about 17%, but this level of development would be significantly below the recommended upper limit of 33% set out in the SG. In the immediate locality, site coverage could be as low as 3%;
- Surrounding properties comprise of varying design features, finishes and heights. As such, no distinct character is considered to exist. The proposed design is considered to be a contemporary modern design that has been purposefully designed for the site and comprises quality, modern finishing materials which would not look out of place within the site’s context. Furthermore, the height of the building has been well-considered to make best use of the topography of the site with a view to minimising its prominence on the semi-rural landscape;
- The applicant has submitted a ‘shadow analysis’ survey with the application in line with the methods shown in Appendix of the Council’s Householder Development Guide SG, which demonstrates the proposed dwellinghouse would not have an undue adverse effect on the existing residential amenity afforded to the closest existing dwellinghouse to the east (Rosewood) in respect of ‘overshadowing’ and daylight;
- Windows within the proposed dwellinghouse would maintain a separate distance of 18m from those within immediate neighbouring dwellinghouses;
- Furthermore, whilst most windows along the north-eastern and south-western side elevations would serve habitable rooms, and be orientated towards the

private garden ground of Rosewood and 279 North Deeside Road, no undue impacts on the respective neighbours amenity spaces are likely to occur when factoring in the proximity of those windows to the mutual boundary and the comparable height of each window in relation to the height of the boundary wall;

- The site plan shows the garden area in the north-western portion of the site would have a depth of 9m which would provide privacy for prospective residents and would also be functional in terms of the topography of the land area; and,
- Impact on trees has already been addressed in the previous section of the evaluation.

As outlined in the above discussion the proposed contemporary house design and associated garage has a number of merits. Specifically the proposed height, form, fenestration pattern and separation distances from neighbouring houses allay residential amenity concerns from neighbouring properties. The proposed elongated footprint of the house is unusual but it is recognised this is dictated by the shape of the site and the proximity of existing trees. This innovative footprint design is considered acceptable in principle in this case given the site's context set amongst houses of varying sizes and shapes, especially given that it allows for ample provision of dedicated garden ground to help maximise the level of general residential amenity afforded to prospective residents. With regards to considering the merits of other design elements incorporated into the house, the proposed balcony area on the principal elevation – although positioned at an elevated level in relation to Station House to the south – would not present an undue overlooking potential given it would be set back approximately 17m from the mutual boundary when the normal standard separation requirement would be 9m. Likewise, whilst the proposed raised decking area adjoining the south-western side elevation would fall within closer proximity to one of the neighbouring gardens (rear of 279 North Deeside Road), based on the assumption that people using the decking area would sit down for longer periods of time (as opposed to standing-up) the proposed 7m separation from the mutual boundary should prove sufficient to design-out any potential undue intrusion of privacy within the neighbour's garden ground. It should also be noted that the area of neighbouring garden ground in question (pertaining to 279 North Deeside Road) is furthest away from the neighbouring house and therefore is least likely to be used.

In conclusion, whilst it is clear the proposed house design and site layout could afford prospective residents with an appropriate level of residential amenity without unduly compromising existing residents general residential amenity, the scale and siting of the design and layout fails to take sufficient cognisance of the long-term risk posed to existing trees which enhance the general amenity of residing in the locality. To this end, the proposal is merely deemed part compliant with Policy D1 and its associated SG.

Energy Efficiency in Design

The design of new dwellinghouses is required to demonstrate that it meets the two core requirements of Policy R7 in the ALDP. These first requirement entails the need for the house's energy efficiency to be a minimum of 20% reduction in the carbon dioxide emissions below the present building regulations standard at the time of this application

being determined, and second, requires the proposed new house to incorporate 'water saving' technologies and techniques to minimise dependency of water abstraction from the River Dee. The solutions involved in meeting these requirements do not generally materialise until Building Warrant stage, and therefore if members of the committee are minded to approve the application these requirements could be controlled through use of a suspensive condition.

Site Servicing

The main servicing considerations for this proposal are drainage, vehicular access and parking, and waste storage. As such, the relevant policies in the ALDP this case are NE6 (Flooding, Drainage and Water Quality) and R6 (Waste Management Requirements for New Developments), whilst the merits of access and parking is primarily assessed on the technical merits expressed the Council's Roads Service. Policy NE6 states development will not be permitted if it increases the risk of flooding, whilst Policy R6 states that all new developments should have sufficient space for the storage of all waste types applicable to that development with the details of the means of collection to be provided with any application.

All relevant Council Services have been consulted on the proposals and have posed no objection to the proposals, which include the provision of bin storage off station road and use of permeable finishing materials and associated soakaway within the driveway and turning area. Therefore it is considered the proposal would be suitably serviceable for modern day use, thus also rendering the proposal compliant with Policy NE6 and Policy R6.

In addition to the above, Policy CI1 in ALDP imposes additional servicing requirements on new residential developments by way of seeking assurance the proposed new house could be served by 'modern, up-to-date high speed communications infrastructure'. Should this application be approved, this requirement could be controlled by condition by way of seeking written assurance from the applicant/developer prior to commencement of development.

Addressing material issues raised in written representations

- 1) *Overdevelopment of the site* – Whilst it is considered the proposal is likely to place undue pressure on existing trees within and outwith the site, it is not considered the proposal constitutes 'over development' of the site in terms of site coverage and falls within the 33% limit expressly stated in the Council's supplementary guidance on the 'subdivision and redevelopment of residential curtilages' stated above;
- 2) *Proposal breaches the relevant requirements of the Council's Supplementary Guidance on the sub-division and redevelopment of residential curtilages* – As outlined above, the proposal complies with most relevant requirements outlined with the SG, however, it is considered the proposal would not meet the

requirements concerning taking care of trees and therefore the objector makes a valid point.

- 3) *Siting of the dwellinghouse would not follow the 'building line' of existing surrounding dwellings* – It is not considered there is a defined building line for houses in the immediate surrounding area. Existing houses to the north vary in proximity and orientation to North Deeside Road, whilst houses to the east take access of Station Road East and do not front on to the road. The building line of houses to the south and west are largely dictated by the length and shape of Station Road and Milltimber Brae East respectively, but the application site is disconnected from these given its comparable location.
- 4) *The area is already overdeveloped without further infill development to worsen the situation* – The immediate surrounding area is not considered to be overdeveloped. Each new proposal is considered on its own merits. It is not considered this proposal would give rise to an overconcentration of houses in the area taking into account its proposed siting and resultant numbers.
- 5) *Proposal would give rise to additional traffic congestion problems on North Deeside Road* – Whilst the proposal is likely to give rise additional vehicles using North Deeside Road, the level of uplift is considered to be negligible and consultation with the Council's Roads Service has not given rise to any concerns in this respect.

Conclusion

In conclusion, whilst it is clear the proposal does carry a number of merits in line with most relevant policies in the ALDP 2017 and their respective SGs, the siting and proximity of the proposed house to existing trees - both within and outwith the applicant's control – would undoubtedly result in the loss of the said trees resulting in a loss of local character and amenity to the local surrounding area. This would place the proposal at odds with the main aim of Policy NE5 in the ALDP and its associated supplementary guidance, as well as failing to fully comply with Policy H1, D1 and the SG on residential curtilage subdivision and redevelopment. The materiality of these policy conflicts outweighs the merits of the proposal and therefore the application is recommended for refusal.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

Whilst the proposal demonstrates part compliance with Policy H1- Residential Areas and D1- Quality Placemaking by Design, and full compliance with Policy NE6: Flooding, Drainage and Water Quality and Policy R6: Waste management requirements for new development in the Aberdeen Local Development Plan 2017, and most, but not all -

relevant requirements of the Supplementary Guidance titled Householder Development Guide and the Subdivision & Redevelopment of Residential Curtilages, the proposal's failure to fully comply with the some of the abovementioned policies and supplementary guidance coupled with Policy NE5- Trees & Woodlands in the ALDP 2017 and its associated Supplementary Guidance titled Trees & Woodland - due to its likely unduly detrimental impact on the long-term preservation of trees carrying local amenity and landscape character value, both within and outwith the applicant's control - is considered to materially outweigh these merits, and therefore render the proposal unacceptable in its entirety.

ABERDEEN CITY COUNCIL

COMMITTEE	Planning and Development Management Committee
DATE	15 th February 2018
REPORT TITLE	Confirmation of Tree Preservation Order number 249/2017 Malcolm Road, Peterculter, Aberdeen
REPORT NUMBER	CHI/18/003
DIRECTOR	Bernadette Marjoram
REPORT AUTHOR	Kevin Wright

1 PURPOSE OF REPORT

- 1.1 To request the confirmation of the provisional Tree Preservation Order entitled 249/2017 Malcolm Road made by the Head of Planning and Sustainable Development under delegated powers. The provisional order currently provides temporary protection for the trees included in the order, but requires to be confirmed by the Planning Development Management Committee to provide long term protection.

2 RECOMMENDATION

- 2.1 It is recommended that Members confirm the making of Tree Preservation Order 249/2017 Malcolm Road subject to modification and instruct the Head of Legal and Democratic Services to attend to the requisite procedures to serve the Order as confirmed upon the interested parties and seek to register the Order with the Registers of Scotland.
- 2.2 Section 4.3 below details the extent of modification.

3 BACKGROUND

- 3.1 The Town and Country Planning (Scotland) Act 1997 places a duty on the planning authority to ensure that adequate provision is made for the preservation of trees. Where the planning authority considers it to be expedient in the interests of amenity they may make provision for the preservation of trees or woodlands by serving a Tree Preservation Order (TPO).
- 3.2 A TPO gives statutory protection to trees and woodlands that are considered to contribute to amenity or are of cultural and/or historical significance. Protecting trees has

the further benefit of contributing to the Council's policies on improving our natural environment, improving citizen wellbeing and combating climate change.

- 3.3 The process of applying for work to protected trees allows for Council officers, Elected Members, Community Councils and members of the public an opportunity to comment on proposed works.
- 3.4 Tree Preservation Order number 249/2017 Malcolm Road was served as a provisional order on 27th September 2017. The serving of the provisional order was necessary to prevent the further unauthorised felling of woodland. A felling license application had been made prior to felling works commencing however the Forestry Commission Scotland had refused a license. Based on the unauthorised felling activity the Forestry Commission Scotland has pursued prosecution; the case has been accepted by the Procurator Fiscals office.

The reasons given in the statement of reasons for serving the order are noted in section 3.5 to 3.8 below.

- 3.5 The land on the northeast side of Malcolm Road contains trees which are considered to make significant contributions to the amenity and landscape character of the surrounding area. They present important landscape features which have positive impacts in providing landscaped backdrops and context to the area, including proposed developments bounding the site.
- 3.6 In addition, the site is included in the Scottish Ancient Woodland Inventory (AWI), prepared by Scottish Natural Heritage. This site was designated as such on the basis that it is 'Long Established of Plantation Origin – known to have been wooded since the 1870s'. Ancient Woods are important because;
 - They include all remnants of Scotland's original woodland.
 - Woods and veteran trees are ancient monuments whose value to the local community and historians may be as great as that of the older buildings in a parish.
- 3.7 Scottish Planning Policy identifies Ancient Woodland as an important and irreplaceable national resource that should be protected and enhanced. The Scottish Government's policy on control of woodland removal states that there is a strong presumption against removing ancient semi-natural woodland or Plantations on ancient woodland sites.
- 3.8 The serving of a Tree Preservation Order will allow Aberdeen City Council to consider all future tree work proposals and prevent works that are considered to be unsympathetic. In addition the order will ensure future tree cover in this area of Aberdeen.

4 REPRESENTATIONS

- 4.1 Two representations have been submitted following the serving of the provisional tree preservation order. Copies of both representations are attached.

- 4.2 Whilst the two representations are not identical they raise many of the same issues. The issues raised in each representation can be categorised into two subject areas; the first subject refers to the legal validity of the order and the second subject relates to more general objections to the serving of the order.
- 4.3 Comments 1-5 in the Combined Corporation (BVI) Limited representation and comments a-i in the Churchill Homes representation highlight concerns regarding the legal validity of the order. Legal advice has been provided by the Planning and Environment Legal Team in relation to the above comments. The Team have confirmed that the issues raised within the representations do not impact upon the legal validity of the order. The legal Team have acknowledged the omission of signatures under each schedule; the team have acknowledged that this is common practice but is not a legal requirement. Prior to serving the confirmed order the order will be modified to include signatures under each schedule.
- 4.4 Comments A-D in the Combined Corporation (BVI) Limited representation and comments 1-9 in the Churchill Homes representation relate to general objections to the serving of a tree preservation order, raise a number of concerns relating to the impact of the order and make observations relating to tree stock on neighbouring land.

The comments noted above have been considered by the planning authority; none of the comments are considered to affect the reasons for serving the provisional tree preservation order or seeking the confirmation of the order.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no immediate financial implications. The costs associated with the serving of the provisional TPO and confirming the TPO will be met within existing budgets.

6 LEGAL IMPLICATIONS

- 6.1 There are no direct legal implications arising from the recommendations of this report.

7 MANAGEMENT OF RISK

- 7.1 Environmental/Legal/Reputational Risk

The Town and Country Planning (Scotland) Act and the Scottish Governments Policy on Control of Woodland Removal places a duty on the Council to consider the preservation of trees and woodlands in order to safeguard the multiple benefits that trees and woodlands provide.

- 7.2 The use of a Tree Preservation Order to aid the retention and appropriate management of trees and woodlands allows the council to undertake the above duties. There is a low

to medium risk of environmental, legal and reputational harm if we do not undertake our duties as expected.

7.3 The above risk can be mitigated by giving due consideration to the appropriateness of confirming Tree Preservation Order 249/2017 Malcolm Road.

7.4 There is no Financial, Employee, Customer and Technology risk.

8 IMPACT SECTION

8.1 Economy

The proposal is unlikely to significantly contribute or result in a negative impact on the economy of Aberdeen.

8.2 People

The proposal is unlikely to have any significant impact on people with protected characteristics or any negative impact on the delivery of the Councils Equality outcomes.

8.3 Place

The proposal will have a positive impact on the environment. The proposal seeks to safeguard public amenity and seeks to ensure suitable future management of the trees included within the order.

Trees and woodlands deliver multiple benefits. In addition to their contribution to amenity they play a significant role in improving air quality, assist in mitigating climate change, provide health benefits and help improve social wellbeing. They are an integral habitat feature and directly and indirectly support a wide range of wildlife.

8.4 Technology

The proposal will not advance technology for the improvement of public services.

9 BACKGROUND PAPERS

- Town and Country Planning (Scotland) Act 1997, Part VII Special Controls, Chapter I Trees
- The Scottish Governments Policy on Control of Woodland Removal

10 APPENDICES

- Plan detailing the extent of TPO 249/2017
- Representation on behalf of Combined Corporation (BVI) Limited
- Representation – Churchill Homes

11 REPORT AUTHOR DETAILS

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HEAD OF SERVICE DETAILS

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Head of Planning and Sustainable Development (Interim)
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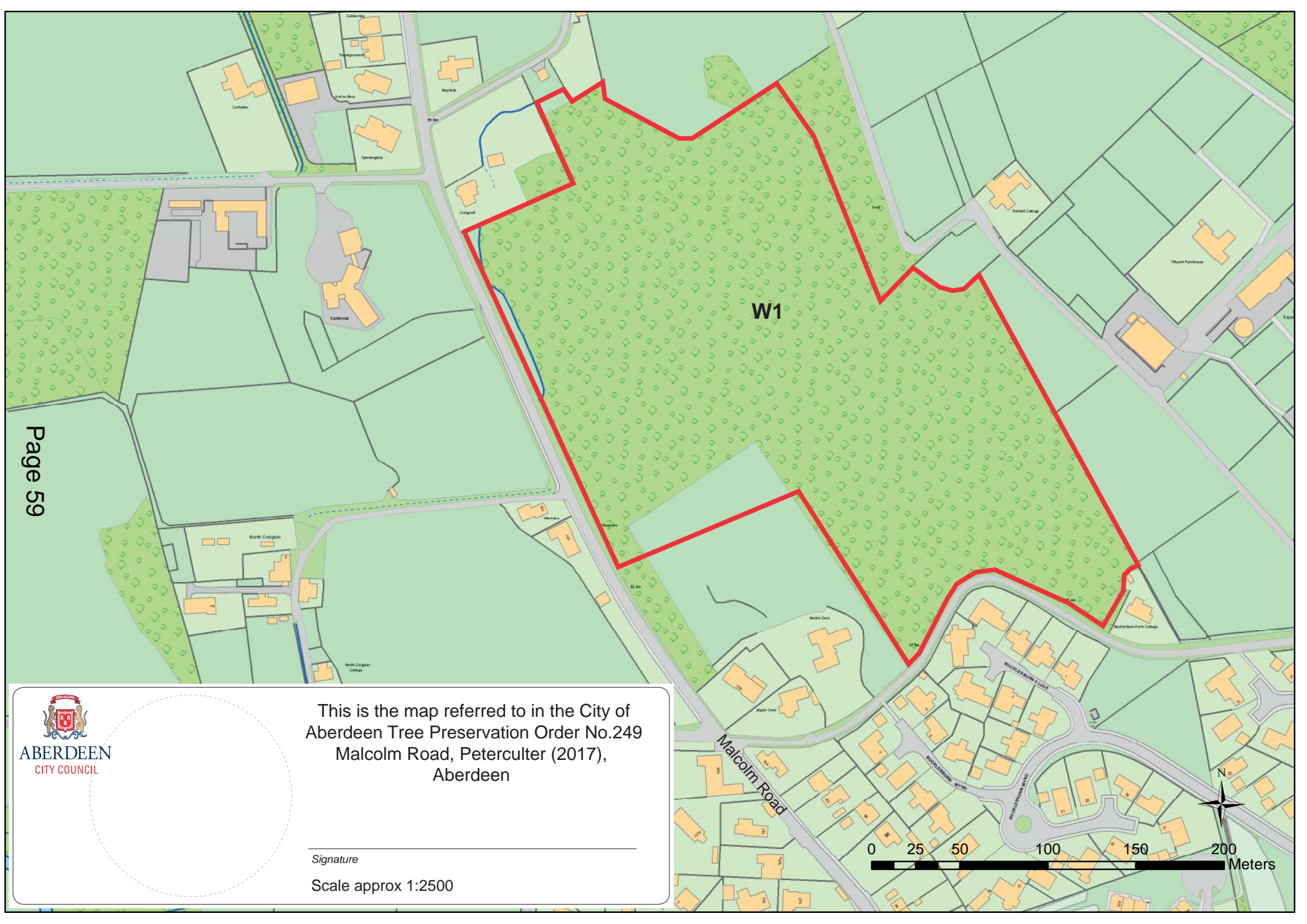


This is the map referred to in the City of Aberdeen Tree Preservation Order No.249 Malcolm Road, Peterculter (2017), Aberdeen

Signature

Scale approx 1:2500

W1



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23 October 2017

Legal and Democratic Services
Corporate Governance
Aberdeen City Council
Level 1 South
Marischal College
Broad Street
Aberdeen AB10 1AB



For Attn : **Kate Johnstone**

Dear Madam,

Town and Country Planning (Scotland) Act 1997
City of Aberdeen Tree Preservation Order No. 249/2017
Land At Malcolm Road, Peterculter, Aberdeen

Further to the above noted Order and to your letter dated 27th September 2017 issued to Combined Corporation BVI Limited, we can confirm that we have been duly forwarded a copy of this correspondence, due to Churchill Homes Properties (Scotland) Limited having a legal contract in place with Combined Corporation (BVI) Limited over all of the land highlighted in red and referred to as W1 within the Order.

We note that the Council will not be moving to confirm TPO 247/2017, however wish to supersede with TPO 249/2017.

Therefore, we wish to make a Formal Representation to Reject this Order for a number of reasons referred to as follows;

Firstly, we question the legal validity of TPO 249/2017 on the following basis :-

- a) We believe that TPO 249/2017 was not served at the registered offices of the title holders, but at that of which a sister company operates from.
- b) The 'red line' referred to within the First Schedule, which serves to identify all of the 'Woodland' to be included within the Order, only includes the land covered in Title ABN69460. Although the Order refers to other land within Title ABN106810, this is not included within the 'red line' on the plan annexed.
- c) The First Schedule of TPO 249/2017 remains unsigned by a Proper Officer.
- d) The First Schedule of TPO 249/2017 refers to "A predominantly Birch Woodland" which was not mentioned in any of the previous three unconfirmed Orders. This statement is incorrect.
- e) Schedule 2 of TPO 249/2017 remains unsigned by a Proper Officer.
- f) The Statement of Reasons annexed to TPO 249/2017 gives no detail regarding inspection of the Order by the public.

cont./

Churchill Homes Properties (Scotland) Limited 11 Broomhill Road, Aberdeen, AB10 6JA
Tel: 01224 256180 Fax: 01224 256181 Web: www.churchill-homes.co.uk E-mail: info@churchill-homes.co.uk

Wholly owned by Churchill Homes Limited Registered office: 6 Alford Place, Aberdeen, AB10 1YD Registered in Scotland No. 143966

b/fwd.



Churchill
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- g) The Statement of Reasons annexed to TPO 249/2017 gives no detail concerning the lodging of observations and representations to the Order.
- h) The Statement of Reasons annexed to TPO 249/2017 does not provide a Statement of Effect of Direction.
- i) The Statement of Reasons annexed to TPO 249/2017 has not been signed as is required by Section 8 (2) of the Requirements of Writing (Scotland) Act 1995.

In addition to the question of validity, our reasons for Representation and Rejection of Tree Preservation Order 249/2017, are :-

1. We note that this is now the FOURTH Tree Preservation Order issued by Aberdeen City Council for the area of land in question, with the first three Orders, namely TPO 240/2017 issued on 5 January 2017, TPO 241/2017 issued on 17 January 2017 and TPO 247/2017 issued on 4th April 2017, all having been suggested as being superseded and that Aberdeen City Council will not be moving to have them confirmed.
2. This recent Order was issued on 27th September 2017, blanket covering the Whole of the land within the Title currently owned by Combined Corporation (BVI) Limited and also now referring to an area of land to the north east of the site outwith the interests of either Combined Corporation (BVI) Limited or Churchill Homes Properties (Scotland) Limited, following recent tree felling/woodland management works carried out on site. This has subsequently prevented the clearance of the felled timber by any reputable woodland contractors.
3. Within the Statement of Reasons for Making the Order, it makes reference to the trees on the site being included in the Scottish Ancient Woodland Inventory (AWI), prepared by Scottish Natural Heritage. However, there has been no similar Tree Preservation Order placed on the neighbouring land owner, although tree felling and clearance has been carried out and **continues to be carried out on a regular basis**, on land which is covered by the same Ancient Woodland Inventory.
4. Having had previous meetings with Kevin Wright of Aberdeen City Council's Planning and Sustainable Development department, we re-affirm our request for clarification as to why this fourth version of Tree Preservation Order (and previous order TPO 247/2017) has been amended to include an area of land to the **North East** of the site, **outwith the current ownership of area W1**, however the mature Scots Pine trees to the **South West** of the site, **also outwith the current ownership of area W1**, have not been included within the most recent TPO 249/2017.

cont./

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These trees most specifically, have been identified by the Local Plan Team, Scottish Ministers, Scottish Natural Heritage and Forestry Commission Scotland as requiring to be protected and not to be felled.
However Aberdeen City Council continue to ignore this.

5. If the purpose of the Tree Preservation Order is to protect the trees on the site, then there cannot be a differentiation of status within the same area of woodland simply because of differing ownership, which is clearly now established. **However, by continued omission of the area of mature Scots Pine trees along the frontage of site on Malcolm Road within neighbouring land under different ownership, there is now a continued clear and worrying inconsistency with this action by the Local Authority.**
6. This site was previously clear felled under licence as a Commercial Woodland, and has since been allowed to re-grow in an unmanaged fashion. Therefore, in terms of Ancient Woodland, the remaining trees and scrub are less than 20 years old, with the exception of the mature Scots Pine along the frontage of Malcolm Road.
7. As stated above, with the exception of the mature Scots Pine along the frontage of Malcolm Road, any trees which were not clear felled on the site when the current Tree Preservation Order was issued on 27th September 2017 (or previous versions), are of poor quality, of little value and are a mix of self seeded birch etc with less than 30% semi-natural state.
8. Following a meeting with Forestry Commission Scotland at the Legal Offices of Combined Corporation (BVI) Limited, we understand that Forestry Commission Scotland have no objection with the removal of the felled timber using machinery normally associated with woodland management of this type. However should the site be covered by a TPO, woodland contractors are legally prevented from carrying this out as they require to work within the areas containing stumps of clear felled trees. These trees have been confirmed as 'felled' and require to be removed under good management practice.
9. As a result of this, the site remains in an unsafe, unsightly and unmanageable state and with the threat of a TPO being in place, has sterilized the land in terms of any existing or proposed use. Therefore in effect placing the value of the site as negligible, even in terms of the current use of commercial woodland.

cont./

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Therefore, taking the foregoing into consideration, we would propose that :-

- A. Tree Preservation Order 249/2017 is **invalid and rejected**.
- B. In the interests of protecting the Mature Scots Pine trees along the frontage of the site and also along neighbouring land on Malcolm Road, that the Local Authority within its powers, identifies & protects these trees within revised Tree Preservation Orders, irrespective of landownership. This would reflect what has been proposed by the Reporter within the latest version of the Aberdeen Local Development Plan.
- C. Following clearance of the site of felled timber, a suitable Woodland Management plan is prepared with the approval of the Local Authority and Forestry Commission Scotland.

We trust that the above will be considered fully in relation to the specific Tree Preservation Order 249/2017, and that the proposals made are considered acceptable and are implemented as a matter of course. I would be pleased to meet with you again to discuss an acceptable solution for all parties, if this was thought suitable.

Yours faithfully,

Kenny Clubb
Director
Churchill Homes Properties (Scotland) Limited

- cc. Eric Stamper c/o Lindsay & Kirk Solicitors, Aberdeen
- Claire Williams-Smith, Lindsay & Kirk Solicitors, Aberdeen
- Cllr Marie Boulton, Lower Deeside. ACC
- Eric Owens, Interim Head of Planning & Sustainable Development, ACC
- Kevin Wright, Planning & Sustainable Development, ACC

LINDSAY and KIRK

**Solicitors, Notaries Public
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- Legal & Democratic Services
Aberdeen City Council
Marischal College
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ABERDEEN
AB10 1AB

BY EMAIL: katjohnstone@aberdeencity.gov.uk &

HAND DELIVERY

Our Ref: CLWS.HL

Your Ref: TPO249/2017/KJ

23 October 2017

Dear Sirs,

**Combined Corporation (BVI) Limited
Town and Country Planning (Scotland) Act 1997
City of Aberdeen Tree Preservation Order No 249/2017
Land at Malcolm Road, Peterculter, Aberdeen**

We have been instructed by Combined Corporation (BVI) Limited in relation to TPO249/2017 which was recently served at Combined House, Howemoss Terrace, Dyce, Aberdeen.

As you are aware, our clients, Combined Corporation (BVI) Limited, are title holders of the land registered under Title Number ABN69460 being land referred to within TPO249/2017.

On behalf of our said clients, we write to make formal representations against the confirming of TPO249/2017 and that in respect of the whole area of land registered under ABN69460 which is referred to within the said TPO.

Firstly, we would question the legal validity of TPO249/2017 and that on the following basis: -

1. Our clients have been incorrectly designated within TPO249/2017. Further, the said TPO was not served at the Registered Office of our clients but instead served at the address of a sister company of our clients.
2. The Statement of Reasons annexed to TPO249/2017 gives no detail regarding inspection of the TPO by the public.
3. The Statement of Reasons annexed to the said TPO gives no detail concerning the lodging of observations and representations in response to the TPO.
4. There is no statement of effect of direction contained within the Statement of Reasons attached to the said TPO.
5. The Statement of Reasons annexed to the said TPO has not been signed as is required by Section 8 (2) of the Requirements of Writing (Scotland) Act 1995.

In light of the above numbered points, we would state that, in our view, TPO249/2017 is not legally enforceable upon our said clients.

We would however also wish to highlight the following points: -

- A. In relation to the criteria for serving a TPO, it is noted from the Regulations that a TPO may be served if the trees are of cultural and/or historical significance. We would highlight that whilst there are a number of mature Scots Pine trees fronting Malcolm Road, the site registered under Title Number ABN69460 was predominately covered with poor quality scrub and self-seeded birch which were of no cultural and/or historical significance.
- B. Reference is made to the site being included within the Ancient Woodland Inventory and that on the basis that it is "Long Established of Origin – known to have been wooded since the 1870's". We would respectfully point out that, with the exception of the mature Scots Pine trees fronting Malcolm Road, the site was clear felled of mature Scots Pine trees in 1992/1993. Since that time, the site regenerated with predominately poor quality scrub and self-seeded birch in a totally unmanaged fashion. The self-seeded birch and scrub on site was less than 20 years old.
- C. In light of the continuous anti-social behaviour taking place on the site registered under Title Number ABN69460 with parties venturing onto the site, starting camp-fires and leaving behind evidence of alcohol consumption and the taking of illicit substances, recent woodland management has taken place on site with a number of young self-seeded birch and scrub having been felled. The confirming of TPO249/2017 would result in the felled timber being unable to be removed from the site and thereby leaving the site in an incredibly dangerous state with serious risk to the public.
- D. We note that an area of ground to the south-west of ABN69460 which is bounded by mature Scots Pine and over which a neighbouring proprietor has continuously carried out the felling of trees over a number of years has not been included within TPO249/2017. It would appear somewhat peculiar for a TPO to be issued over the mature Scots Pine fronting Malcolm Road which is included within ABN69460 and not over what could be said as being significantly at risk mature Scots Pine situated to the south-west of the site. The position of the Local Authority in not issuing a TPO over the neighbouring site, particularly having regard to the terms of TPO249/2017, would appear totally inconsistent.

We trust that these formal representations on behalf of our clients, Combined Corporation (BVI) Limited will be fully explored and we look forward to hearing from you in response to these representations as soon as possible.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'H. R.', written in a cursive style.

ABERDEEN CITY COUNCIL

COMMITTEE	Planning and Development Management Committee
DATE	15 th February 2017
REPORT TITLE	Confirmation of Tree Preservation Order number 250/2017 Contlaw Road, Milltimber
REPORT NUMBER	CHI/18/004
DIRECTOR	Bernadette Marjoram
REPORT AUTHOR	Kevin Wright

1 PURPOSE OF REPORT

- 1.1 To request the confirmation of provisional Tree Preservation Order entitled 250/2017 Contlaw Road made by the Head of Planning and Sustainable Development under delegated powers. The provisional order currently provides temporary protection for the trees identified within the order, but requires to be confirmed by the Planning Development Management Committee to provide long term protection.

2 RECOMMENDATION

- 2.1 It is recommended that Members confirm the making of Tree Preservation Order 250/2017 Contlaw Road subject to modification and instruct the Head of Legal and Democratic Services to attend to the requisite procedures to serve the Order as confirmed upon the interested parties and seek to register the Order with the Registers of Scotland.
- 2.2 Section 4.4 details the extent of the proposed modification.

3 BACKGROUND

- 3.1 The Town and Country Planning (Scotland) Act 1997 places a duty on the planning authority to ensure that adequate provision is made for the preservation of trees. Where the planning authority considers it to be expedient in the interests of amenity they may make provision for the preservation of trees or woodlands by serving a Tree Preservation Order (TPO).
- 3.2 A TPO gives statutory protection to trees and woodlands that are considered to contribute to amenity or are of cultural and/or historical significance. Protecting trees has

the further benefit of contributing to the Council's policies on improving our natural environment, improving citizen wellbeing and combating climate change.

- 3.3 The process of applying for work to protected trees allows for Council officers, Elected Members, Community Councils and members of the public an opportunity to comment on proposed works.
- 3.4 Tree Preservation Order number 250/2017 Contlaw Road was served as a provisional order on 25th September 2017. The reasons for serving the order are noted in section 3.5 below.
- 3.5 This tree preservation order is being made in the interests of amenity to make provision for the preservation of trees and woodlands. The planning authority considers that it is expedient in the interest of amenity to serve a tree preservation order due to the significant contribution the trees within Woodland 1 make to the local character of the area and the potential risk to these trees due to future development. The tree preservation order will ensure that existing and future amenity is preserved for the benefit of existing and future residents of the area.
- 3.6 Woodland 1 (W1) is included in the Aberdeen City Local Development Plan as part of site OP112 West of Contlaw Road; a proposed residential site for ten houses. The site was not originally allocated by the planning authority but was recommended for inclusion at the examination stage.
- 3.7 There are concerns that future development may have a negative impact on the woodland and the significant contribution it makes to local amenity; the woodland is a dominant landscape feature in the local area.
- 3.8 The serving of a Tree Preservation Order will allow Aberdeen City Council to consider all future tree work proposals and prevent works that are considered to be unsympathetic. This will assist to ensure that future development has a minimal impact on the woodland and that future woodland management is sympathetic to the potential change in land use.

4 REPRESENTATIONS

- 4.1 A single representation was received in conjunction with the serving of TPO250/2017.
- 4.2 The Ledingham Chalmers LLP representation considers that the inclusion of their clients property is an overzealous use of TPO powers, that the imposition of the TPO is unduly restrictive on their clients right to enjoy their property and that whilst they recognise that their client could apply for consent to undertake works to trees they consider this is burdensome in relation to the non-wooded (garden) area of their property.
- 4.3 In relation to these concerns a request has been made to consider three options proposed within the representation.

- 4.4 In considering the options proposed we agree that the imposition of the TPO on the garden ground of 47 Contlaw Road is not necessary in order to safeguard the woodland. As such we consider option 'c', as outlined in the representation, to be acceptable. Should the committee approve the confirmation of the TPO the order will be confirmed subject to modification and the area of garden ground surrounding 47 Contlaw Road will be removed from the order. See revised plan in Appendix 1.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no immediate financial implications. The costs associated with the serving of the provisional TPO and confirming the TPO will be met within existing budgets.

6 LEGAL IMPLICATIONS

- 6.1 There are no direct legal implications arising from the recommendations of this report.

7 MANAGEMENT OF RISK

- 7.1 Environmental/Legal/Reputational Risk

The Town and Country Planning (Scotland) Act and the Scottish Governments Policy on Control of Woodland Removal places a duty on the Council to consider the preservation of trees and woodlands in order to safeguard the multiple benefits that trees and woodlands provide.

- 7.2 The use of a Tree Preservation Order to aid the retention and appropriate management of trees and woodlands allows the council to undertake the above duties. There is a low to medium risk of environmental, legal and reputational harm if we do not undertake our duties as expected.

- 7.3 The above risk can be mitigated by giving due consideration to the appropriateness of confirming 250/2017 Contlaw Road

- 7.4 There is no Financial, Employee, Customer and Technology risk.

8 IMPACT SECTION

- 8.1 Economy

The proposal is unlikely to significantly contribute or result in a negative impact on the economy of Aberdeen.

8.2 People

The proposal is unlikely to have any significant impact on people with protected characteristics or any negative impact on the delivery of the Councils Equality outcomes.

8.3 Place

The proposal will have a positive impact on the environment. The proposal seeks to safeguard public amenity and seeks to ensure suitable future management of the trees included within the order.

Trees and woodlands deliver multiple benefits. In addition to their contribution to amenity they play a significant role in improving air quality, assist in mitigating climate change, provide health benefits and help improve social wellbeing. They are an integral habitat feature and directly and indirectly support a wide range of wildlife.

8.4 Technology

The proposal will not advance technology for the improvement of public services.

9 BACKGROUND PAPERS

- Town and Country Planning (Scotland) Act 1997, Part VII Special Controls, Chapter I Trees
- The Scottish Governments Policy on Control of Woodland Removal

10 APPENDICES

- TPO250/2017 Revised Plan
- Representation

11 REPORT AUTHOR DETAILS

Kevin Wright
Environmental Planner
kewright@aberdeencity.gov.uk
(01224) 522440

HEAD OF SERVICE DETAILS

Eric Owens
Head of Planning and Sustainable Development (Interim)
eowens@aberdeencity.gov.uk
01224 523133

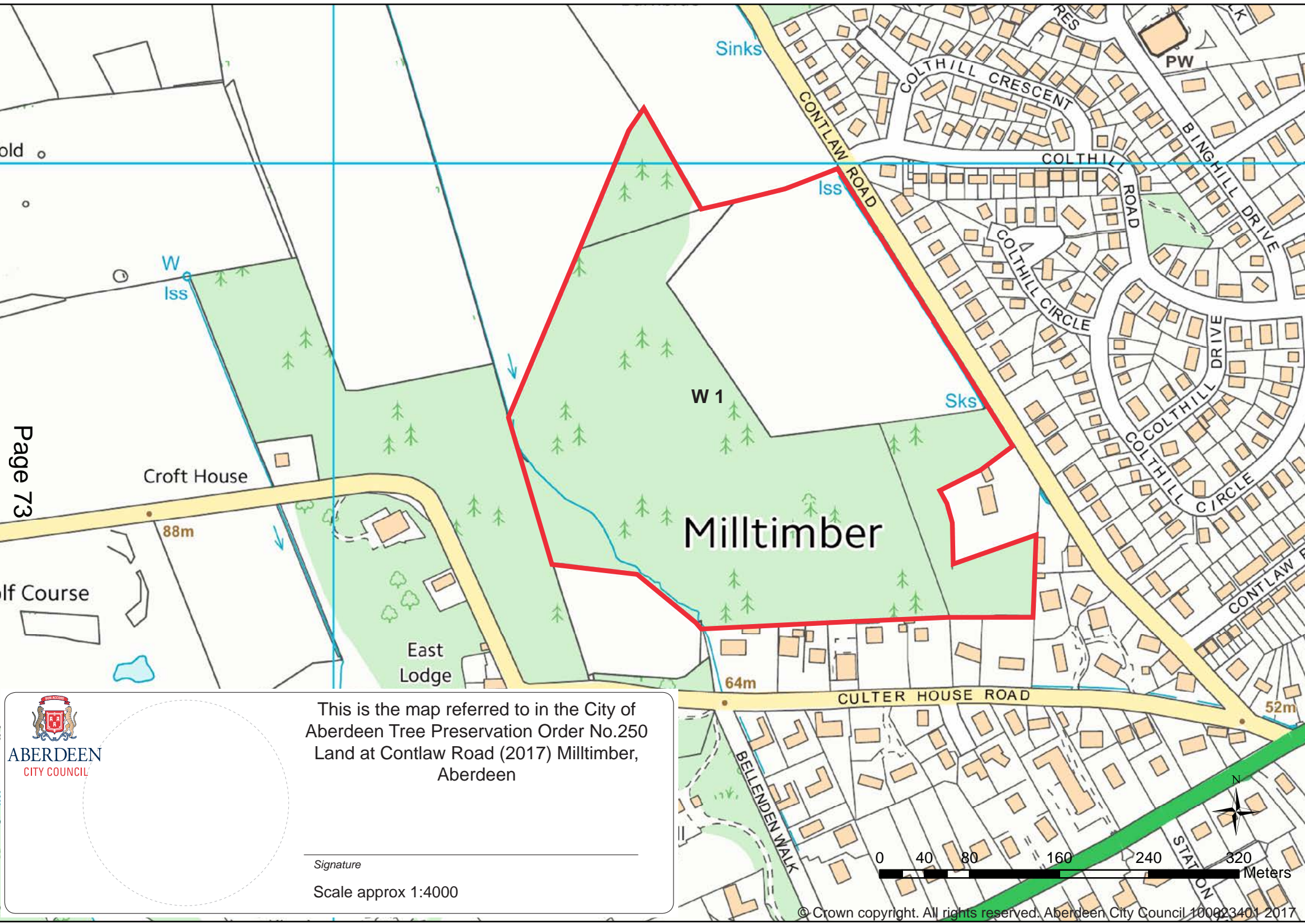
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This is the map referred to in the City of Aberdeen Tree Preservation Order No.250 Land at Contlaw Road (2017) Milltimber, Aberdeen

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Scale approx 1:4000

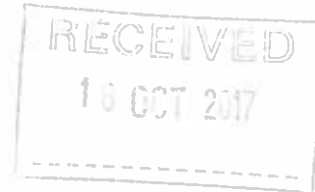
Milltimber



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Ms. Kate Johnstone,
Aberdeen City Council,
Legal Department,
DX 529450,
ABERDEEN 9.

Ref: RSW/KMB/42655.1
Your Ref: C1883/TPO250/2017
Date: 13 October 2017



Dear Ms. Johnstone,

Mr and Mrs Stephen Cordiner
Pineacres, 47 Contlaw Road, Milltimber, Aberdeen, AB13 0EJ
Your Ref: C1883/TPO250/2017

We wrote to you on behalf of our clients on 25th July, 2017 in response to the issue of a TPO No. 239 and have not had any response from you. Our clients have now received notice of TPO 250 which seems to completely ignore our clients' representations which are repeated in respect of the latest TPO. We enclose a copy of our letter of 25th July for ease of reference.

Can you please come back to us and confirm that you will give our clients' representations due weight and exercise some of the options that we have set out in our letter of 25th July.

Yours faithfully,


Ronald S. Wadsworth, LLB, NP,
Consultant Solicitor, Ledingham Chalmers LLP.

c.c. Mr J. Stephen Cordiner

Encs.

Ledingham Chalmers LLP, Solicitors

Johnstone House 52-54 Rose Street Aberdeen AB10 1HA (Registered Office) DX: AB15 Aberdeen LP-39 Aberdeen-1

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Ledingham Chalmers LLP is a limited liability partnership registered in Scotland. No. SO300843

A list of members is available for inspection at the above address

COPY

Ms. Kate Johnstone,
Aberdeen City Council,
Legal Department,
DX 529450,
ABERDEEN 9.

Ref: RSW/KMB/42655.1
Your Ref: C1883/TPO239/2017
Date: 25 July 2017

Dear Ms. Johnstone,

Mr and Mrs Stephen Cordiner
Pineacres, 47 Contlaw Road, Milltimber, Aberdeen, AB13 0EJ
Your Ref: C1883/TPO239/2017

We act for Mr and Mrs Stephen Cordiner of the above address. They have only within the last few days returned from holiday and have found the intimation regarding the Tree Preservation Order for Contlaw Road which includes their property. Mr Cordiner and our Mr Wadsworth had a meeting this morning with Kevin Wright from the Planning Department who indicated that we should set out our clients' objections to the TPO insofar as it affects their property.

To put the matter in context, we have outlined our clients' property in yellow. The area to the north is believed to be Opportunity Site OP112 in the Local Development Plan (see the enclosed extract from the Local Development Plan). The woodland area to the west of Pineacres is believed to be owned by Culter House Estates.

While our clients' appreciate the rationale behind the imposition of a TPO in light of the envisaged development of OP112 but frankly think that the inclusion of their site is an overzealous use of this procedure. My clients have the following objections:-

1. You will see that their site is excluded from OP112 and there are no development proposals for it and therefore the desire to protect against a developer's wish to maximise the site by building close to the boundary is ill founded.
2. Inclusion is an overzealous use of your TPO powers.
3. If our clients' site is included in the TPO it will be the only house in Contlaw Road covered by a TPO.
4. The imposition of the TPO is unduly restrictive on our clients' rights to enjoy their property. This is a domestic dwellinghouse and the practical outcome of the TPO is that they are restricted from trimming any trees within their boundary without seeking permission. While it is acknowledged that our clients could apply for

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permission to carry out normal/routine forestry husbandry for the wooded part of the site, this seems unduly burdensome in relation to the rest of the site.

5. The nature of the forest to the west of Pineacres is entirely different from that in Pineacres. The former consists of Sitka Spruce whereas our clients' site consists of mature Scots Pine at the rear with self-seeded trees of indifferent value elsewhere.

Our clients' wish and their formal request to the Council is that:-

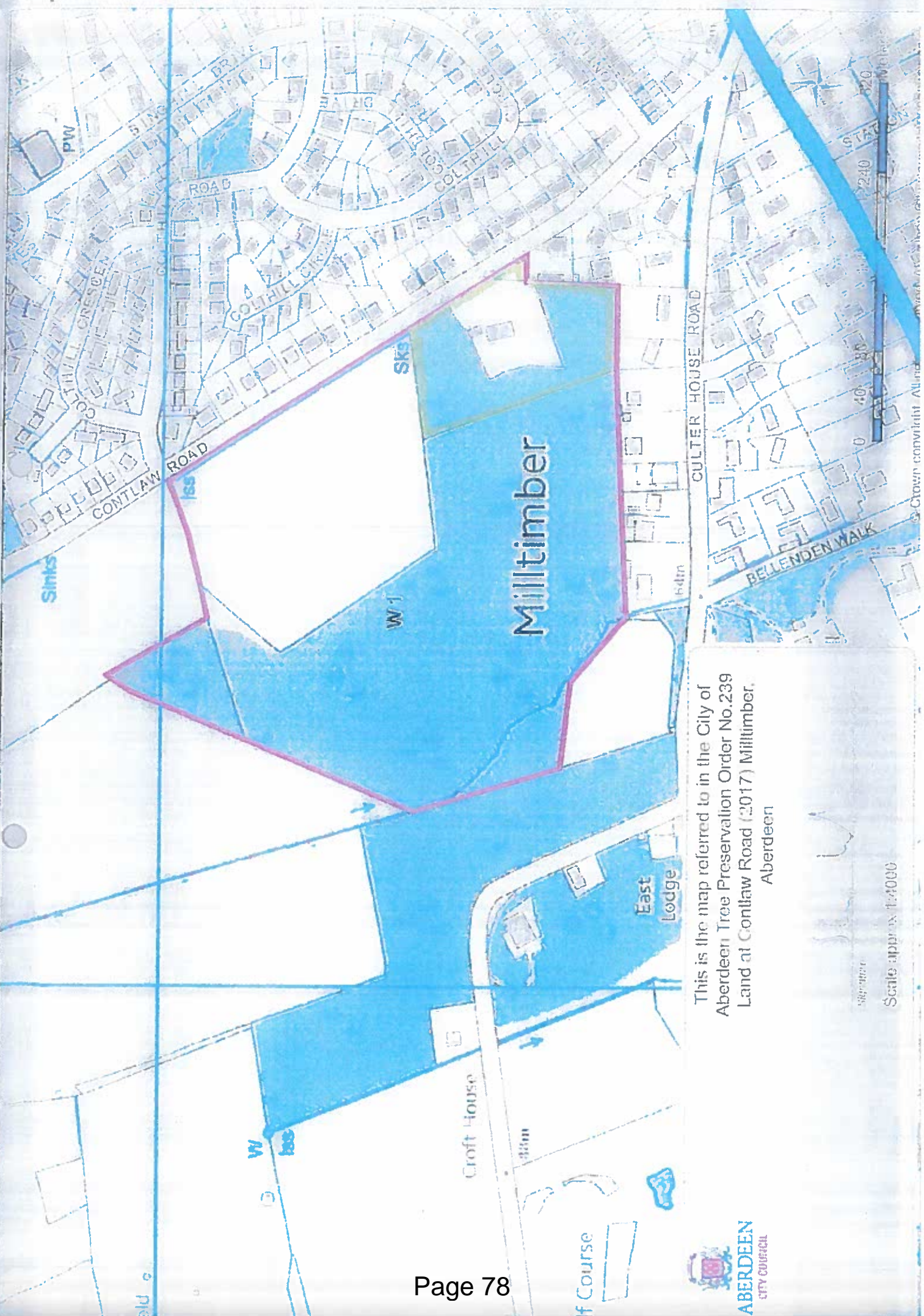
- (a) As a matter of first choice their whole site be excluded from the TPO.
- (b) Failing (a) a narrow safety strip along the north boundary separating Pineacres from OP112 would prevent building in close proximity to the boundary be included and the rest of the site excluded.
- (c) Failing (a) and (b) the area coloured blue on the plan be the only part subject to a TPO. This would allow the normal gardening operations within our clients' remaining site without the burden of having to apply for permission.

We look forward to receiving your comments and a final view from the Council in light of these representations.

Yours faithfully,

**Ronald S. Wadsworth, LLB, NP,
Consultant Solicitor, Ledingham Chalmers LLP.**

Encs.



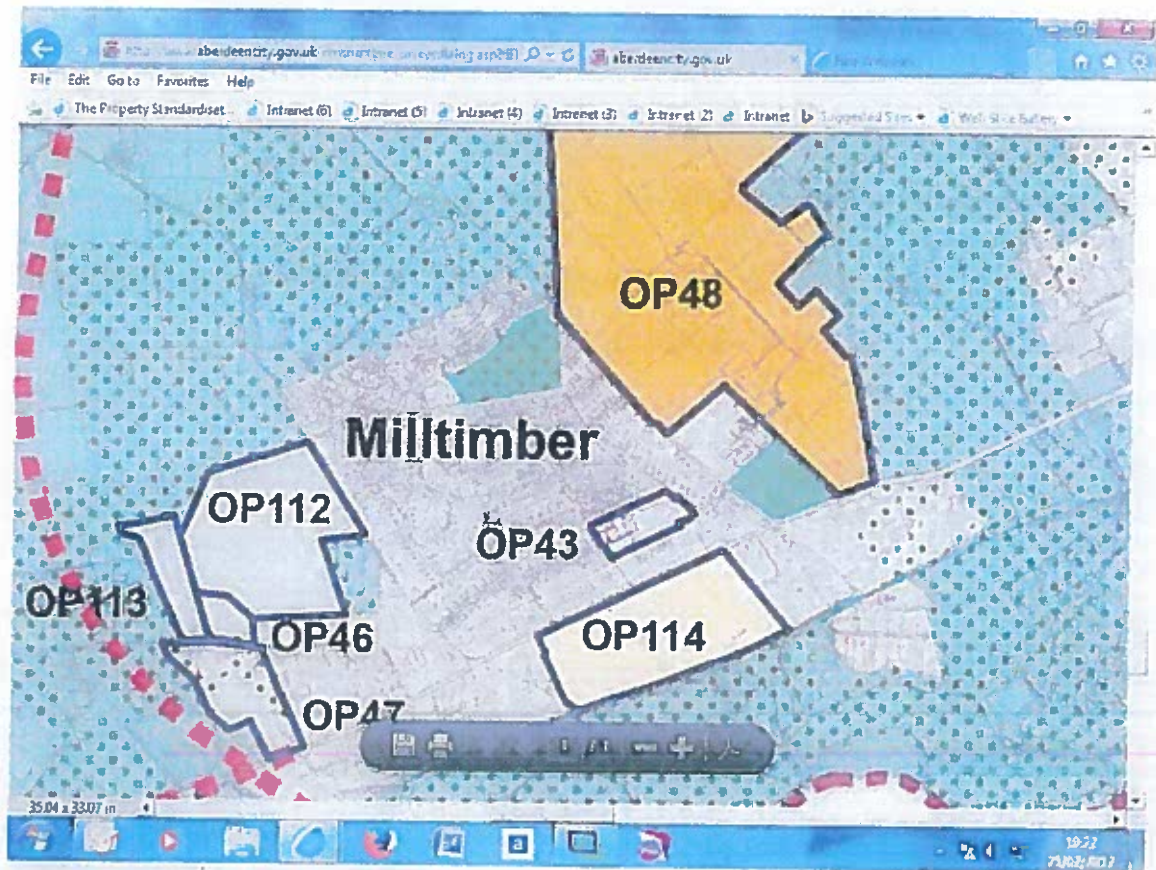
This is the map referred to in the City of Aberdeen Tree Preservation Order No.239 Land at Contlaw Road (2017) Milltimber, Aberdeen

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Signature

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