

Public Document Pack



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

Town House,
ABERDEEN 10 April 2019

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in Committee Room 2 - Town House on **THURSDAY, 18 APRIL 2019 at 10.00 am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

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 (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 21 March 2019 - for approval (Pages 9 - 12)

COMMITTEE PLANNER

- 5.1 Committee Planner (Pages 13 - 14)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1 Replacement of Front Door of Property (Retrospectively) - 66 Tillydrone Avenue (Pages 15 - 20)

Planning Reference – 190233

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Linda Speers

- 6.2 Approval of Matters Specified in Condition 23 (junction layout) - Land at Rowett South junction between Forrit Brae and A96 (Pages 21 - 28)

Planning Reference – 190281

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Matthew Easton

- 6.3 Alterations to Facade - Aberdeen Railway Station (Pages 29 - 34)

Planning Reference – 190374

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Robert Forbes

WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 7.1 Erection of three class 3 (food and drink) units including two drive-thru facilities - Land Adjacent to Veterinary Hospital Kingswells (Pages 35 - 60)
Planning Reference – 181336

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Matthew Easton

OTHER REPORTS

- 8.1 Enforcement Report - 18 Home Farm Gardens - PLA/19/241 (Pages 61 - 66)
Planning Reference – 181431

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Gavin Clark

- 8.2 Enforcement Report - Inchgarth House - PLA/19/242 (Pages 67 - 72)
Planning Reference – 170929

All documents associated with this application can be found [here](#) and then enter the reference number above.

Planning Officer: Gavin Clark

- 8.3 Tree Preservation Order 256 - PLA/19/233 (Pages 73 - 84)

DATE OF NEXT MEETING

- 9.1 Date of Next Meeting - Thursday 23 May 2019 at 10am.

To access the Service Updates for this Committee please click [here](#)

Website Address: www.aberdeencity.gov.uk

Please note that Daniel Lewis, Development Management Manager, 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, Committee Officer, on 01224 522123 or email lymcbain@aberdeencity.gov.uk

MOTIONS AGAINST RECOMMENDATION

Members will recall from the planning training sessions held, that there is a 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 28.10 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.

This page is intentionally left blank

DECLARATIONS OF INTEREST

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.

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 21 March 2019. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Jennifer Stewart, the Depute Provost, Vice Convener; and Councillors Allan, Cooke, Cormie, Donnelly (as substitute for Councillor MacKenzie), Greig and Sandy Stuart (as substitute for Councillor Copland).

The agenda and reports associated with this minute can be found [here](#).

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 21 FEBRUARY 2019

1. The Committee had before it the minute of the previous meeting of 21 February 2019, for approval.

The Committee resolved:-

to approve the minute as a correct record.

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS) OF 28 FEBRUARY 2019

2. The Committee had before it the minute of the Planning Development Management Committee (site visit) of 28 February 2019, for approval.

The Committee resolved:-

to approve the minute as a correct record.

COMMITTEE BUSINESS PLANNER

3. The Committee had before it a planner of future Committee business.

The Committee resolved:-

to note the information contained within the Committee business planner.

LAND TO SOUTH OF STONEYHILL TERRACE, COVE BAY, ABERDEEN - 190059

4. The Committee had before it a report by the Chief Officer – Strategic Place Planning, **which recommended:-**

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

21 March 2019

That the application for the installation of a 12.3 metre high steelwork pole with 2 antennas and associated works at land to the south of Stoneyhill Terrace, Cove Bay Aberdeen, 190059, be approved subject to the following condition:-

1. In the event that the hereby approved equipment become obsolete or redundant, it must be removed within 6 months of such event and shall not remain on site thereafter. Once removed, the site shall be made good in accordance with a scheme to be submitted and approved in writing by the Planning Authority, within 1 month of such removal.

Reason – to minimise the level of visual intrusion and ensure the reinstatement of the site to a satisfactory condition.

The Committee heard from Kristian Smith, Team Leader Development Management, who spoke in furtherance of the application and answered questions from members.

The Committee resolved:-

to approve the application conditionally.

- **Councillor Marie Boulton, Convener**

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE
21 March 2019

This page is intentionally left blank

	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			18 April 2019						
4	Rowett South Junction	To approve or refuse the application.		Matthew Easton	Strategic Place Planning	Place	1		
5	Land at Ardene Vets Kingswells	To approve or refuse the application.		Matthew Easton	Strategic Place Planning	Place	1	D	Delayed to April at request of applicant to allow submission of further supporting information.
6	Aberdeen Railway Station	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1		
7	Enforcement Action - Inchgarth House	To approve or refuse the enforcement action.		Gavin Clark	Strategic Place Planning	Place	3		
8	Enforcement Action - 18 Home Farm Gardens	To approve or refuse the enforcement action.		Gavin Clark	Strategic Place Planning	Place	3		
9	66 Tillydrone Avenue	To approve or refuse the application		Linda Speers	Strategic Place Planning	Place	1		
10	TPO 255 - 2018 - Malcolm Road	There was a previous committee instruction to bring back a report on TPO 248 and 249. These have been combined and will now be TPO 255.		Kevin Wright	Strategic Place Planning	Place	1	D	Delayed from November.
11			23 May 2019						
12	Annual Committee Effectiveness Report	To present the annual effectiveness report for the Committee.	May-19		Governance	Governance	GD 7.4		
13	Shielhill Road Mundurno	To approve or refuse the application.		Robert Forbes	Strategic Place Planning	Place	1	D	Delayed at request of applicant to allow for submission of supporting information.
14	May Baird Avenue	To approve or refuse the application.		Lucy Greene	Strategic Place Planning	Place	1		
15									
16			27 June 2019						
17									
18			15 August 2019						

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
19									
20			19 September 2019						
21									
22			31 October 2019						
23									
24			05 December 2019						
25									
26		AD HOC REPORTS (CYCLE DEPENDENT ON REQUIREMENT TO REPORT)							
27									
28									
29									

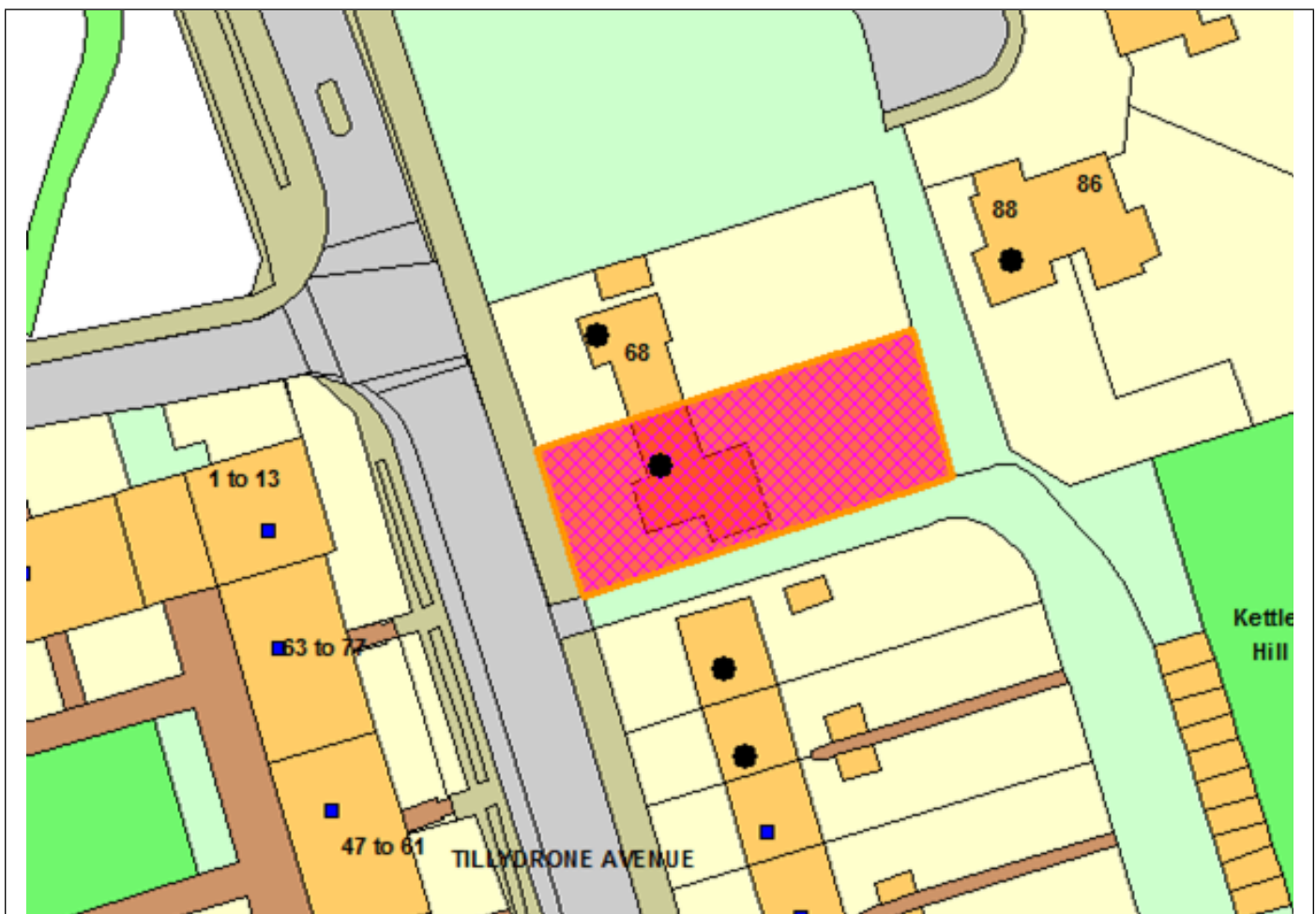


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 18 April 2019

Site Address:	66 Tillydrone Avenue, Aberdeen, AB24 2TN,
Application Description:	Replacement of front door of property (retrospective)
Application Ref:	190233/DPP
Application Type	Detailed Planning Permission
Application Date:	11 February 2019
Applicant:	Lojj (Scotland) Ltd
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Old Aberdeen
Case Officer:	Linda Speers



© Crown Copyright. Aberdeen City Council. Licence Number: 100023401 - 2018

RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The site relates to a semi-detached 2-storey dwelling, dating from the 1920s, with existing single storey rear and side extension. The property is finished with a slated hipped roof, cream colour harled walls, white PVC windows and panelled timber front door. The property is located within an identified residential area along Tillydrone Avenue and falls within the Old Aberdeen Conservation Area. Surrounding properties include: a row of terraced granite built two storey dwellings, constructed in the 1950s by the University, immediately to the south; four storey flats opposite; and large two storey detached dwellings to the north and east.

Relevant Planning History

A planning application (171368/DPP) was received in 2017 for a retrospective replacement front door; the proposed timber door included planted-on mouldings which was contrary the relevant supplementary guidance and subsequently the application was withdrawn by the applicant while repairs were being carried out to the door.

A Change of use from 5-bedroom dwelling (Class 9) to six-bedroom HMO (Sui Generis), replacement roof, replacement windows to rear extension, reduction of window and blocking up of door to rear extension was refused at Development Management Planning Committee and the decision subsequently overturned following an appeal in 2016 (161003/DPP).

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought retrospectively to replace the front door on the principal elevation. The proposed replacement door would be solid single timber door with a vertical strip in the middle and four inset panels. The door would have a painted finished and new letterbox and door knob.

The original door would have matched the door in the adjoining semi-detached property; a double door which splits in the middle and each door having two moulded inset panels.

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=PMRR59BZL0T00>.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the Old Aberdeen Community Council object for the reasons outlined below.

CONSULTATIONS

Old Aberdeen Community Council – Objection to application for the following reasons:

- The retrospective application is not competent – The works were carried out concurrent with, but not included within, the scope of work identified in application 161003/DPP
- The proposal is contrary to the Supplementary Guidance as the proposed door is a single door and does not replicate the original door at No. 68 Tillydrone Avenue.
- Approval of this application would set a precedent for other unauthorised modifications within the Conservation Area.

REPRESENTATIONS

Two letters of objection have been received; one from the occupiers of the adjoining semi-detached property and the second letter from the Old Aberdeen Heritage Society. The matters raised can be summarised as follows: -

- The original door was removed and replaced in 2016.
- The design of the door does not match the original door which was a double door and the change diminishes the look of both properties.
- The replacement door has been altered since it was installed in 2016; by removing the 'stick on' mouldings it has made the door almost completely flat. The lack of insert panels with integral mouldings fails to match the neighbouring property. The vertical groove down the centre to imitate the appearance of double doors is also unacceptable.
- The door furniture is unacceptable in terms of materials and positioning.
- The as-built drawing does not accurately represent the door elevation.

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
- Historic Environment Scotland Policy Statement (HESPS)

Aberdeen City and Shire Strategic Development Plan (2014) (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017) (ADLP)

- Policy D1: Quality Placemaking by Design
- Policy D4: Historic Environment
- Policy H1: Residential Areas

Supplementary Guidance and Technical Advice Notes (SG)

- SG: Repair or Replacement of Windows & Door

EVALUATION

Principal of Development

The application site is located within a Conservation Area and also an area zoned for Residential Area in the ALDP and relates to an existing dwelling house; the proposal to replace the front door does not in any way impact the surrounding residential amenity in accordance with Policy H1. The proposed alteration must be assessed on its own merits, within the context of the Conservation Area and against the terms of Policy D1 and D4 and the associated supplementary guidance. These policies require all development to have high design standards that respect the character, appearance and setting of the historic environment.

Visual Impact

The original door is thought to have matched the neighbouring semi-detached property; a double door which splits in the middle and each door has two inset moulded panels. The Council's supplementary guidance: Repair or Replacement of Windows & Doors promotes repair and retention of original doors over replacement and this is most significant when a property is listed. The current application relates to a twentieth century building within a Conservation Area and overall context of the site must be examined. The property has been adapted over the years with extensions and new PVC windows. The front door with its original frame and fanlight is considered a nice feature and add a traditional element on what is otherwise a fairly modern looking twentieth century building.

The SG states that *'on listed buildings and public elevations in conservation areas, any new door should match the original in terms of proportion, profile and material, and reuse historic glass where this contributes to a building's character. If the property forms part of a group of uniform design, then any replacement should make reference to those of the neighbouring properties in style, design and size.* While the loss of the original vertically spilt panelled timber door is regrettable; its loss is not considered harmful to the overall property or character of the Conservation Area.

The primary difference between the original door and proposed door is that one is single, and one is double. The proposed door has been modelled on the original and includes a vertical strip down the middle to replicate the look of a double door. The solid core timber door is of acceptable material for a Conservation Area and while the panelling detail is not identical in terms of moulding, the proportions of the inset match closely and in this instance the design is acceptable and provides a good visual match. Together with the original frame and fanlight the frame the replacement door is not readily noticeable from the public viewpoint. The ironmongery is considered acceptable for the replacement door; the letterbox being in the same location while the door knob repositioned for practicality. Given the age and nature of the building the proposed replacement door and ironmongery is considered to not to cause harm to the special character of the building or the wider Old Aberdeen Conservation Area in this instance. Overall the proposal is considered to broadly comply with the SG guidance set for replacement doors within Conservation Areas.

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 the 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. The use of solid core timber door with panelled detail is considered to preserve the character of the Conservation area and therefore complies with Policy D1 and D4.

Assessment against Strategic Development Plan

In terms of assessment against the Strategic Development Plan (SDP), due to the small scale of this proposal, the proposed development is not considered to be strategic or regionally significant,

or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

Matter raised by the Old Aberdeen Community Council

If something is built or replaced without consent but would have been likely to have been granted permission, the Council may ask the person responsible for the breach of planning control to make a 'retrospective' planning application. This will then be decided in the same way as all other planning applications, regardless of when or whom the breach was occasioned. This was the case here and the application was validated accordingly.

While the 'as-built' drawing is not entirely accurate with regards to the scale; it does not undermine proper consideration of the proposal. The door is retrospective, and the original opening and frame have not been altered while the drawing submitted provides adequate information regarding the door style, material and finishes.

RECOMMENDATION

Approve Unconditionally

REASON FOR RECOMMENDATION

The proposed replacement front door is considered suitable for the site's context and within a Conservation Area with no impact on the area's amenity. The design and materials are considered acceptable and the proposals would therefore meet the terms of Scottish Planning Policy, Historic Environment Scotland Policy Statement, and with Policy H1 (Residential Area), D1 (Quality Placemaking by Design) and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017; and broadly complies with the Council's supplementary guidance for The Repair or Replacement of Windows & Doors.

This page is intentionally left blank

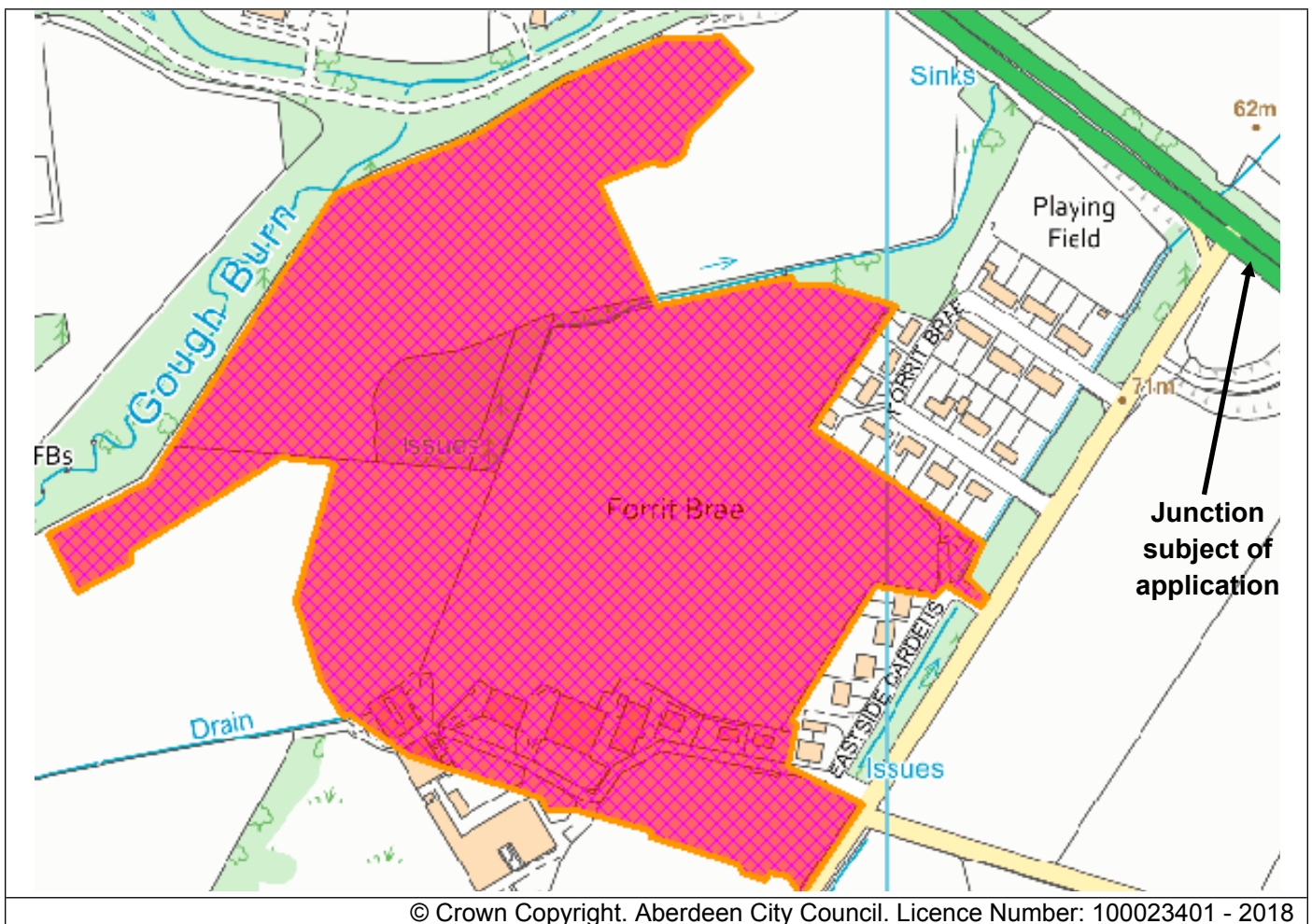


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 18 April 2019

Site Address:	Land at Rowett South, Junction Between Forrit Brae and A96, Bucksburn, Aberdeen AB21 9SL
Application Description:	Approval of matters specified in condition 23 (junction layout) of Planning Permission in Principle ref.140844, to prevent right turn movements from the A96 into Forrit Brae or from Forrit Brae onto the A96 eastbound
Application Ref:	190281/MS
Application Type	Approval of Matters Specified in Conditions
Application Date:	19 February 2019
Applicant:	Bancon Homes and The Rowett Research Institute
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Bucksburn and Newhills
Case Officer:	Matthew Easton



RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The Rowett South site (c.106ha) is located on the north-western edge of Aberdeen and is largely agricultural land, with a small number of private residential dwellings scattered throughout. The north-west part of this site is currently under development by Bancon Homes for 288 homes.

This application relates specifically to the road junction between the A96 and Hope Farm Road, onto which this Bancon Homes site would access onto. The existing access of Hope Farm Road with the A96 is designed as an all-movement priority junction, with a gap in the A96 central reservation providing an island for right exiting traffic seeking to head south along the A96 and right turning traffic heading onto Hope Farm Road from the A96. This junction lies approximately 1km east of the A96/AWPR/Airport Road roundabout and 800m west of the A96/Bankhead Avenue/Sclattie Park roundabout.

Hope Farm Road is sometimes known locally as Forrit Brae (and is named such in the planning condition subject of this application), after the street and community of the same name adjacent to it. To avoid confusion, the road will be referred to as Hope Farm Road within this report.

Relevant Planning History

- Planning permission in principle (140844) for a residential led mixed-use development of 1700 homes approved in September 2016.
- Three matters specified in conditions applications (171502/MSC, 180136/MSC and 180303/MSC) were submitted and approved during early 2018 for approval of the first phase of 288 residential units by Bancon Homes. Construction of this phase is currently underway.

APPLICATION DESCRIPTION

Description of Proposal

Approval of matters specified in condition 23 of planning permission in principle 140844 is sought. Condition 23 states that –

(23) A96 / Forrit Brae Junction Alterations

Unless otherwise agreed in writing by the Planning Authority in consultation with Transport Scotland, no part of the development shall be occupied until the layout of the A96 / Forrit Brae junction has been altered to prevent right turn movements from the A96 into Forrit Brae or from Forrit onto the A96 eastbound. The details of these alterations shall be agreed in writing by the Planning Authority in consultation with Transport Scotland.

Reason - in order to mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

The applicant has submitted details of proposed junction alterations, which show a new section of traffic island would be constructed, in order to prevent right turns onto the A96 from Hope Farm Road and prevent right turns from the A96 into Hope Farm Road. The existing gap in the A96 central reservation, which allows right turn manoeuvres, would also be closed with de-mountable bollards.

The central reservation has been closed by traffic cones for temporary periods for much of the last few years, mainly associated to construction works for the AWPR and later for the TECA development, presently it is currently still closed. A traffic regulation order (TRO) made in May 2018 allows for this and the permanent alteration of the junction to prevent right turn manoeuvres.

It is important to note that as the works would take place entirely within the boundary of a road, they may be carried out under the Roads (Scotland) Act 1984 with the consent from the Roads Authority, irrespective of the outcome of this application. The purpose of the condition is to ensure that from a planning perspective the works were undertaken prior to occupation of the development. It also required the submission of the technical detail of the proposed junction layout, because in September 2015, when the conditions attached to the planning permission in principle were drafted, that detail was yet to be produced. This application seeks approval that the condition would be satisfied by the implementation of the applicant's proposed works.

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=PN4MZYBZL6U00>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because six or more representations have been received which express objection or concern about the application.

CONSULTATIONS

ACC - Roads Development Management Team – No objection. The proposal to construct a splitter island at the junction and close the central reserve with de-mountable bollards is acceptable.

As of the 1st April 2019, this section of the A96 is no longer be maintained by Transport Scotland and is the responsibility of the Council. There is no change in circumstances with regard to the Rowett South development and therefore the requirement to retain a closure of the central reserve remains.

Transport Scotland – No objection. Do not advise against the granting of planning permission on the understanding that no works will be undertaken prior to the de-trunking of this section of the A96(T). Should any works be undertaken prior to de-trunking, then the written approval of Transport Scotland will be required before these can commence.

Bucksburn and Newhills Community Council – No response.

REPRESENTATIONS

Thirteen objections have been received, the majority from residents of Forrit Brae and Eastside Gardens, with one from a resident of Bucksburn and another from a regular visitor to Forrit Brae. The matters raised can be summarised as follows –

1. Residents were led to believe that the closure of the central reservation was to be temporary.
2. Those living at or visiting Forrit Brae and Eastside Gardens would be inconvenienced by the proposal, with the following implications.
 - Those wishing to drive east towards the city centre from Forrit Brae or Eastside Gardens would be required to first head west and turn at the A96/Airport Road/AWPR junction before heading back east to access the junction.
 - Those driving from the north to Forrit Brae or Eastside Gardens along the A96, would have to pass the junction and head towards and turn at the A96/Bankhead Avenue/Sclattie Park roundabout, before heading back west to access the junction.
3. The alternative to the above routes is to use Hopetoun Grange or the Chapel of Stonewood to Fairley Road, which are considered to be narrow and poorly maintained. They also have no pavements and are unlit. The Hopetoun Grange route has become busier with recent developments taking place and will become busier again once the first phases of Rowett South are occupied. Children from the Rowett South development may use Hopetoun Grange to access Brimmond Primary School and Bucksburn Academy. The proposal would result in more traffic on Hopetoun Grange, placing children at risk.
4. The application relies on a traffic regulation order issued by the Council in May 2018; however, it is not clear from the order what the reason for the change to the junction is.
5. It does not appear that a careful analysis has been carried out conclude that the change to the junction is required.
6. The completion of the AWPR has eliminated the use of Forrit Brae as an 'unofficial western bypass' and the introduction of traffic signals at the A96/Dyce Drive/Craibstone Estate junction allows for suitable gaps in traffic to make right turn manoeuvres. With a reduction in traffic and speed limit on the A96 there is no safety reason to implement the change to the junction as it is safer now than in the past.

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 City and Shire Strategic Development Plan 2014 (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017)

- Policy T2 (Managing the Transport Impact of Development)

Other Material Considerations

- Rowett South Phase 1 Masterplan (July 2015)

EVALUATION

Strategic Development Plan

In terms of assessment against the Strategic Development Plan, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

Local Development Plan

The Rowett South Masterplan which provides a framework for the wider development was approved by the Planning Development Management Committee in September 2015, as part of planning permission in principle (PPiP) ref: 140844. The decision notice was issued in September 2016, after conclusion of the legal agreement.

Policy T2 (Managing the Transport Impact of Development) requires that larger developments are accompanied by a Transport Assessment (TA). Such a TA supported the PPiP and masterplan. As a result of the analysis therein, section 3.5.5 of the masterplan describes the access strategy for the development –

“initial access to the Phase 1 Masterplan Area from the A96(T) will be via the existing Forrit Brae access which will be modified to operate “left in, left out” only, with the A96(T) central reserve at Forrit Brae to be closed, on the request of Transport Scotland and agreed with Aberdeen City Council Roads Authority.”

The reason for the restriction is that the growth in traffic using the junction would increase the number of right-hand manoeuvres crossing the carriage-way and potential risk of vehicles colliding.

The requirement for the junction modification was carried forward into the Rowett South planning permission in principle, by condition 23. This requires details of the revised junction layout to be submitted and for the works to be undertaken prior to occupation of the first units.

The proposed junction design and layout, featuring construction of a traffic island on Hope Farm Road and demountable bollards to close the gap on the central reservation, has been considered by both Transport Scotland and the Councils Roads service and is acceptable from a technical perspective. Therefore, this fulfils the aspect of the condition requiring the submission of details to be agreed.

Timing of Works

Transport Scotland indicated that the works should not be undertaken until this section of the A96 was de-trunked and responsibility passed to the Council. This occurred on 1st April 2019. It is understood that the applicant has consent through the Roads (Scotland) Act 1984 to carry out the work in late April.

Other Matters Raised in Representations

The decision to implement the restriction has already been taken by the Council when planning permission in principle ref: 140844 was approved. The matters raised in representations, which largely relate to the principle of the proposal, are however addressed below.

- A permanent restriction associated to Rowett South has been proposed since at least June 2014. The use of temporary measures to restrict right hand manoeuvres, for reasons unrelated to the Rowett South development, may have led to residents believing that no permanent restriction was proposed. (*Issue 1*)
- Concern is raised that those driving to and from Forrit Brae and Eastside Gardens would be inconvenienced by the restriction, for the reasons set out above.

It is acknowledged that residents in the local area that use the junction would see a change in possible routes. However, the advice of ACC roads officers and Transport Scotland is that the restriction is required for road safety purposes and therefore that is considered to override such concerns of inconvenience and added journey times. (*Issue 2*)

- Residents of Forrit Brae and Eastside Gardens indicate that to avoid using the A96/Hope Farm Road junction, alternative routes would be taken eastwards along Hopetoun Grange or along the Chapel of Stonewood to Fairley Road to the south. However, these routes are considered by those submitting representations to be narrow and poorly maintained. It is also highlighted that they do not have pavements and are unlit but are used by school children to access schools in Bucksburn.

The condition of the existing road network is not something that can be addressed through this planning application. Although the alignment of Hopetoun Grange will change in future as part of the Rowett South development and pedestrian routes will be provided as it is built out, there is no requirement for work to be carried out in the intervening period. (*Issue 3*)

- The traffic regulation order issued in May 2018 by the Council in its capacity as roads authority, allowed for the temporary and current restriction during works associated with the TECA development, as well as the planned permanent restriction. (*Issue 4*)
- The requirement for the restriction is a result of traffic analysis during the planning permission in principle and the consultation responses from Transport Scotland and Council roads officers. (*Issue 5*)

- Although traffic may have reduced on Hope Farm Road as a result of the AWPR opening, traffic levels are expected to increase as the Rowett South development is built out. Furthermore, since the AWPR opened, due to the ongoing TECA works, the speed limit on this section of A96 has been reduced to 30mph. Once TECA works are complete the limit will be increased to 40mph, increasing the risk of undertaking right hand turn manoeuvres. (*Issue 6*)

Summary

The decision to implement a restriction on right-hand turn manoeuvres has already been considered and is required as part of the planning permission in principle. This application is to approve the technical design and layout of the permanently amended junction. This has been considered by the relevant officers and found to be acceptable and therefore it is recommended that the details submitted be approved.

RECOMMENDATION

Approve Unconditionally

REASON FOR RECOMMENDATION

The decision to implement a restriction on right-hand turn manoeuvres was taken in 2015, as part of the approval of the planning permission in principle which involved detailed traffic analysis of the impact of the development. Whilst it is acknowledged that users of the junction would see a change to possible routes, the revised junction arrangement is required due to the anticipated growth in traffic using the junction which would increase the number of right-hand manoeuvres crossing the carriage-way and potential risk of vehicles colliding. The design and layout of the junction is considered acceptable.

CONDITIONS

None

This page is intentionally left blank

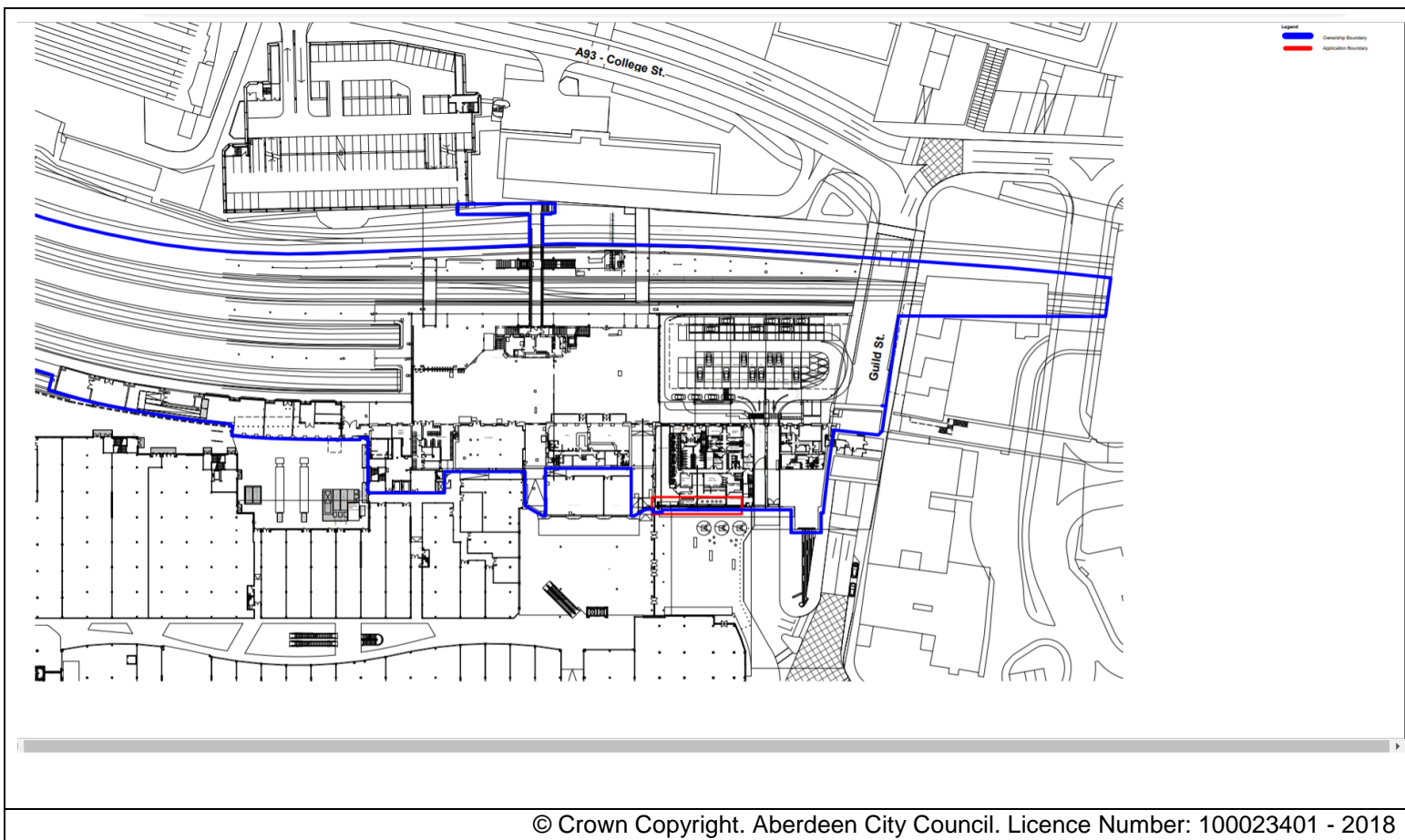


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 18 April 2019

Site Address:	Aberdeen Railway Station, Guild Street, Aberdeen,
Application Description:	Alterations to facade
Application Ref:	190374/PNR
Application Type	Prior Notification - Railway
Application Date:	5 March 2019
Applicant:	Network Rail Infrastructure Ltd
Ward:	Torry/Ferryhill
Community Council:	City Centre
Case Officer:	Robert Forbes



© Crown Copyright. Aberdeen City Council. Licence Number: 100023401 - 2018

RECOMMENDATION

Grant Prior Approval

APPLICATION BACKGROUND

Site Description

The Category A-Listed Aberdeen Railway Station is accessed from Guild Street to the north, and the Union Square shopping / leisure centre to the east / south. Construction commenced in 1913, replacing the previous station (c.1867) on the same site. More recently the physical extent, setting and main access to the station was significantly altered during construction of Union Square.

The 1990 listing is described (<http://portal.historic-scotland.gov.uk/designation/LB20673>) as follows:

“J. A. Parker, Chief Engineer of the Great North of Scotland Railway, 1913-20. Long single-storey railway station facing east, with near central double height Beaux-Arts 5-bay polygonal entrance pavilion with full length cast iron cantilevered canopy and asymmetrical classical granite pavilions to north and south (now demolished). Yellow sandstone to central pavilion; granite ashlar to outer pavilions. Modern extensions to South (2006).

The station was the last major station to be built within Scotland. The use of sandstone as a building material for the entrance hall is unusual in Aberdeen, where granite is more common. The large, open concourse with its open-frame steel roof is a particularly fine feature, giving both light and space to the internal part of the station. The entrance pavilion is well-detailed with interesting dentil and column decoration and the large semi-circular windows are a particularly striking feature.”

The application site is restricted to the eastern elevation of the ‘ticket office and first class lounge’, reconstructed during the Union Square development of 2008, which fronts onto the Guild Street public square. Within the main station substantive alteration / refurbishment works are currently ongoing to the historic station concourse roof / platform canopies.

Relevant Planning History

Application Number	Proposal	Decision Date
082125(LBC)	Removal of canopy from front (Union Square) elevation of station	30.04.2009 Status: Approved
082138 (LBC)	Demolition of wall between Guild St and civic square	30.04.2009 Status: Approved
170775/LBC	Alterations to platform canopies including replacement of roofing system and installation of man safe system	01.09.2017 Status: Approved
180626/LBC	Alteration to station roof and canopies including re-glazing	06.07.2018 Status: Approved
180953/LBC	Alterations to station building, including relocation and conversion of ticket office	19.12.2018 Status: Approved
190134/LBC	Alterations to concourse retail units including partial removal of facade; erection of glazed extension to front; installation of retail pod and internal alterations	Status: Pending
190317/LBC	Partial removal of existing granite and curtain walling to station entrance; replacement of entrance door; installation of signage and associated	Status: Pending

	alterations	
190537/ADV	Installation of illuminated signage to frontage	Status: Approved

APPLICATION DESCRIPTION

Description of Proposal

Prior approval for works to a modern section of the station building, reconstructed in 2008, and fronting onto the Guild Street public square. The works include:

- Replacement of the existing glazed entrance screen / doors, which provides access to the ticket office /lounge;
- Removal of a non-historic external glazed canopy attached above this entrance. This would require associated minor remedial works to the exiting granite frontage, to remove fixings associated with the canopy;
- Associated alterations to the granite frontage, including increasing the extent of glazing and introduction of a aluminium clad feature portico surrounding the new entrance, with associated recessed feature lighting.

No alterations to the historic granite station entrance pavilion or principal sandstone station frontage are proposed. The ticket facility and lounge would be relocated within the main concourse, as approved via Ref: 180953/LBC. Advertisement consent Ref: 190537/ADV has been granted for the replacement station signage shown on the drawings.

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=PNW5IQBZ01700>

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because prior approval for works under this class of permitted development does not fall within the scheme of delegation.

CONSULTATIONS

City Centre Community Council – No comments received.

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS

Legislative Requirements

The Town and Country Planning (General Permitted Development) (Scotland) Order 2011 grants planning permission for the works by virtue of Part 11 (Class 29) of Schedule 1, subject to the Council giving its prior approval in respect of the detailed plans and specifications.

Section 25 of the Town and Country Planning (Scotland) Act 1997 does not apply to applications for prior approval, meaning that the development plan does not have primacy in decision-making. The development plan is still however a material consideration.

National Planning Policy and Guidance

Scottish Planning Policy (SPP):-

“The planning system should enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.”

Aberdeen Local Development Plan (2017)

NC2 – City Centre Retail Core

D1: Quality Placemaking by Design

D4: Historic Environment

D5: Our Granite Heritage

Other Material Considerations

Station Gateway Development Brief 2016 (SGDB). The following objectives are relevant:-

- Relocation of the taxi drop off facility, potentially to South College Street;
- Refurbishment / expansion of the station concourse to the north;
- Enhanced linkage for pedestrian and cyclists to the city centre to include commercial development at levels above the enhanced station facilities;
- Commercial property development opportunities complimentary to the operational railway and railway station that enable enhanced connectivity; and
- Improve passenger services and facilities.

EVALUATION

Principle of Development

The principle of the development is established by Class 29 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

The works relate to the creation of a retail unit in place of the existing ticket centre and lounge, which is to be relocated. This work therefore accords with the SGBD objective to enable commercial development opportunities associated with the station and with the objective of ALDP policy NC2 (by enhancing the role of the city centre retail core).

In the context of the above legislative and policy provisions, the main matter for consideration is the acceptability of the proposed siting and appearance of the detailed works.

Conservation / Heritage / Design Impact

The works to the frontage have been amended in response to design concerns previously expressed during the processing of the related listed building consent (180693/LBC). These included concerns that the overcladding of the existing roofline feature and the entrance cladding previously proposed would both be visually incongruous, detracting from the setting and appreciation of the adjacent historic station frontage. This revised design solution is considered to be visually appropriate, so as to enhance wayfinding to the station entrance.

The elements which would be removed (i.e. granite cladding panels and the existing glazed entrance doors / screen / canopy) are of modern origin and their loss is considered to have no adverse impact on heritage value or visual amenity, such that there would be no conflict with ALDP policy D4 or D5. Overall the design of the proposed frontage alterations is of an acceptable quality such that it is considered to accord with the objectives of policy D1. However further

construction details are required in order to ensure an appropriate design standard, this can be secured by condition.

Although the removal of the glazed canopy would reduce weather protection for station users / visitors and arguably conflict with the SGDB objective to enhance pedestrian linkage to the city centre, this canopy is not an historic feature of the listed building. It is also considered of limited functional value (providing limited weather protection) and results in the east elevation having a somewhat cluttered appearance. Its removal does not therefore raise concerns regarding the loss of historic fabric / visual impact which would justify refusal of the application.

Overall, it is considered that the visual amenity of the area would not be detrimentally affected to such an extent as to warrant refusal, as any effects would be localised and neutral in effect.

RECOMMENDATION

Grant Prior Approval

REASON FOR RECOMMENDATION

The principle of development is established by virtue of the provisions of Class 29 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Whilst it is recognised that the existing canopy feature is of some functional value for users of the station, it is considered that its removal does not warrant refusal of the proposal.

Overall, it is considered that the visual amenity of the area would not be detrimentally affected to such an extent as to warrant refusal, as any effects would be highly localised and neutral in effect.

CONDITIONS

1. Union Square elevation.

No works in relation to this prior approval shall take place unless the following have been submitted to and approved in writing by the planning authority:-

- a. A detailed methodology for infilling of redundant fixing holes in the granite panels, resulting from the proposed removal of the glass canopy;
- b. A detailed methodology for the making good of the frontage pavilion stonework, resulting from the proposed removal of existing signage;
- c. Construction details of all proposed new external / illuminated signs / lighting and alterations to the granite cladding associated with the entrance façade;
- d. A methodology for the installation of the new structural glazing at the entrance, detailing how it will interface with the existing structural steelwork / proposed cladding, including clarification of the finish / obscurity of proposed glazing.

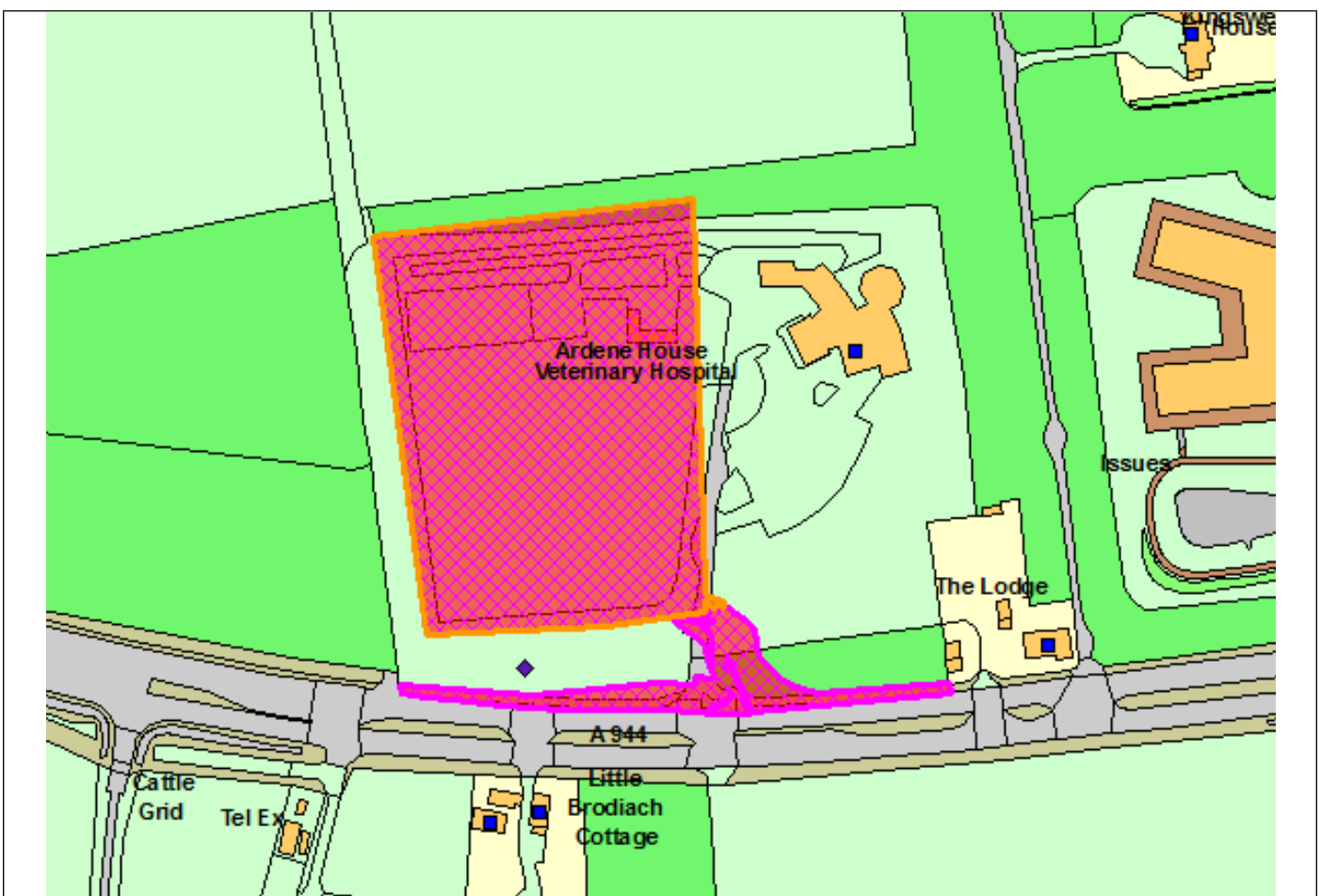
All work shall be undertaken in complete accordance with such approved details / methodologies, unless otherwise agreed in writing with the planning authority.

Reason - To safeguard the special architectural and historical character of the site and preserve the visual amenity and setting of the listed building when viewed from Guild Street, in accordance with the objective of Aberdeen Local Development Plan policies D1: Quality Placemaking by Design and D4: Historic Environment.

This page is intentionally left blank

 <p>181336 ABERDEEN CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p>Committee Date: 18 April 2019</p>

Site Address:	Land adjacent to Veterinary Hospital, Kingswells, Aberdeen,
Application Description:	Erection of three class 3 (food and drink) units, including two with drive-thru facilities
Application Ref:	181336/DPP
Application Type	Detailed Planning Permission
Application Date:	31 July 2018
Applicant:	CAF Properties (SABC) Limited
Ward:	Kingswells/Sheddocksley/Summerhill
Community Council:	Kingswells
Case Officer:	Matthew Easton



© Crown Copyright. Aberdeen City Council. Licence Number: 100023401 - 2018

RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The site extends to c.1.5 hectares, immediately north of the A944 and south of the Prime Four Business Park, around 2.4km to the east of Westhill, 0.75km west of Kingswells and 7.2km west of Aberdeen city centre. It generally comprises: a grass paddock and enclosed riding arena with small associated parking area, a timber stable block and car park. The site last operated as part of the veterinary operation. The main veterinary buildings and car parking is however excluded from the application site.

To the east are buildings and other associated land forming a veterinary practice and hospital, which along with the site are largely enclosed by mature woodland belts to the north, east and south-west. Beyond to the north and east are: Kingswells House (dating from 1666 and category B-listed); and Prime Four Business Park, comprising large modern office buildings and a hotel.

The A944 (Skene Road) and shared foot/cycle way (Core Path 91 – Westhill Road to Queens Road) are immediately to the south. On the south side of the A944 are three residential properties: Little Brodiach Cottage; Lynford; and Muirvale, beyond which the land raises up towards Kingshill Wood.

The Aberdeen Western Peripheral Route ('AWPR') South Kingswells Junction is around 460m to the west, where it connects with the A944. Access to the site from the A944, is via a 'left and right in', with 'left out only' arrangement.

Relevant Planning History

Detailed planning permission (ref: 130400) was granted in December 2014 for a three-storey office building of some 17,000 sqm and 425 car parking spaces. This development was independent of the nearby Prime Four Business Park, accessed via an upgrading of the existing junction with the A944. This permission was not implemented and expired in December 2017.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the construction of three separate class 3 (food and drink) outlets, two of which would have drive-thru facilities. Overall there would be 1,067sqm of floor space and 268 parking spaces. The veterinary practice and hospital will remain operational to the east. The proposal can be broken down as follows –

Unit	Floor space	No. of Covers	No. of Parking Spaces	Drive-Thru
Unit 1	578sqm	154 seats	59	Yes
Unit 2	186sqm	66 seats	18	Yes
Unit 3	303sqm	48 seats	20	No
Total	1,067sqm	268	97	N/A

Unit 1 would be in the northern area, set over two storeys with a flat roof. Units 2 and 3 would be to the south and single storey. Unit 2 would have sections of both mono pitched and flat roofs. Unit 3 would have a flat roof. All would be finished in a variety of cladding materials, including: natural stone tiles, composite cladding panels, render and brick. Potential occupiers are not specified.

It is also proposed that an upgraded junction would be provided with the A944, positioned slightly east/overlapping the existing. The westbound right turn option would be removed by extending the central reserve, with the junction operation being 'left in, left out only'. An internal road would provide access to each of the units, and the veterinary operation.

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=PCH2OYBZG0T00>.

- Drainage Impact Assessment;
- Ecology Report (2013);
- Ecology Report (Updated 2018);
- Planning and Design Statements;
- Sequential Assessment Statement;
- Transport Statement; and
- Tree Survey Report.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee as more than 20 objections (237 in total) have been received.

CONSULTATIONS

ACC - Environmental Health – No objection. Advise that proximity to neighbouring residential properties sees potential for a significant adverse impact on amenity from odour associated with cooking operations. Request that where cooking activities are to be undertaken, prior to a decision regarding planning consent, the applicant must carry out an assessment by a suitably qualified engineer to establish any necessary Local Extract Ventilation (LEV) equipment. The extent of the necessary ventilation equipment and the effectiveness of the associated cooking odour and fume control measures must be fully demonstrated.

Also advise the location is not within or adjacent to an Air Quality Management Area (AQMA) and it is unlikely the impact of emissions to air from or associated with the development (including those associated with road transport and construction/demolition) would result in exceedances of the national objectives. Thus, an assessment of the impact on air quality is not required.

ACC - Flooding and Coastal Protection – No objection. The proposed use of SUDS and prevention of flood water exiting the site during a M200 event is noted. However, advise that it should be highlighted to the applicant that there is a high risk of surface water flooding at the site and it is recommended that consideration is given to including rain water harvesting in the design, this could include but is not limited to: raised planters coming off down spouts.

ACC - Roads Development Management Team –

Walking and Cycling – Access by pedestrians and cyclists is via a shared use path (part of Core Path 91) on the southern boundary (on the northern kerb of the A944) providing links to Westhill, Prime Four Business Park & Kingswells. Residential areas at Kingswells are within 1600m walking distance.

The revised access junction design includes a shared pedestrian and cycleway on both sides of the access road, to tie into existing infrastructure on the A944. This includes a pedestrian / cycle refuge island to facilitate safe crossing at this junction and associated pedestrian guard rails.

The A944 junctions with Kingswells Causeway and Fairley Road both have controlled crossing facilities on their north arms. Additionally, the AWPR has good pedestrian infrastructure on the North side of the A944, additionally there is to be a signalised crossing a pedestrian footbridge over the A944 as part of the new football stadium approved west of the AWPR.

Public Transport – There are no bus stops in the immediate vicinity of the site, however the Kingswells 'Park and Ride' is around 800m away and is a hub for regular bus services.

The Transport Assessment, states that there is an informal bus stop around 200m west of the site (on the A944) however this is not the case. In that regard Police Scotland advised ACC's public transport unit that, as there are no laybys, it was unsafe to stop buses in this location given the traffic speeds.

Access to bus services some 800m from this out-of-town location is not considered onerous. However, bus stops are generally required to be within 400m. Short of being able to introduce bus laybys on the A944 (which is impractical, given the constraints of the site frontage), the park and ride appears to be the closest point of access to bus services.

Parking – The site sees the following maximum standards for parking apply –

- 91 standard spaces
- 5 disabled spaces
- 2 active and 2 passive electric charging spaces
- 6 motorcycle spaces
- 14 cycle spaces

The applicant is proposing to provide the following level of parking –

- 85 standard spaces (93% of maximum allowable)
- 6 disabled spaces (over-provision of 1, which is acceptable)
- 6 electric vehicle spaces (3 active, 3 passive)
- 6 motorcycle parking spaces;
- 14 bicycle parking spaces.

Although 85 standard parking spaces are proposed, the 3 passive electric charging bays will be available for general parking, until such a time as they're converted to active charging points. As such, the applicant is actually providing 88 parking spaces, which is 97% of the maximum.

This level of provision is what would be expected in this extreme outer city and semi-rural location, as it is more likely customers would drive to the site and close to the maximum parking provision should therefore be applied. Additionally, the applicant has provided adequate cycle, motorcycle, disabled and electric charging facilities. Long stay cycle parking for staff will be covered, while short stay for customers will be Sheffield-style racks.

Parking bays, aisles, footways / roads, all appear adequately sized.

Vehicle Access – Access would remain from the A944, via a left-in / left-out junction arrangement. Right turn in from the A944 would be banned by extending the central reservation. The fire service has stated that they are satisfied with the access provision and have no adverse comments to make. This will necessitate that vehicles travelling from the west/ city drive past the site and enter via the east bound lane, the most likely and safe option being use of the roundabout at the AWPR; when exiting and wishing to travel west, vehicles would require to turn left/east and turn using the A944 Kingswells roundabout.

Internal Road Layout – The proposed road geometry and associated swept path analysis is acceptable. HGV's could use the car park in front of site 1 to turn, and whilst site 3 does not have a drive-thru lane HGV's would park in the adjacent car park. This will require operator traffic management measures, to ensure HGV's and articulated trucks do not disrupt car parking. The applicant is only proposing adoption of the junction, up to the back of the bell-mouth at the access onto the A944, which is accepted.

Traffic Analysis – The traffic modelling portion of the TA utilises a unique/convoluted methodology to determine the impact of the proposed development on the surrounding road infrastructure. However, this is not a comment about the calibre of the work undertaken. It is noted that in the run-up to the opening of the AWPR, surveys were not able to be undertaken (which would have provided concise and up-to-date information), thus an amalgamation of work undertaken on several other projects is relied on to produce a best estimate of the traffic situation upon the opening of the proposal. Notwithstanding, the applicant has provided a robust assessment, as:

- The full Countesswells development is being considered as committed development, despite it not being expected to be completed until 2027;
- The traffic modelling utilises a 20% discount for pass-by traffic (i.e. vehicles which are on the road in any case), which results in an impact marginally greater than 2%. This minimal discount percentage results in a robust assessment, as for drive-thrus typically up to 75% of trips are attributed to pass-by traffic. It is unusual for people to make a journey with the solely intention of visiting a drive-thru, especially at peak times.

The biggest junction impact (ignoring the site access itself) as a result of the development is 1.35% in the AM peak, and 2.93% in the PM peak. Given that this is a strategic dual carriageway, an impact of 2% or greater is considered significant enough to warrant further investigation. The following impacts of 2% (alongside the respective location of impact) or greater on four junctions are noted below:

- Junction 1 – A944 / AWPR Roundabout, A944 East Arm, PM Peak, 2.33%;
- Junction 2 – A944 / Kingswells Causeway Signals, A944 West, PM Peak, 2.93%;
- Junction 3 – A944 / Kingswells Causeway Signals, A944 East, PM Peak, 2.52%;
- Junction 4 – A944 / C89C Roundabout, A944 West, 2.38%.

Before dealing with each above junction impact in turn, it is useful to know that an RFC (ratio of flow to capacity) is a measure of how much spare capacity a junction has, where an RFC of 1.00 means that the flow in vehicles has reached 100% of the design capacity, and an RFC of 0.85 or less is generally accepted as the desirable upper limit on any junction:

- Junction 1 – The TA indicates that the RFC prior to their proposal (and after accounting for all current committed development) would be 1.23, increasing to 1.26 as a result of the proposed development. The applicant's traffic modelling indicates that the junction, after accounting for all current committed development, will be operating at 123% of design capacity, increasing to 126% as a result of the development. Roads officers considered that in reality, the developments impact on this junction would be negligible as it is not anticipated that the development would result in any significant number of new trips on the road during peak times. Notwithstanding, as

a result of the development, a junction which is already anticipated to be over capacity would see more traffic using it, albeit this would be a minor increase.

- Junction 2 – The Degree of Saturation (DoS) for the A944 West Arm in the PM Peak is 76%, and DoS's less than 85% are generally accepted. So, whilst the application is having a more significant impact on this arm of the junction, the overall functionality would remain well within capacity.
- Junction 3 – The DoS for the East arm is 85% accounting for the impact of the development. As above, this means the functionality is still within capacity, although at the desirable limit.
- Junction 4 – The A944 West Arm of the A944 / C89C Roundabout sees an increase in RFC from 0.94 to 0.96, as a result of the proposal. As such, it is already likely to be over the desirable capacity (but still under the overall design capacity), and the proposal will increase this trend only minimally. As such, although this shows that the development will have an impact, this is not expected to be unacceptably problematic.

The applicant highlights in the TA that "*the existing base conditions could not be determined due to the imminent opening of the AWPR*" so all assessments are undertaken for Base + Committed Development vs. Base + Committed Development + Proposed Development.

In conclusion, the impact on Junction 1 identified in the traffic modelling is unlikely to be reflective of reality with only a negligible impact expected, below a level at which it would be reasonable to expect any junction improvements to be carried out. The impacts on Junctions 2 and 3 are within desirable capacities, and the impact on Junction 4 would remain within design capacity,

Travel Information – The submission of travel information packs for staff should be conditioned, if the application is approved.

Drainage Impact Assessment – The level of SUDS treatment shown appears sufficient, as the pollution mitigation indices exceed the pollution hazard indices.

Parking would be drained to porous pavements, before draining the porous sub-base, attenuation and then the Denburn. This is acceptable. It is worth noting that ACC do not consider porous pavements to be an acceptable form of standalone drainage as, in heavy rain, drainage speed is not sufficient. However, as none of the internal roads are to be adopted this approach is accepted, provided no surface water drains onto the adopted carriageway.

Aberdeen International Airport – No objection. The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria. To avoid such conflict any planning permission should be subject to conditions requiring submission and approval of a Bird Hazard Management Plan.

Archaeology Service (Aberdeenshire Council) – No objection. Recommended that owing to a former Quaker Meeting House being located somewhere within this area, a condition be attached requiring the submission and approval of a written scheme of investigation (WSI) and thereafter a programme of archaeological works be undertaken.

Developer Obligations Team – In order to mitigate the impact of the development on infrastructure, developer obligations of £1,502 would be required towards Core Path 91, for widening improvements.

Kingswells Community Council – Object. As part of the discussions for the Prime Four masterplan KCC were given assurances that fast food outlets would not be appropriate for this development. Consequently, the suitability of this proposal is questioned. Any development in this area should comply with the vision laid out in the Prime Four Masterplan.

- The only access to the development is a left in left out access from the A944. There is no direct access from within Prime Four which is 400m – 1,300m walk from the development. Given that one of the primary objectives is to serve Prime Four at lunch times, it is unlikely that many of these customers would walk due to excessive round-trip journey times.

Access by car from Prime Four is complicated by the necessity to go via the AWPR roundabout. An additional access point from within Prime Four should be provided to integrate the development into the overall Prime Four development. For other patrons the access to the site may be compromised if the Kingswells roundabout were to be changed to a signal-controlled junction, as part of the changes required by the Countesswells Development. The Transport Assessment shows a potential, up to, 469 vehicles accessing this junction per hour. That is almost 8 vehicles per minute. This represents a significant increase over the existing situation.

The proposed access has a deceleration lane but no acceleration lane. KCC question the safety of this arrangement. However, KCC would object to the removal of the trees in front of the vet to facilitate an acceleration lane, if that was required. Consequently, if it is deemed necessary to provide an acceleration lane for the junction to operate safely the junction should be offset to the west. If this is not possible, we would conclude that the junction design is not suitable for this location.

- One of the proposed objectives for this development is to provide facilities for people attending football matches and other activities at the Kingsford Stadium. One of the concerns raised for the stadium application was the danger to large numbers of football fans walking along the A944 from Kingswells Park and Ride to the stadium. The provision of a 'go to' destination along this route will attract more footfall and will increase the danger to football fans. The stadium application was approved assuming the use of shuttle buses between the stadium and the Park and Ride. Approval of this application will encourage fans to walk along the A944 to the development site. This could have major implications to the safety of football fans, as there is no provision in the stadium application to stop fans spilling onto the A944.
- Reconfiguration of the junction and the removal of the right turn into the Veterinary Hospital will increase journey times. This will be most evident when there is an emergency at peak times with traffic queueing along the A944. Any delays could have major impact on animal health and wellbeing. At other times when the access to the proposed development site is busiest the access to the vet will be compromised.

Overall KCC do not consider the development suitable for this location.

Scottish Water – No objection. There is currently sufficient capacity in the Invercarnie Water Treatment Works. There is currently sufficient capacity in the Nigg PFI Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to Scottish Water.

Transport Scotland – No objection.

REPRESENTATIONS

Representations from 488 different individuals or organisations have been received. 237 of these object and 251 are in support.

Those objecting include: West Aberdeen Environmental Protection Association; the owners of the Bon Accord & St. Nicholas Shopping Centres; and Aberdeen Civic Society. Most other objections come from those living in Westhill and Kingswells. Those in support tend to originate from the wider city and north-east Scotland region.

These representations are summarised under the headings of 'Objections' and 'Support' below.

Objections

Land Use

1. The proposal does not comply with the land use zoning as 'specialist employment' (Policy B2) within the ALDP. Demand for office space is increasing therefore the site should be retained in that use.
2. The site is designated as green space network (Policy NE1) and must be protected to ensure a buffer is maintained between Kingswells and Westhill. The development would infill the area.
3. The development should be within Prime Four Business Park.
4. The development would further erode the greenbelt (Policy NE2)
5. The development is contrary to the idea that the AWPR would not be a development corridor.

Sequential Approach

6. The development is contrary to Policy NC1 (City Centre Development – Regional Centre) which requires that as a significant footfall generating development, the preferred location is the city centre, and if that is not possible, one of the existing town, district, or neighbourhood centres.
7. There has been a lack of flexibility in the applicant's application of the sequential test, contrary to part 1 of Policy NC5 (Out of Centre Proposals). A disaggregated development could be accommodated in existing retail centres. The applicant's sequential test fails to mention the Lang Stracht / Stronsay Drive site and it seeks that the development of three units be considered as a whole and then rejects alternative sites that would only be capable of accommodating a single unit.
8. No deficiency in quantitative or qualitative terms has been proven, contrary to part 2 of Policy NC5. There are existing food and drink premises in Prime Four and drive-thrus would be available within a 10-minute drive, once the AWPR opens.
9. The development would have a negative impact on the vitality and viability on local centres and the city centre, contrary to part 3 of Policy NC5 (Out of Centre Proposals). The development would divert trade from other outlets, including the 'Village Hotel' at Prime Four and proposed AFC Fan Zone.
10. The development would attract additional traffic, increasing traffic flows in the area, contrary to part 4 of Policy NC5 (Out of Centre Proposals).

11. The site is not easily accessible by regular, frequent and convenient public transport, contrary to part 4 of Policy NC5 (Out of Centre Proposals).
12. The proposed level of floor space would be significantly in excess of what could reasonably be considered to be required to meet the needs of the business park. It would be a destination in its own right and due to the distance between itself and the Business Park, it instead would rely on passing trade on the A944.

Transport

13. Further development on the A944 would increase traffic congestion. The impact of AWPR traffic on the road must be considered.
14. The existing cycle/footpath (a core path) would be affected, as vehicular access would be taken over it.
15. The proposed vehicular access between the site and Prime Four Business Park would be contrary to the Prime Four Development Framework.
16. The development would encourage football fans to walk along the A944, increasing road safety issues.
17. The transport assessment appears flawed.
18. The application makes no mention of the possibility that the fast food outlets proposed may also offer home delivery services, that would further add to the volume of traffic.
19. The transport statement implies that staff employed at these premises might be expected to park in the Kingswells Park and Ride car park.
20. The majority of customers would access the site by car, very few would walk. The development would encourage patrons to walk along the busy A944.
21. The suggestion that some customers might travel to these premises using the Park & Ride bus service or by bicycle from as far afield as Bieldside verges on the farcical. No bus stops are provided nearby, as suggest by the applicant.
22. The car parks provided for these premises would be likely to suffer from rogue parking when events take place at the proposed Kingsford stadium, because of the inadequate parking proposed for that development.

Amenity

23. The development would generate litter. Livestock in surrounding fields could be affected by litter. Fences should be provided to stop wind-blown litter.
24. The smell from fast food is unpleasant and would affect the surrounding area.

Association with Kingsford Stadium

25. Approval of the Kingsford stadium application should not be seen as a reason to also support this development as the stadium application was considered to be standalone and unique.
26. Development to support the AFC Stadium at Kingsford should not be drip-fed into the planning system and should have been highlighted when the stadium was granted permission. The public have been misled as the submission of this application has been delayed.
27. The applicant's agent, Aurora Planning, is alleged to be involved with Kingsford Stadium, yet it was meant to be a standalone development.

Other

28. The same principles apply to this proposal as to the previous proposal for a retail park at Prime Four Business Park, which was recommended for refusal.
29. The use would be inappropriate next to a vet practice.
30. The vets practice should remain at the site.
31. The application is potentially contrary to Policy D2 (Landscape) on the basis that the proposed buildings could have a significantly adverse impact on the landscape setting between Kingswells and Westhill.
32. There appears to be no proper Landscape Visual Assessment submitted, so it is not possible to accurately gauge the visual impact. However, it appears from the elevations submitted, that the application comprises formulaic fast food outlets which will do nothing to add to the attractiveness of the OP29 designation for specialist employment users nor encourage company headquarters to locate here.
33. There are already fast food outlets in Westhill and Kingwells, more are not required.
34. The development would change the ambiance of Westhill.
35. The development would reduce property values in Westhill.
36. The development would provide food which is acknowledged to be unhealthy. It would be to the detriment of people's health, especially children's and young adults, contrary to the National Obesity Strategy.

Administrative

37. The weighting given to objections should be explained in the report of handling.

Support

38. The development would increase the choice of food outlets in the area for residents, workers and road users. The Kingswells and Westhill area lack amenities and this would help.
39. The development would create jobs and have a positive economic impact.
40. The development would provide an opportunity for people to meet socially.
41. The development would be less obtrusive than an office building.

42. The low-level design of the buildings looks reasonable, landscaping looks good and the development would sit comfortably within the landscape.
43. There would be minimal impact on the road network and traffic would be less concentrated on peak times than that associated with the previous office development.
44. Closure of the central reservation on the A944 would improve road safety.
45. It is in a good location, away from residential properties.

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

Aberdeen City and Shire Strategic Development Plan 2014 (SDP)

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

Aberdeen Local Development Plan (2017)

- D1: Quality Placemaking by Design
- D2: Landscape
- NC4: Sequential Approach and Impact
- NC5: Out of Centre Proposals
- I1: Infra Delivery & Planning Obligation
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- B2: Specialist Employment Areas

- NE5: Trees and Woodland
- NE6: Flooding, Drainage & Water Quality
- NE8: Natural Heritage
- R6: Waste Management Requirement for New Developments
- R7: Low & Zero Carbon Build & Water Efficiency

Supplementary Guidance and Technical Advice Notes

- Flooding, Drainage and Water Quality
- Green Space Network and Open Space
- Hierarchy of Centres
- Landscape
- Planning Obligations
- Resources for New Development
- Transport and Accessibility
- Trees and Woodlands

Other Material Considerations

- Aberdeen City Centre Masterplan – Approved by Full Council in June 2015, the City Centre Masterplan (CCMP) outlines a 20-year development strategy for Aberdeen City Centre. It identifies a series of projects that will support future economic growth and will secure more benefits and opportunities for the communities of Aberdeen City and Shire. The projects are complemented by a robust, costed and achievable delivery programme and together these provide a framework for managing city centre type development up to 2035.
- Strategic Investment Plan – The Council’s Strategic Infrastructure Plan (SIP) focuses on the development of the enabling infrastructure needed to realise the city’s aspirations to be an even more attractive, prosperous and sustainable city and deliver growth. Regeneration of the city centre is identified as a key goal of the SIP.
- Employment Land Audit 2016/17 – The Aberdeen City and Shire Employment Land Audit (ELA) provides up-to-date and accurate information on the supply and availability of employment land in the North-East of Scotland.

EVALUATION

Strategic Development Plan

In terms of assessment against the Strategic Development Plan, due to the small scale of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

Spatial Strategy of the Development Plan and Land Use Zoning

Principle of Developing the Site

The SDP has a target of having at least 60 hectares of marketable business and industrial land available at all times, in a range of places within Aberdeen City. Of that, at least 20 hectares should be of a standard which will attract high-quality businesses or be suitable for company headquarters. With the SDP target in mind, 50 hectares of land at Kingswells was allocated for the in the LDP 2012 for specialist employment use for the period to 2026. Part of this has now become Prime Four, the success of which has seen the previous allocation carried forward into the current LDP adopted in 2017 (Opportunity Site 29 (OP29)) and a further 13-hectare allocation added, known as OP63.

Although the application site does not form part of Prime Four, it is still within the OP29 specialist employment use allocation. Previously and associated to this, planning permission was consented for an office development on the site in 2014 (ref: 130400), albeit that consent has since expired (*issue 2 and 5*). Therefore, the land use zoning and previous planning permission have established that the general principle of developing the site in line with the LDP is acceptable.

Contrary to what is suggested by some representations, the site is not located within the green belt and therefore Policy NE2 does not apply (*issue 4*).

Kingsford Stadium

There is no direct connection between this application and the football stadium consented at nearby Kingsford. Additionally the timing of this application, in relation to the Kingsford stadium is irrelevant and the planning authority are required to consider the application on its individual merits Further, approval of the stadium does not lend weight one way or the other to the determination of this application, although where there are matters associated to the two proposals which interact, these have been addressed below (*issues 25, 26 and 27*).

Policy B2 (Specialist Employment Areas)

The LDP zoning as 'specialist employment land' sees Policy B2 explain that within such areas, in order to maintain a high-quality environment, only class 4 (business) uses shall be permitted. Principally, Class 4 activities associated with research, design and development, knowledge-driven industries and related education and training, will be encouraged.

The policy goes on to say that other facilities which would directly support such business uses may be permitted, where they enhance the attraction and sustainability of the B2 area for investment. Such facilities should be aimed primarily at meeting the needs/catchment of businesses and employees within the specialist employment area itself. Normally this would comprise small scale retail or food & drink premises, such as the Starbucks and Fresh Café at Prime Four or the Grub café at Aberdeen Energy Park. An assessment of whether the proposal would primarily be aimed at meeting the needs of the Prime Four Business Park, rather than having a larger catchment, is therefore required.

The nearest building within Prime Four, occupied by CNOOC Petroleum, is around 10 minutes' walk away (770m) and the furthest, occupied by One Subsea is around 20 minutes' walk (1.48km). There is no direct walking route existing between Prime Four and the proposed development, with pedestrians being required to take a route along the pavement associated with the A944 dual carriageway, which is likely to be unappealing due to the level and speed of traffic. Bearing in mind that the most likely time workers from Prime Four using the premises would be lunchtime, it is considered unlikely that many would spend between 20- and 40-minutes walking to and from the site. Coupled with the unattractiveness of the route which would need to be taken, it is considered that if workers wanted to visit the premises, they are likely to drive – especially given that drive-thru options would be available. This would suggest that if the aim of the premises is to meet the needs

of the business park, that it is proposed in an inefficient, inappropriate and unsustainable location. Any supporting facilities proposed to meet the needs of and enhance the attraction and sustainability of Prime Four for investment should be suitably located within the wider business park, so that they can be easily reached from existing buildings without the need to drive.

A future pedestrian/cycle link is proposed from the north boundary of the site into Prime Four, however the area on the opposite side of the site boundary is yet to be developed and indeed may not be anytime soon. As such its delivery is uncertain and would require third party land owner consent.

Following on from this, drive-thru premises, by their very nature are designed to be attractive for drivers to visit and primarily attract customers in vehicles, rather than those who may walk or use more sustainable means. Thus, the nature of the proposal suggests, that the aim is to attract trade from a wide catchment area and accessing directly off the A944, otherwise the drive-thru elements would not be proposed. Indeed, the applicant's own supporting statements indicate that "*the drive-thru format will seek to capture passing trade from users of the A944 and the AWPR and football traffic (in due course)*"

Though employees of surrounding businesses may well use the proposed premises, if primarily by car, it is apparent from the nature of the proposed development would ensure its inevitable attraction to a much wider customer base. It is not considered that the Prime Four Business Park would account for a significant amount of overall custom, particularly given its lack of sustainable connectivity.

Whilst it is accepted that supporting facilities within business parks can attract a degree of trade from out with these areas, in this case it is apparent that due to the location, access arrangements, type, scale and nature of the proposed premises, they would primarily serve a catchment area other than the business park. The proposal therefore fails to comply with Policy B2, which is fundamental to determining the acceptability of the proposal (*issue 1 and 12 in representations*).

Drafting of the Aberdeen Local Development Plan 2022

At the developer bid stage of the Proposed LDP 2022, a proposal (ref: B0307) was made by the applicant to have the site reallocated for the development subject of this application. In considering that proposal and through the publication of the Main Issues Report published in early March 2019, this option has been discounted, as it was considered to not directly support the existing business uses on the wider employment land allocation and would erode the nature of the allocation of which the aim is to maintain a high-quality employment environment.

Summary

In summary, although the principle of development at the site has been established, the specific type and scale of development proposed does not comply with the relevant land use zoning policy.

Sequential Approach to Site Selection

Both the ALDP and SPP recognise and prioritise the importance of identified town centres by requiring that all significant footfall generating uses are located in accordance with a sequential 'town centre first' approach. The ALDP expresses this requirement through Policies NC1 (City Centre Development – Regional Centre), NC4 (Sequential Approach and Impact) and NC5 (Out of Centre).

Policy NC1 states that "*proposals for new retail, office, hotel, commercial leisure, community, cultural and other significant footfall generating development (unless on sites allocated for that use*

in this plan) shall be located in accordance with the sequential approach". This approach is known more generally as 'town-centre first' and it offers a range of benefits over out-of-town development, including making developments highly accessible rather than only being available to those with cars, as well as generating spin-off trade for other uses such as leisure, cultural, and food & drink within centres. Site selection should be undertaken in accordance with the following hierarchy:

- Tier 1: Regional Centre
- Tier 2: Town Centres
- Tier 3: District Centres
- Tier 4: Neighbourhood Centres
- Tier 5: Commercial Centres

In this regard the applicant contends that the development is not a significant footfall generating development and therefore the sequential test should not be applied. This argument is based on their being no reference to Class 3 or drive-thru uses in the relevant part of SPP and, as such, the uses do not fall within the definition of "significant footfall generating development" This contention is further expanded through the applicants consideration that: the proposals are of limited scale; that it seeks to serve linked trips with users of the business park; to capture passing trade from the A944; and serve future football stadium related traffic.

In response, it is considered that that drive-thru and casual dining restaurants are considered 'commercial leisure' uses, as mentioned in Policy NC1. That aside, the policy is not to be restricted to only the uses mentioned, as it includes "*other significant footfall generating development*". SPP indicates that a sequential town centre first approach should be used when planning for uses which generate significant footfall. It then goes on to list examples of such uses, and whilst not specifically mentioning Class 3, does not preclude uses not listed. In that regard, drive-thru and casual dining restaurants typically require to sell relatively low value goods at high volumes, in order create enough turnover to be successful. Experience from other drive-thru facilities in the city would suggest that they can become very busy at peak times, with vehicle queuing arrangements exceeding capacity at some locations. Furthermore, the indication from the applicant that they would seek to attract football related traffic from the future Kingsford Stadium suggests that large numbers of people could be visiting these premises in a relatively short space of time. Therefore, the development is considered as a significant footfall generator.

The application site is not identified in the LDP as being within any designated centre and therefore the proposal, being a significant footfall generator, must be treated as an out-of-centre proposal, which then triggers the requirements of Policy NC5. It states that –

"All significant footfall generating development appropriate to designated centres, when proposed on a site that is out-of-centre, will be refused planning permission if it does not satisfy all of the following requirements (unless on sites allocated for that use in this plan) –

1. *no other suitable site in a location that is acceptable in terms of Policy NC4 is available or likely to become available in a reasonable time.*
2. *there will be no adverse effect on the vitality or viability of any centre listed in Supplementary Guidance.*
3. *there is in qualitative and quantitative terms, a proven deficiency in provision of the kind of development that is proposed.*
4. *the proposed development would be easily and safely accessible by a choice of means of transport using a network of walking, cycling and public transport routes which link with the catchment population. In particular, the proposed development would be easily accessible by regular, frequent and convenient public transport services and would not be dependent solely on access by private car.*

5. *the proposed development would have no significantly adverse effect on travel patterns and air pollution.”*

Each of the five requirements of Policy NC5 are considered separately below.

Consideration of Other Sites

Requirement 1 – No other suitable site in a location that is acceptable in terms of Policy NC4 is available or likely to become available in a reasonable time.

Policy NC4 requires developers to undertake what is known as a ‘sequential test’, a process of identifying sites for retail and other significant footfall generating developments. The approach looks for sites in the following order of preference: city centre, edge of city centre, town centres, district centres, sites on the edge of these centres, and as a least preferable option finally out-of-centre sites which are accessible by public transport. In carrying out the test, case law and SPP requires the developer to take a flexible and realistic approach in applying the test and to consider whether the proposal could reasonably be altered or reduced in scale, to allow it to be accommodated at a sequentially preferable location or locations.

In response the applicant considered ten sites within what they considered to be an appropriate catchment area, defined as a 10 minute-drive time from the site. These are as follows –

- Kingswells Neighbourhood Centre;
- Westhill Town Centre
- Lang Stracht District Centre / Tesco Superstore
- Sheddocksley Neighbourhood Centre
- Mastrick Neighbourhood Centre
- Summerhill Neighbourhood Centre
- Seafield Neighbourhood Centre
- Cults Neighbourhood Centre
- Bieldside Neighbourhood Centre
- Cornhill Neighbourhood Centre

It is accepted that the development would not have a city-wide or regional draw but would likely serve a catchment area of a size similar to that of a town centre or district centre. Therefore, the city centre can be discounted as the first preference in terms of the test. In the form that is proposed, it is accepted that the development could not be accommodated in any of the locations considered in the applicant’s sequential test. However, that does not mean that the site proposed is automatically suitable for the use, as already explained in the section on land use zoning.

Importantly in applying the sequential approach, SPP states that applicants and planning authorities are required to be ‘flexible and realistic’ in their approach, with appropriate consideration given to reasonable alteration or reduction in scale to allow development to be accommodated at a sequentially preferable location. In this instance, the applicants have applied the sequential approach on the basis of a fixed requirement for three food and drink units including two with drive-thru’s in a single location. The reasons provided for this position by the applicant are that: three units would provide the greatest benefit to the business park; and that if for example one drive-thru/restaurant was provided alongside an office development within the application site, that it would be difficult to fit both in. These reasons are not considered sufficient to justify the absence of a flexible approach by the applicant.

By only looking at the development as it has been proposed, the applicant has not taken a sequential approach that is sufficiently flexible demonstrates due consideration for providing the development in a different form, for example through consideration of the disaggregation of the three units.

Officers have however considered the potential for disaggregation. Particularly it is anticipated that the restaurants would be operated by separate businesses and therefore there would be no apparent reason why they could not be separated out so site space requirements were less onerous

which would potentially allow them to be located at more sequentially preferable sites. The location of existing drive-thrus or class 3 units, within the city would suggest that it is not unreasonable for such uses to be located in less than clusters of three and indeed at times in isolation from other units of the same use. For example, the McDonalds drive-thru at Kittybrewster and KFC at the Haudagain roundabout are both isolated from other class 3 uses. Similarly, the Burger King at Altens and McDonalds drive-thru at Ellon Road, have both operated for many years on their own, albeit the McDonalds has recently been joined by a Starbucks drive-thru and a KFC is expected to open at Ellon Road. Notwithstanding, all would appear to have operated successfully for many years without sitting alongside other class 3 uses.

In considering disaggregation further, it is considered possible to accommodate a food and drink use without drive-thru, within Prime Four, at a scale which would be satisfactory in terms of being sustainable and to enhance the attraction of the business park for investment, meeting the terms of Policy B2 (*Issue 3*). This would satisfy an aim which the applicant's purport to be attempting to meet. It may also be possible to find sites where a single drive-thru could be accommodated, which would not necessarily be expected to be within identified centres, as disaggregation would be likely to result in developments which are below what would be considered to be significant footfall generators and therefore would not be required to go through the sequential test on their own.

However, no attempt has been made by the applicant to disaggregate or to determine if the same number of units and quantum of development could be accommodated across several sites and still be successful in more sequentially preferable locations. This may have opened a number of other more sustainable locations for consideration (*issue 7*).

To conclude, although the case for a restaurant and two drive-thrus has not been justified; officers consider that the applicant has demonstrated there are no sequentially preferable sites within Aberdeen's existing centres which would be capable of accommodating the development strictly as proposed. However, because no attempt has been made to disaggregate elements of the proposal, or take a flexible approach, the sequential test carried out is not considered robust (*issue 6*)

Impact on Existing Centres

Requirement 2 – There will be no adverse effect on the vitality or viability of any centre listed in Supplementary Guidance.

On the basis that the drive-thru model of development is distinct from that used by the same potential operators on the high street, the applicant suggests that the proposed development will not threaten the vitality and viability of any existing centres. Otherwise, no proper analysis of the potential impact upon any other centre has been submitted in support of the application. It is considered that without such analysis it is not possible to conclude that existing centres would not be affected, should the development proceed. Nonetheless, some limited consideration of the issue can be undertaken.

Several of the district and neighbourhood centres in the west of the city feature hot food takeaways, which it would be reasonable to expect would be in competition with the proposal if it were to go ahead. Such competition is likely to divert footfall from these businesses and have knock-on effects on neighbouring business also located in the centres, due to the linked nature of some trips and as such this impact would adversely affect their vitality and long-term viability.

Although not a designated centre, should the development proceed, it is reasonable to expect that a proportion of trade would be diverted from the existing food and drink outlets within Prime Four Business Park. As above, this could affect the long-term prospects for Prime Four to maintain attractive to investment or retain these businesses. This in turn could affect the attractiveness of Prime Four as a place for office occupiers to locate, as there would be less services for workers to utilise.

In summary, it is expected that rather than complementing existing similar uses in designated centres, the development would be in direct competition with them (*issue 8 and 9*).

Retail Capacity and Deficiency

Requirement 3 – There is in qualitative and quantitative terms, a proven deficiency in provision of the kind of development that is proposed.

The applicants note in their supporting statement that there are no other drive-thru facilities in this part of the city. Whilst this is the case, it does not automatically follow that there is a proven deficiency in demand simply due to the absence of such facilities.

The nearest drive-thrus are at Bucksburn (10 minutes' drive) and at the Haudagain roundabout (15 minutes), which are not considered unreasonable distances. Both are in more readily accessible locations within the urban area. In terms of other food and drink uses, there are such businesses located at: Urban Village Resort at Prime Four; The Four Mile at Kingswells; several in Westhill; and similarly, in the western part of Aberdeen (*issue 33, 38 and 41*).

Despite the requirement to prove a deficiency in provision for the type of development proposed, the applicant's motive appears more to be driven by the desire to develop the land. It was clear from the applicant's submission at the public hearing in November 2018 that the rationale for the proposal was an alternative to development of the site for office use, which they no longer considered viable. Whilst SPP does require planning authorities to be flexible in responding to changing economic circumstances and allow the realisation of new business and employment opportunities, authorities must balance that against avoiding short-term decision making and allowing development in inappropriate locations. Drawing this together, despite the contention that it is not viable to develop the site for the use that it is allocated, that does not lead to the conclusion that approval must be granted for an alternative use, especially when that use does not comply with wider planning policy. Otherwise, the current site condition and appearance sits comfortably within the landscape and causes none of the problems which development of it could purport to address.

In summary, a lack of information on any demand for the proposed development leads to the conclusion that there is a failure to demonstrate that there is a proven deficiency in provision of the kind of development that is proposed (*issue 8 and 9*).

Accessibility and Air Quality

Requirement 4 – The proposed development would be easily and safely accessible by a choice of means of transport using a network of walking, cycling and public transport routes which link with the catchment population. In particular, the proposed development would be easily accessible by regular, frequent and convenient public transport services and would not be dependent solely on access by private car.

Requirement 5 – The proposed development would have no significantly adverse effect on travel patterns and air pollution.

An objective of the SDP is to ensure all new development contributes towards reducing the need to travel by car and encourage walking, cycling and public transport. Following on from this the LDP identifies that the location of development can have significant impact on travel choices, with accessibility to jobs and services one of the key criteria used to determine where development should go. SPP states that planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where:

- direct links to local facilities via walking and cycling networks are not available or cannot be made available;
- access to local facilities via public transport networks would involve walking more than 400m; or
- the transport assessment does not identify satisfactory ways of meeting sustainable transport requirements.

Only a very small part of the residential part of Kingswells would be within a reasonable walking distance, with the nearest home at the southern end of Kingswells being around 925m walking distance. The catchment area of the development is also expected to cover a large part of the western part of the city and into Aberdeenshire, however only a very small proportion of the catchment population would be able to reach the development by a sustainable means of transport. The peripheral location and the drive-thru nature of the development would result in a high number of trips to the site being by the private car. The closest bus stop is around 520m walking distance to the west, between the junction of the A944 with Prime Four and the nearby roundabout. Whilst this is 120m over the 400m distance generally sought from development to public transport and might be an option for staff travelling to the site, it is difficult to envisage many customers choosing to take the bus to a drive-thru facility, coupled with this walking distance (*issue 10*).

It is acknowledged that Prime Four Business Park is in a similar position in terms of accessibility; however, it was allocated through the adoption of the 2012 LDP when it would have been considered as part of the wider development strategy for the city and scored against other potential employment land development options on a range of criteria, including accessibility. A strategic justification for the current proposal does not exist.

As discussed earlier in the report, the nearest building within Prime Four, occupied by CNOOC, is around 10 minutes' walk away (770m) and the furthest, occupied by One Subsea is around 20 minutes' walk away (1.48km). There is no direct route between Prime Four and the site, with pedestrians being required to take unappealing route along the pavement associated with the A944 dual carriageway. As result, it is considered that if workers were to wish to use the site, they are likely to drive to it.

Concern is raised that the presence of the development could encourage footballs fans to walk along the A944 from the proposed stadium at Kingsford. The planning permission for stadium has conditions attached which require the applicant to increase the width of the pavement between Kingsford and the Prime Four road access to 3m. This would ensure that it is suitable for such pedestrians from the stadium should it proceed (*issue 16*).

In terms of air quality, Environmental Health officers advise that the location is not within or adjacent to an Air Quality Management Area (AQMA). It is also unlikely the impact of emissions to air from or associated with the development (including those associated with road transport and construction/demolition) would result in exceedances of the national objectives.

Thus the proposed development significantly fails to meet the policy test of NC5, with regards to accessibility: as it would not be easily accessible by regular, frequent and convenient public transport services and would largely be dependent solely on access by private car, for the vast majority of its catchment, encouraging trips which otherwise may not occur if the offer was made within a more accessible location (*issue 10, 19, 20 and 21*).

Summary of Compliance with Policy NC5

To conclude, it is considered that the sequential test is not robust and that there is the potential for the development to be disaggregated and sited at more sequentially preferable and accessible

locations, in accordance with the first part of the policy. The applicant has failed to demonstrate that there is in qualitative and quantitative terms, a proven deficiency in provision of the kind of development that is proposed, thereby failing to fulfil the requirement of the second part. It is also considered that rather than complementing existing similar uses in designated centres, the development would be in direct competition with them. The proposed development would also not be easily accessible by regular, frequent and convenient public transport services and would largely be dependent solely on access by private car, encouraging trips which otherwise may not occur, failing to meet the policy test with regards to accessibility. However, there are no significant concerns with the development from an air quality perspective. The proposal therefore fails on four of the five criteria in terms of Policy NC5 (Out-of-Centre Proposals).

Impact on Aberdeen's New Communities

The LDP identifies town centres to be situated in Newhills and Grandhome as well as new floor space at Countesswells. This floor space would form part of more expansive mixed-use centres which are expected to include uses such as shops, cafes, doctors, dental surgeries and other community uses. Countesswells (3,000 homes) and Newhills (4,400 homes) are both located in the west of the city, respectively around 1.2km and 3.8km from the application site. Through the drafting and adoption of the LDP it was determined that the most appropriate locations for the new commercial space to serve these new communities, was in the communities themselves, in order that they were as sustainably accessible as possible, and a critical mass of uses could be created to support one another.

There is potential that occupiers would be attracted to the development rather than the sustainably positioned mixed use centres within these new communities, which are primarily designed to serve that settlements needs. If this diversion were to occur there is strong potential that a critical mass of uses or footfall within the new communities would not emerge, and this critical mass is seen as essential to sustaining other community facilities, such as local retail services. The potential result would be that large areas of the city would have no sustainable access to shops or community facilities, contrary to the vision of the LDP to create sustainable mixed-use communities.

Transport

Both Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) require applicants to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. New developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport, and the internal layout of developments must prioritise walking, cycling and public transport penetration.

The Transport Assessment (TA) submitted has been reviewed by the Councils Roads Development Management Team and Transport Scotland.

Site Access

The existing junction currently operates as a left and right in, with left out only. It is proposed that a new replacement junction would be constructed, positioned slightly to the right of the existing junction and overlapping it. The right turn into the site would be removed by means of extending the central reserve, with the junction operation as a left in, left out only. This junction arrangement has been reviewed and is acceptable, including arrangements for cyclists along the cycle route/core

path 91, with the cycle route crossing the in and out carriageways as at present (*issues 14 and 44*). This junction would serve an access road which would provide access to each unit.

Initially a secondary/potentially future vehicle access was shown leading from the northern boundary of the site into Prime Four. This access was not anticipated as part of the masterplan for Prime Four and would have required the developer/ landowner for Prime Four to ensure that their future plans tied up with this link. It has therefore been removed from the proposal and replaced with a pedestrian link which could join into Prime Four in future. Although the deliverability of this link is questionable (*Issue 15*).

In accordance with Policy I1 (Infrastructure Delivery & Planning Obligations), should the application be supported, there would be a requirement to provide a financial contribution towards enhancing Core Path 91, which provides access to the site.

Traffic

The applicant's transport consultant has carried out a modelling exercise that shows the impact of the development on the local road network. The methodology used is considered robust by roads officers (*Issue 17*).

On a strategic road such as the A944, where a junction impact of more than 2% it is considered necessary to investigate further. The traffic analysis showed impacts greater than 2% in the evening peak hour at four junctions. The analysis utilises a 20% discount for pass-by traffic (i.e. vehicles which are on the road in any case). This minimal discount percentage used results in a robust assessment as for drive-thrus typically up to 75% of trips are attributed to pass-by traffic as it is unusual for people to make a journey with the sole intention of visiting a drive-thru, especially at peak times. The impact of any home delivery service operated by any of the premises is not considered to be significant (*Issue 18*).

- *A944 / AWPR Roundabout (A944 east arm)*

The applicant's traffic modelling indicates that the junction, after accounting for all current committed development, will be operating at 123% of design capacity, increasing to 126% as a result of the development. Roads officers considered that, the developments impact on this junction would in reality be negligible, as due to the number of pass-by-trips, it is not anticipated that the development would result in any significant number of new trips on the road during peak times. Notwithstanding, as a result of the development, a junction which is already anticipated to be over capacity would see more traffic using it, albeit this would be a minor increase.

- *A944 / Prime Four entrance (A944 west arm)*

The A944 West Arm in the PM Peak would be operating at 76% of design capacity, with an operating level of less than 85% being generally accepted. Whilst the proposal would have a large impact on this arm of the junction, its overall functionality is still within capacity therefore no mitigation is required.

- *Prime Four entrance (A944 east arm)*

This junction is operating at 85% of design capacity, after the inclusion of traffic associated with the proposal. As above, this means the functionality is still within capacity, although it is at the desirable limit.

- *A944 / C89C (Chapel of Stoneywood to Fairley Road) roundabout (A944 west arm)*

This junction is operating over a desirable level but within design capacity, with an increase in RFC from 0.94 to 0.96 as a result of the proposal. The impact of the development is only minimal and therefore not of concern.

In summary, the development would have an impact on several junctions along the A944, the individual impacts are minimal and therefore no mitigatory works to any junctions are required by roads officers. In relation to the AWPR, which is the responsibility of Transport Scotland, they have offered no objection to the proposal (*Issue 10, 13 and 43*).

Parking and servicing arrangements

Each unit would have its own car park: Unit one having 59 car parking spaces; Unit two having 18; and Unit three having 20. Accessible parking spaces and electric charging points would also be provided for each unit. Parking is close to the maximum permitted by the supplementary guidance and roads officers indicate that this would be the level expected in this peripheral location, which demonstrates the unsustainability of the location where reliance on the private car would be high. The level of cycle and motorcycle parking proposed is considered acceptable for this location. The layout of the site has also been designed to allow for vehicles queuing whilst using the drive-thru facilities and to avoid any queuing onto the A944. The management of the car park, to prevent any unauthorised parking such as from those attending the proposed Kingsford stadium, would be a matter addressed in conditions relating to the stadium planning application (*issue 22*).

Each unit would feature a waste storage enclosure and swept path analysis shows that refuse and servicing vehicle could satisfactorily enter and egress the site, in accordance with Policy R6 (Waste Management Requirement for New Developments) and associated guidance. To address the potential for litter, a condition could be attached requiring a suitable number of litter bins to be provided and to remain in place throughout the life of the development. Otherwise, littering is a criminal offence controlled by non-planning legislation (*issue 23*).

The general lack of sustainable accessibility of the site has been discussed earlier in the report and leads to the conclusion that the location is not suitable for the use proposed. Otherwise, other transportation matters in terms of site layout and access, and impact on the road network, the proposal is considered to be acceptable.

Design and layout

Policy D1 (Quality Placemaking by Design) requires that all development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. Policy D2 (Landscape) explains the principles of working with the existing landscape character and setting of a site.

In these regards the site is largely within a setting enclosed by trees. When approached on the A944 from east or west, views are only available when directly passing it. The buildings would thus sit comfortably within the site, being generally two storeys in height and set back from the road by some 45m. The visual impact upon the surrounding area would be minimal due to the enclosure, which it has previously been accepted could accommodate a significantly larger office building. Although that consent has now expired, the circumstances of the area have largely remained the same, with the only difference being that the AWPR is now present in close proximity. It could therefore be considered unreasonable to resist the application based on any visual impact (*issue 41*). The buildings would be finished in a mixture of materials, including composite cladding panels, brick, render, and timber, all typical of contemporary drive-thru restaurants and considered

acceptable. The proposal has been found to comply with the principles of Policies D1 and D2 (*issues 31, 32 and 42*).

Drainage

The Denburn watercourse runs along the northern boundary and at the moment run-off from the field would discharge thereto. The proposals would see surface water from buildings collected through gutters and down pipes and from car parks through porous paving before entering cellular attenuation units and ultimate discharge into the Denburn. Surface water from the access road would take a similar route but be collected by roadside filter drains. A suitable level of treatment would thus be provided for surface water. No objection has been raised by the Council's flooding team or SEPA.

Foul drainage would be discharged into the existing Scottish Water sewer which runs through the site, with Scottish Water confirming that there is capacity.

In summary the proposal is considered to comply with Policy NE2 on drainage.

Natural Heritage

Protected species and habitats

Policy NE8 (Natural Heritage) and the associated SG requires that development should seek to avoid any detrimental impact on protected species, through the carrying out of surveys and submission of protection plans describing appropriate mitigation where necessary.

An Ecological Survey of the site and its surroundings provided in support of the application concludes that the timber stable block and several trees within the site have low potential for bat roosting whilst other areas have no potential.

Badgers, a protected species under the *Protection of Badgers Act 1992*, were identified as being within the wider area but not directly affected by the proposed development. Should the application be approved, and work does not commence before January 2020, a further survey would be required.

Should the application be approved, mitigation measures to protect and enhance habitat for bats and birds which are identified in the Ecological Survey would require to be secured by condition.

Trees

Policy NE5 (Trees and Woodland) explains that there is a presumption against all activities and development that will result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation.

A total of 73 trees on the site were surveyed. Those at the front of the site are protected by virtue of forming part of Tree Preservation Order No. 195, relating to the wider woodland around Kingswells House. To allow the new junction and access road to be created, twelve largely mature trees would be removed. Given the semi-rural character of the area, featuring large areas of tree cover, the landscape impact of this tree removal would not be significant. Six further trees would be removed to allow the potential access link to Prime Four at a later date. Otherwise the road around the northern most building (site 1) would breach the root protection area of tree no. 45, however this is a minor infringement and considered acceptable. It is also recommended that if consent were to be granted that tree planting be provided along the northern boundary to reinforce the existing stock.

To conclude, although there is tension with Policy NE5 as a result of the tree loss, this is not considered significant enough to warrant refusal of the application in itself or be listed as a reason for refusal.

Green Space Network

The woodland surrounding the site, but not within the area of the site to be developed, is designated as Green Space Network (GSN). As there are no proposals to develop within the green space network, the integrity of it would be maintained (*Issue 2*). As mentioned in the previous paragraph, the applicant proposes additional tree planting around the site to reinforce the existing tree stock, this would contribute towards enhancing the GSN as required by Policy NE1.

Amenity

ACC Environmental Health advise that details of a of a Local Extract Ventilation (LEV) scheme I submitted, in order to control cooking odour and fumes from the premises. Although it was requested that this be submitted prior to determination, it would be more reasonable to attach this as a condition for submission prior to occupation should the application be approved (*issue 24*).

The nearest, residential properties are opposite, on the south side of the A944, however given the presence of this major road it is not anticipated that the presence of the development would cause any significant disturbance over and above that already experienced (*issue 45*).

The vets practice is not included within the application site (*issue 30*). Concern is raised in representations that the proposed use would be inappropriate adjacent to a vets practice, although the reasoning for this is not expanded. It is not considered that the two uses would be incompatible. No objection has been received from any party associated to the veterinary operation (*issue 29*).

At over 2km away, it difficult to see how the development would have any impact on the ambience of Westhill. Property values are not a material planning consideration (*issue 34 and 35*).

Other Matters Raised in Representations

- Each planning application is considered on its own merits. The application in 2016 for retail use at Prime Four was withdrawn prior to determination and overall is therefore not relevant (*issue 28*).
- It is accepted that the development would provide employment opportunities and a positive economic impact. However, it is not considered that this would be to the extent that the impact would outweigh the provisions of the development plan or other material considerations (*issue 39*).
- ‘*Scotland’s Diet & Healthy Weight Delivery Plan*’ published by the Scottish Government in 2018 indicates that as part of its review of Scottish Planning Policy, the government will consider the relationship between the food environment and the planning system, including for example how food outlets near schools could be better controlled. Although the potential occupiers of the development have not been disclosed by the applicant, the design and layout of the premises suggest the likelihood is that the premises would be occupied those considered fast food businesses. Notwithstanding, until legislation, policy or guidance is provided by Scottish Government it would be unreasonable to refuse a planning application on such general health grounds, especially when fast food outlets also provide options which are considered healthier than their traditional offering (*issue 36*).

- Material considerations (including objections) relevant to a proposal, and the weight to be afforded to them, differs depending on the nature of a proposal, its context and its specific characteristics. The planning authority are required to consider whether or not the proposal accords with the development plan and then then come to a conclusion as to any material considerations warrant a departure from the development plan. Officers' considerations of the matters relevant to this application are explained in the sections above (*issue 37*).

Conclusion

In summary, although the principle of developing the site (for Class 4 purposes) has been established, the specific type and scale of development proposed here does not comply with the relevant land use zoning policy. Whilst it is accepted that support premises within business parks will attract a degree of trade from out with, in this case it is apparent that due to the location, type and scale of the proposed premises, they would have a significantly larger catchment area than simply the business park itself, contrary to Policy B2.

The applicant's sequential test could have been more robust and that there is the potential for the development to be disaggregated and therefore more sequentially preferable and accessible sites to be found, in accordance with the first part of Policy NC5.

The applicant has failed to demonstrate that there is in qualitative and quantitative terms, a proven deficiency in provision of the kind of development that is proposed, thereby failing to fulfil the requirement of the second part of Policy NC5. It is expected that rather than complementing existing similar uses in designated centres, the development would be in direct competition with them.

The proposed development would not be easily accessible by regular, frequent and convenient public transport services and would largely be dependent solely on access by private car, encouraging trips which otherwise may not occur, failing to meet the policy test with regards to accessibility. There are no concerns with the development from an air quality perspective. The proposal therefore fails on four of the five criteria in terms of Policy NC5 (Out-of-centre Proposals).

The granting of planning permission for the proposal would be contrary to Policy LR1, which seeks to prevent any development which would jeopardise the full provision of any new community allocation. It is considered that the delivery of mixed-use centres within the new communities at Countesswells and Newhills could be jeopardised by the proposal.

Site access arrangements and the impact on the road network are considered acceptable as is the design and landscape impact of the proposal. Notwithstanding, due to the aforementioned conflict with the land use zoning, failure to comply with policy on such development in out-of-centre locations and the poor accessibility of the site, it is recommended that the application is refused. There are no material considerations which would justify granting planning permission against the provisions of the development plan.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

1. The proposed development is contrary to Policy B2 (Specialist Employment Areas) of the LDP on account that it proposes a use which would have a significantly larger catchment area than the

business park alone and it has not been demonstrated that it could satisfactorily provide support services to the business park by virtue of the lack of direct connections.

2. The proposed development is considered to be contrary to Policy NC5 (Out-of-centre Proposals) of the LDP as it has not been demonstrated –

(i) that no other suitable site in a location that is acceptable in terms of Policy NC4 (Sequential Approach and Impact) is available or likely to become available in a reasonable time.

(ii) that in qualitative and quantitative terms there is a proven deficiency in provision of the kind of development that is proposed;

(iii) that there will be no adverse effect on the vitality or viability of other identified centres, (rather it is expected that there would be impacts on the vitality and viability of other centres); and

(iv) that the proposed development would be easily and safely accessible by a choice of means of transport using a network of walking, cycling and public transport routes which link with the catchment population, rather it is considered that the development would encourage trips by the private car.

3. The proposed development is contrary to Policy LR1 (Land Release Policy) of the LDP as it is considered that it would jeopardise the delivery of mixed-use centres within the new communities at Countesswells and Newhills.

For the reasons set out above, the proposed development does not comply with the relevant provisions of the development plan. There are no material considerations which would justify granting planning permission against the development plan.

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	18 th April 2019
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Breach of Planning Control at 18 Home Farm Gardens, Bridge of Don
REPORT NUMBER	PLA/19/241
CHIEF OFFICER	Gale Beattie
REPORT AUTHOR	Gavin Clark
TERMS OF REFERENCE	15 Part 3 (Authorise the Taking of Enforcement Action)

1. PURPOSE OF REPORT

- 1.1 To inform the Committee in respect of a breach of planning control comprising the unauthorised erection of timber decking along rear boundary with associated steps and handrails at 18 Home Farm Gardens, Bridge of Don.

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Authorise the serving of an Enforcement Notice upon the owner of the property, to rectify the breach of planning control.
- 2.2 Agree that the breach should be remedied by the removal of the unauthorised timber decking with associated steps and handrails along rear boundary.

3. BACKGROUND

Basis of the Report

- 3.1 Following the planning service being made aware of the unauthorised works and undertaking an enforcement investigation, in August 2018 a retrospective application for planning permission (DPP) (Ref: 181431/DPP) was submitted seeking authorisation for the above works.
- 3.2 Following dialogue with Officers no acceptable solution was agreed and the application was refused under delegated powers on the 19th October 2018. This

decision was then subject to a review via the Local Review Body (LRB), which was unsuccessful with the delegated decision of officers upheld and a reflective refusal decision notice issued on the 5th March 2019.

- 3.3 No works to rectify the situation have taken place since the 5th March 2019 and Officers therefore seek authorisation to take formal enforcement action to rectify the breach of planning control.

The Enforcement Position

- 3.4 Section 127(1) of the Town and Country Planning (Scotland) Act 1997 (the Act), as amended, states that a planning authority may issue an enforcement notice where it appears to them:

- (a) That there has been a breach of planning control, and
- (b) That it is expedient to issue the notice, having regard to the provisions of the development plan and any other material considerations.

- 3.5 Paragraph 7 to Circular 10 of 2009 "*Planning Enforcement*" notes that planning authorities have a general discretion to take enforcement action against any breach of planning control. The paragraph goes on to state that when authorities consider whether enforcement action is expedient, they should be guided by a number of considerations that include:

- Whether the breach of planning control would affect unacceptability either public amenity or the use of land and buildings meriting protection in the public interest; and
- Enforcement action should be commensurate with the breach of planning control to which it relates.

Planning Assessment

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

- 3.7 In these regards the related application for planning permission, both under delegated powers and then by the Local Review Body, was refused as it was considered: *"The raised deck as erected, represents a visually prominent and intrusive structure, out of character with the surrounding area that does not take into consideration its immediate context and relationship with neighbouring dwellings, and therefore makes no positive contribution to the wider residential area, contrary to Policy D1 (Quality Placemaking by Design). As a result of its height and dimensions, it has an adverse impact on residential amenity by reason of an unacceptable loss of privacy to the immediately adjacent dwelling houses, as it offers direct views into their rear windows and overlooks their private amenity spaces, as well as offering wider views over the rear gardens of several further properties within the terrace. The raised decking therefore*

fails to comply with the Supplementary Guidance: Householder Development Guide and with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan. There are no material planning considerations which would warrant approval of consent in this instance.”

4. FINANCIAL IMPLICATIONS

4.1 Financial costs may be incurred by Aberdeen City Council should the Enforcement Notice not be complied with, such as in association to: any direct action undertaken to address the breach; or action seeking redress in the Courts.

5. LEGAL IMPLICATIONS

5.1 There will be implications in terms of Governance staff time to prepare and issue the Enforcement Notice. Costs may be incurred in relation to both Place and Governance staff if action is required to secure compliance with the Enforcement Notice.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	Financial costs may be incurred should the Enforcement Notice not be complied with.	L	The risk can be mitigated by ensuring that there is funding available from the appropriate budget for direct action to be taken. In the event that direct action is required we will seek to recover all of the costs of the required action from the landowner in accordance with the relevant legislation.
Legal	The applicant may not comply with the Enforcement Notice, which may require formal action by the Council.	L	The risk can be mitigated by ensuring that if there is a failure to comply with the Notice that we are prepared to proceed with further action which may include the instigation of Court Action.
Employee	N/A		
Customer	N/A		
Environment	N/A		

Technology	N/A		
Reputational	There may be a negative impact if the Council do not decide to proceed with formal enforcement action.	L	Proceed with the enforcement action as suggested.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	The proposal is unlikely to significantly contribute or result in a negative impact on the economy of Aberdeen.
Prosperous People	The proposal is unlikely to have a significant impact on people with protected characteristics or any negative impact on the delivery of the Council's Equality outcomes.
Prosperous Place	The proposal will have no impact on sustainable communities
Enabling Technology	The proposal will not advance technology for the improvement of public services.

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	None directly
Organisational Design	None directly
Governance	None directly
Workforce	None directly
Process Design	None directly
Technology	We will exploit digital technologies in data collection, analysis and reporting wherever possible.
Partnerships and Alliances	None directly

8. IMPACT ASSESSMENTS

Assessment	Outcome
-------------------	----------------

Equality & Human Rights Impact Assessment	Full EHRIA not required.
Data Protection Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable.

9. BACKGROUND PAPERS

Background papers include written correspondence, emails and the associated planning application (Ref: 181431/DPP), and the Local Review Body decision of the 27th February 2019 (issued on the 5th March 2019).

Planning Application Details (Including LRB Decision Notice):

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PD8RVXBZGFV00>

10. REPORT AUTHOR CONTACT DETAILS

Gavin Clark
Senior Planner (Enforcement)
gaclark@aberdeencity.gov.uk
01224 522321

This page is intentionally left blank

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	18 th April 2019
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Breach of Planning Control at Inchgarth House
REPORT NUMBER	PLA/19/242
CHIEF OFFICER	Gale Beattie
REPORT AUTHOR	Gavin Clark
TERMS OF REFERENCE	15 Part 3 (Authorise the Taking of Enforcement Action)

1. PURPOSE OF REPORT

- 1.1 To inform the Committee in respect of a breach of planning control comprising the formation of an unauthorised chimney to the north-west gable of Inchgarth House, Inchgarth Road; and seek authorisation to commence enforcement action, and if necessary, redress in the Courts as deemed appropriate.

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Authorise the serving of an Enforcement Notice upon the owner/ occupier of the property, to rectify the breach of planning control.
- 2.2 Agree that the breach should be remedied by the removal of the unauthorised chimney on the north-west elevation of the application property, or other scheme agreed in writing by the Planning Authority.

3. BACKGROUND

Basis of the Report

- 3.1 In August 2017 retrospective applications for planning permission (DPP) (Ref: 170929/DPP) and Listed Building Consent (LBC) (Ref: 170928/LBC) were submitted in relation to the construction of an additional external chimney on the North West elevation of Inchgarth House; a category C listed building, located within the Pitfodels Conservation Area.

- 3.2 Following dialogue with Officers no acceptable solution was agreed and both listed building consent and planning permission were refused on the 9th November 2017 and 15th November 2017 respectively. These decisions were subject to an appeal to the Planning and Environmental Appeals Division of the Scottish Government (LBC) and a review sought via the Local Review Body (LRB) (DPP). Both were unsuccessful, with confirming refusals issued in March (DPP) and May 2018 (LBC) respectively.
- 3.3 No works to rectify the works have taken place since the latter of these final decisions in May 2018 and the Council therefore seeks to take formal enforcement action to rectify the breach of planning control on site.

The Enforcement Position

- 3.4 Section 127(l) of the Town and Country Planning (Scotland) Act 1997 (the Act), as amended, states that a planning authority may issue an enforcement notice where it appears to them:
- (a) That there has been a breach of planning control, and
 - (b) That it is expedient to issue the notice, having regard to the provisions of the development plan and any other material considerations.
- 3.5 Paragraph 7 to Circular 10 of 2009 "*Planning Enforcement*" notes that planning authorities have a general discretion to take enforcement action against any breach of planning control. The paragraph goes on to state that when authorities consider whether enforcement action is expedient, they should be guided by a number of considerations that include:
- Whether the breach of planning control would affect unacceptability either public amenity or the use of land and buildings meriting protection in the public interest; and
 - Enforcement action should be commensurate with the breach of planning control to which it relates.

Planning Assessment

- 3.6 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability or preserving or enhancing the character or appearance of conservation areas.
- 3.7 The application for planning permission was refused as it was considered that "*The proposed dummy chimney fails to comply with Policies D1 (Quality Placemaking by Design), D4 (Historic Environment) and NE2 (Green Belt) in*

that the design and scale of the proposal would not maintain the special architectural and historic interest of the listed building and would have a negative impact on the character of the conservation area and on the green belt. There are no material planning considerations that would outweigh the above policy position and warrant approval of the application.”

3.8 The application for listed building consent was refused as it was considered that *“The proposed dummy chimney fails to comply with Policies D1 (Quality Placemaking by Design) and D4 (Historic Environment) in that the design and scale of the proposal would not maintain the special architectural and historic interest of the listed building. There are no material planning considerations that would outweigh the above policy position and warrant approval of the application.”*

4. FINANCIAL IMPLICATIONS

4.1 Financial costs may be incurred should the Enforcement Notice not be complied with, such as to either take direct action or seek redress in the Courts.

5. LEGAL IMPLICATIONS

5.1 There will be implications in terms of Governance staff time to prepare and issue the Enforcement Notice. Costs may be incurred if action is required to secure compliance with the Enforcement Notice.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	Financial costs may be incurred should the Enforcement Notice not be complied with.	L	The risk can be mitigated by ensuring that there is funding available from the appropriate budget for direct action to be taken. In the event that direct action is required we will seek to recover all of the costs of the required action from the landowner in accordance with the relevant legislation.
Legal	The applicant may not comply with the Enforcement Notice, which will require formal action by the Council.	L	The risk can be mitigated by ensuring that if there is a failure to comply with the Notice that we are prepared to proceed with further action

			which may include the instigation of Court Action.
Employee	N/A		
Customer	N/A		
Environment	N/A		
Technology	N/A		
Reputational	There may be a negative impact if the Council do not decide to proceed with formal enforcement action	L	Proceed with the enforcement action as suggested

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	The proposal is unlikely to significantly contribute or result in a negative impact on the economy of Aberdeen.
Prosperous People	The proposal is unlikely to have a significant impact on people with protected characteristics or any negative impact on the delivery of the Council's Equality outcomes.
Prosperous Place	The proposal will have no impact on sustainable communities
Enabling Technology	The proposal will not advance technology for the improvement of public services.

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	None directly
Organisational Design	None directly
Governance	None directly
Workforce	None directly
Process Design	None directly
Technology	We will exploit digital technologies in data collection, analysis and reporting wherever possible.
Partnerships and Alliances	None directly

--	--

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA not required.
Data Protection Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable.

9. BACKGROUND PAPERS

Background papers include written correspondence, emails and the associated planning application (Ref: 170929/DPP), listed building consent application (Ref: 170928/LBC), the Local Review Body decision of the 7th March 2018 and the Planning and Environmental Appeals Division of the Scottish Government decision of the 1st May 2018

Planning Application Details (Including LRB Decision Notice):

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OU3T3YBZMMN00>

Listed Building Consent Details:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OU3NK4BZMMG00>

Planning and Environmental Appeals Decision Document (Listed Building Consent):

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=118450>

10. REPORT AUTHOR CONTACT DETAILS

Gavin Clark
Senior Planner (Enforcement)
gaclark@aberdeencity.gov.uk
01224 522321

This page is intentionally left blank

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	18 th April 2019
REPORT TITLE	Confirmation of Tree Preservation Order Number 256/2018 Malcolm Road
REPORT NUMBER	PLA/19/233
DIRECTOR	
CHIEF OFFICER	Gale Beattie
REPORT AUTHOR	Kevin Wright
TERMS OF REFERENCE	15

1 PURPOSE OF REPORT

- 1.1 To request the confirmation with modifications of provisional Tree Preservation Order entitled 256/2018 Malcolm Road made by the Chief Officer Strategic Place Planning 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 256/2018 Malcolm Road and instruct the Chief Officer - Governance 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.

3 BACKGROUND

- 3.1 The land included in this tree preservation order has previously been submitted to PDMC as two separate tree preservation orders. Committee requested that the two orders be combined. The attached revised order combines both areas of land into a single order.
- 3.2 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).

- 3.3 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.
- 3.4 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.
- 3.5 Tree Preservation Order number 256/2018 Malcolm Road was served as a provisional order on 11th November 2018. The order requires to be confirmed by 11th May 2019. The reasons for serving the order are noted in section 3.5 below.
- 3.6 This tree preservation order is being made in the interests of amenity to make provision for the preservation of trees and woodlands. The land on the northeast side of Malcolm Road contains trees which are considered to make significant contributions to the amenity and landscape of the 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.
- 3.7 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.
- 3.8 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.
- 3.9 The group of trees to the southwest on the opposite side of Malcolm Road are considered to complement the larger woodland to the northeast and are considered to contribute to the overall amenity and landscape of the local area.
- 3.10 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.
- 3.11 One representation was received in relation to this order on behalf of CC & Pumps (BVI) Ltd. The representation raised 8 points in relation to the order; points 1-4 and points A-D.

3.12 Points 1-4 raised questions pertaining to the legal validity of the order. These points have been reviewed by our Planning and Environmental legal team, their supplied response to the representation is noted below;

'With regards to points 1 to 4 raised in your letter we are surprised to learn that the copy of the Order served on your client appears to be incomplete. Having reviewed the signed Order and Statement of Reasons that we hold for viewing by members of the public it would appear that all of the information which you have advised is not included within your clients copy of the TPO is contained within the versions that we hold here. We enclose herewith a copy of the Order and Statement of Reasons that can be obtained by the public which contains all the information required by the 1997 Act. We have received no comments from the Conservator of Forests (a statutory recipient of the Order) or the Registers of Scotland regarding missing information. In any event, as your client has now submitted representations, we consider that any defect in service (which is denied) has now been cured. In light of the foregoing we do not agree with your view that the TPO is not legally enforceable.'

It is concluded that points 1-4 are not a barrier to confirming the TPO. A modified notice served as part of confirming the order, as permitted in the regulations, will be served and will include a plan detailing the extent of land covered by the order.

3.13 Point A referred to criteria for serving a TPO. The representation noted that the Regulations allow an order to be served where trees are of cultural and/or historical significance. The representation suggests that the trees are of no cultural and/or historical significance.

The Regulations also allow for an order to be served where it is expedient in the interests of amenity. The Statement of Reasons that accompanied the provisional order is clear that the order was made in the interests of amenity.

3.14 Point B referred to the claim made in the Statement of Reasons that the woodland is designated as Ancient Woodland; classification 'Long Established of Plantation Origin'. This designation does not infer that the current tree stock is of ancient origin; only that it is included in the Scottish Natural Heritage Ancient Woodland Inventory as being of ancient woodland origin.

The current birch woodland is unlikely to be self-seeded. It is more likely that the woodland has generated from the existing seedbank within the soil disturbed during the previous harvesting operations. This goes some way to explain the importance of appropriate management of Ancient Woodland sites and why such designations exist.

3.15 Point C refers to concerns relating to anti-social behaviour and comments that confirming TPO 256/2018 will result in the felled timber being unable to be removed from the site.

This statement is not accurate. The TPO will not necessarily prevent such works. The TPO requires the landowner to apply for consent to undertake specific works prior to undertaking them to ensure appropriate management of the site. Discussions have taken place in relation to future management of the site, including the removal of existing tree stock. No firm proposal has been submitted to Aberdeen City Council for consideration or approval.

3.16 Point D raises concerns over an area of ground to the South-west of property title ABN69460 not being included in TPO 256/2018.

The area of land highlighted is included in TPO256/2018.

3.17 It is considered that points A-D are addressed and have no bearing on the committees ability to approve, with modification, TPO256/2018.

4 FINANCIAL IMPLICATIONS

4.1 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.

5 LEGAL IMPLICATIONS

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

6 MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	n/a		
Legal	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	Low	The risk can be mitigated by giving due consideration to the appropriateness of confirming the Tree Preservation order.

	multiple benefits that trees and woodlands provide. The risk is associated with not undertaking our duties as required/expected.		
Employee	n/a		
Customer	n/a		
Environment	See comments under legal risk.	Low	The risk can be mitigated by giving due consideration to the appropriateness of confirming the Tree Preservation order.
Technology	n/a		
Reputational	See comments under legal risk.	Low	The risk can be mitigated by giving due consideration to the appropriateness of confirming the Tree Preservation order.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	The proposal is unlikely to significantly contribute or result in a negative impact on the economy of Aberdeen.
Prosperous 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.
Prosperous 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.

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

8 IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA not required
Data Protection Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable.

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 (if applicable)

TPO256/2018 Site Plan
Representation – CC & Pumps (BVI) Ltd

11 REPORT AUTHOR CONTACT DETAILS

Name – Kevin Wright
Title – Environmental planner
Email Address – kewrigh@aberdeencity.gov.uk
Tel – 01224 522440



This is the map referred to in the City of Aberdeen Tree Preservation Order No.256 Malcolm Road, Aberdeen (2018)

Signature

Scale approx 1:2500



This page is intentionally left blank

Date: 8 January 2019
Our Ref: HL.CLWS.CCPU_
Your Ref: C18/TPO256-2018
Email: claire.smith@grantsmithlaw.co.uk

Legal Services
Governance
Aberdeen City Council
Level 1 South
Marischal College
ABERDEEN
AB10 1AB
By Email: rhempseed@aberdeencity.gov.uk

Dear Sirs,

CC & Pumps (BVI) Ltd
Town & Country Planning (Scotland) Act 1997
City of Aberdeen Tree Preservation Order No 256-2018
Land at Malcolm Road, Peterculter, Aberdeen

We have been instructed by CC & Pumps (BVI) Ltd in relation to TPO 256-2018 which was served at their Registered Office on 11 December 2018.

As you are aware, our clients, CC & Pumps (BVI) Ltd, are title holders of the land registered under Title Number ABN69460 being land referred to within TPO 256-2018.

On behalf of our said clients, we write to make formal representations against the confirming of TPO 256-2018 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 TPO 256-2018 and that on the following basis: -

1. The Statement of Reasons annexed to TPO 256-2018 gives no detail regarding inspection of the TPO by the public.
2. The Statement of Reasons annexed to the said TPO gives no detail concerning the lodging of observations and representations in response to the TPO.

Solicitors and Estate Agents

Amicable House
252 Union Street
Aberdeen
AB10 1TN

t 01224 621620
f 01224 622621
e info@grantsmithlaw.co.uk
www.grantsmithlaw.co.uk

3. There is no statement of effect of direction contained within the Statement of Reasons attached to the said TPO.
4. There is no plan attached to the TPO.

In light of the above numbered points, we would state that, in our view, TPO 256-2018 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 TPO 256-2018 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 TPO 256-2018. 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 TPO 256-2018, would appear totally inconsistent.

We trust that/-

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

Yours faithfully,

This page is intentionally left blank