

# Public Document Pack



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

Town House,  
ABERDEEN 22 October 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, 31 OCTOBER 2019 at 10.00 am.**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

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

**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 19 September 2019 - for approval (Pages 9 - 14)

## **COMMITTEE PLANNER**

- 5.1 Committee Planner (Pages 15 - 16)

## **WHERE THE RECOMMENDATION IS ONE OF APPROVAL**

- 6.1 Detailed Planning Permission for installation of roof lights and external escape stairs, formation of dormers to rear and increase roof height of rear hall - 164-170 Spital Aberdeen (Pages 17 - 22)

Planning Reference – 191310

All documents associated with this application can be found at the following link and enter the reference number above:- [Link](#).

Planning Officer: Dineke Brasier

- 6.2 Detailed Planning Permission for redevelopment of an existing site for erection of 10 residential flats over 3 storey's including demolition and all associated works - 15 Maberly Street Aberdeen (Pages 23 - 34)

Planning Reference – 190982

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

[Link](#).

Planning Officer: Aoife Murphy

- 6.3 Detailed Planning Permission for change of use from class 1 (shops) to form one residential flat (sui generis), to include infill of existing shop front and alterations to rear windows - 80 Great Northern Road Aberdeen (Pages 35 - 46)

Planning Reference – 190768

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

[Link](#).

Planning Officer: Alex Ferguson

- 6.4 Detailed planning permission - approval of matters specified in condition 1(iv) (Construction Method Statement) related to Planning Permission in Principle P120491 for the erection of a dwellinghouse - Bieldside Lodge Aberdeen (Pages 47 - 60)

Planning Reference – 190917

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

[Link.](#)

Planning Officer: Lucy Greene

### **WHERE THE RECOMMENDATION IS ONE OF REFUSAL**

- 7.1 Detailed Planning Permission for Erection of residential development comprising 41 residential flats set over 4 storeys; formation of car parking area, landscaping and all associated infrastructure works - 22 Kings Gate (Pages 61 - 80)

Planning Reference – 181699

All documents associated with this application can be found at the following link and enter the reference number above:- [Link.](#)

Planning Officer: Jamie Leadbeater

- 7.2 Detailed Planning Permission for change of use from amenity land to industrial including installation of security fence around enlarged site; formation of yard space and car parking (partly retrospective) - Woollard And Henry, Stoneywood Park (Pages 81 - 92)

Planning Reference – 191010

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

[Link.](#)

Planning Officer: Robert Forbes

- 7.3 Detailed planning permission for change of use from class 1 (shops) to hot food takeaway (sui generis) and installation of ventilation duct - 268 Clifton Road Aberdeen (Pages 93 - 100)

Planning Reference – 191372

All documents associated with this application can be found at the following link and entering the reference number above:-  
[Link.](#)

Planning Officer: Robert Forbes

### **OTHER REPORTS**

8.1 Enforcement Action - PLA/19/397 (Pages 101 - 108)

### **DATE OF NEXT MEETING**

9.1 Thursday 5 December 2019 at 10am

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

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

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## 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, 19 September 2019. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; and Councillors Allan, Copland, Cormie, Donnelly (as substitute for Councillor Stewart), Greig, Henrickson (as substitute for Councillor Cooke) and Avril MacKenzie.

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.

### AGENDA

1. The Convener advised that item 7.6 on the agenda – 38 Cameron Street, had been withdrawn from the agenda.

### MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 15 AUGUST 2019

2. The Committee had before it the minute of its previous meeting of 15 August 2019, for approval.

#### The Committee resolved:-

to approve the minute as a correct record.

### COMMITTEE PLANNER

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

#### The Committee resolved:-

to note the information contained within the business planner.

### 112 HIGH STREET ABERDEEN - 191066

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

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That the application for the change of use of pavement to provide an external seating area outside the premises with associated enclosure at 112 High Street Aberdeen, be approved subject to the following conditions:-

**Conditions**

**(1) HOURS OF OPERATION AND REMOVAL OF STREET FURNITURE**

The outdoor seating area hereby approved shall only be used between the hours of 8am and 10pm on any given day and any tables, chairs and other street furniture including barriers for the purpose of, or associated with, facilitating outdoor seating shall be removed from the pavement outwith the hours of operation for the outdoor seating area.

Reason – In order to protect the amenity of the neighbouring residential properties and the character and appearance of the conservation area.

**(2) AMPLIFIED MUSIC**

No amplified music shall be played in the outdoor seating area at any time.

Reason – In order to protect the amenity of the neighbouring residential properties.

The Committee heard from Alex Ferguson, Planner, who spoke in furtherance of the application and answered questions from members.

**The Committee resolved:-**

to approve the recommendation and therefore approve the application conditionally.

**LOIRSTON DEVELOPMENT FRAMEWORK 2019 - PLA/19/311**

5. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which presented an update to the Loirston Development Framework and sought approval to consult on the Draft Framework over a minimum of a 4 week period.

The Committee heard from Rebecca Kerr, Planner, who spoke in furtherance of the report and answered various questions from members.

**The report recommended:-**

that the Committee –

- (a) approves the content of the Draft Loirston Development Framework (2019);
- (b) instructs the Chief Officer - Strategic Place Planning to publish the Draft Loirston Development Framework (2019) for a minimum 4 week public consultation period; and

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- (c) instructs the Chief Officer – Strategic Place Planning to report the outcomes of the public consultation on the Draft Framework back to a future meeting of the Committee, within the next 6 months.

**The Committee resolved:-**

- (i) to request that officers continue to liaise with locality planning and community officers for Torry, as Torry Community Council was no longer in existence;
- (ii) to thank officers for their continued efforts regarding the framework; and
- (iii) to otherwise approve the recommendations contained within the report.

**DRAFT TECHNICAL ADVICE NOTE - MATERIALS - PLA/19/306**

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which sought approval to consult on the content of a new Draft Technical Advice Note (TAN) entitled “Materials”: External building materials and their use in Aberdeen.

The Committee heard from Alex Ferguson and Rebecca Kerr, Planners, who spoke in furtherance of the report and answered various questions from members.

**The report recommended:-**

that the Committee –

- (a) approves the content of the Draft Technical Advice Note: Materials: External building materials and their use in Aberdeen for a minimum of 4 week period of public consultation; and
- (b) instructs the Chief Officer – Strategic Place Planning to report the findings of the public consultation back to a future meeting of the Committee within 6 months.

**The Committee resolved:-**

- (i) to thank officers for their work in this regard; and
- (ii) to otherwise approve the recommendations contained within the report.

**DEVELOPMENT ALONG LANES - PLA/19/305**

7. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which sought approval to consult on the content of a new Draft Local Planning Policy: Development Along Lanes.

The Committee heard from Nigel McDowell, Senior Planner, who spoke in furtherance of the report and answered various questions from members.

**The report recommended:-**

that the Committee –

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- (a) approves the content of the Draft Local Planning Policy: Development Along Lanes (Appendix 1) and associated map, for a minimum four week period of public consultation; and
- (b) instructs the Chief Officer – Strategic Place Planning to report the findings of the public consultation, along with any recommended revisions to the draft policy, to this Committee within 6 months.

**The Committee resolved:-**

- (i) to thank officers for their continued hard work with the report; and
- (ii) to otherwise approve the recommendations.

**ENFORCEMENT ACTION - 7 AIRYHALL PLACE ABERDEEN - PLA/19/374**

8. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which informed the Committee in respect of a breach of planning control which comprised the erection of unauthorised fencing to the front, side and rear of the dwellinghouse at 7 Airyhall Place, Aberdeen.

**The report recommended:-**

That the Committee –

- (a) authorises the serving of an Enforcement Notice upon the owner of the property at 7 Airyhall Place Aberdeen, to rectify the breach of planning control, where an application for planning permission was refused by the Local Review Body on 13 August 2019; and
- (b) agrees that the breach should be remedied by the removal of the unauthorised fencing.

**The Committee resolved:-**

to approve the recommendations.

**ENFORCEMENT ACTION - 2 PARK BRAE - PLA/19/381**

9. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which informed the Committee in respect of a breach of planning control which comprised the failure to relocate security fencing in line with the approved planning application at 2 Park Brae, Cults, Aberdeen.

**The report recommended:-**

That the Committee –

- (a) authorises the serving of an Enforcement Notice upon the owner of the property at 2 Park Brae Aberdeen, to ensure compliance with the submitted plans; and
- (b) agrees that the breach should be remedied by either removing the security fencing, or locating it in line with the approved drawing associated with planning

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application 181248, to an extent that planning permission would not have been required and the works therefore constitute permitted development.

**The Committee resolved:-**

to approve the recommendations.

- **Councillor Marie Boulton, Convener**

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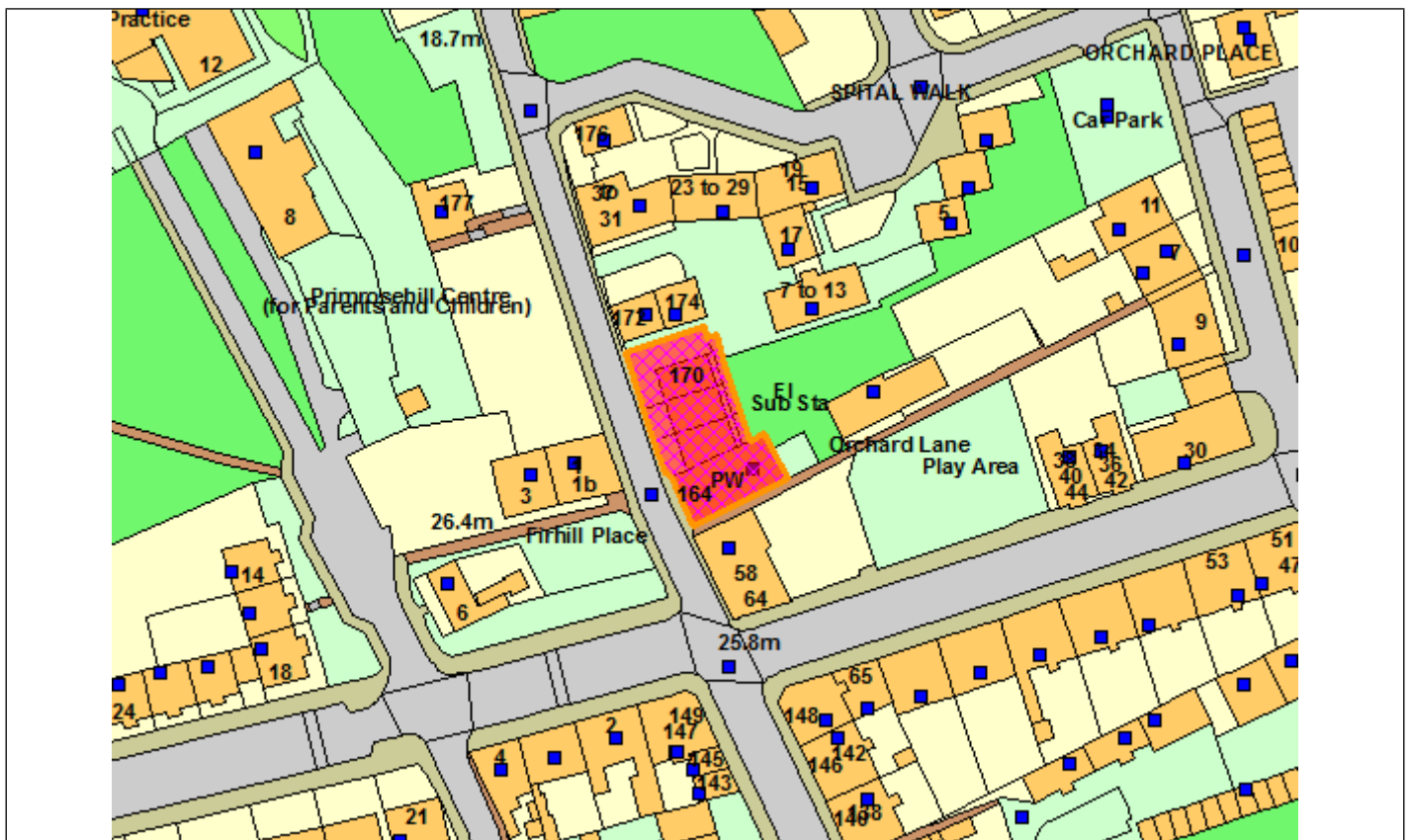
	A	B	C	D	E	F	G	H	I
1	<b>PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER</b> The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	<b>Report Title</b>	<b>Minute Reference/Committee Decision or Purpose of Report</b>	<b>Update</b>	<b>Report Author</b>	<b>Chief Officer</b>	<b>Directorate</b>	<b>Terms of Reference</b>	<b>Delayed or Recommended for removal or transfer, enter either D, R, or T</b>	<b>Explanation if delayed, removed or transferred</b>
3			<b>31 October 2019</b>						
4	15 Maberly Street	To approve or refuse the application.	<b>on the agenda</b>	Aoife Murphy	Strategic Place Planning	Place	1		
5	22 King's Gate	To approve or refuse the application.	<b>on the agenda</b>	Jamie Leadbeater	Strategic Place Planning	Place	1		
6	80 Great Northern Road	To approve or refuse the application.	<b>on the agenda</b>	Alex Ferguson	Strategic Place Planning	Place	1		
7	268 Clifton Road	To approve or refuse the application.	<b>on the agenda</b>	Robert Forbes	Strategic Place Planning	Place	1		
8	164-170 Spital	To approve or refuse the application.	<b>on the agenda</b>	Dineke Brasier	Strategic Place Planning	Place	1		
9	Stoneywood Park	To approve or refuse the application.	<b>on the agenda</b>	Robert Forbes	Strategic Place Planning	Place	1		
10	Enforcement Report	To seek authority for enforcement action for three different properties.	<b>on the agenda</b>	Gavin Clark	Strategic Place Planning	Place	3		
11	Bieldside Lodge	To approve or refuse the application.	<b>on the agenda</b>	Lucy Greene	Strategic Place Planning	Place	1	D	
12	May Baird Avenue	To approve or refuse the application.		Lucy Greene	Strategic Place Planning	Place	1	R	This item has been withdrawn at the request of the applicant with a view to submitting a new application in due course.
13			<b>05 December 2019</b>						





 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;"><b>Committee Date:</b></p>
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<b>Site Address:</b>	Mosque, 164-170 Spital, Aberdeen, AB24 3JD
<b>Application Description:</b>	Installation of roof lights and external escape stairs, formation of dormers to rear and increase roof height of rear hall
<b>Application Ref:</b>	191310/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	27 August 2019
<b>Applicant:</b>	Aberdeen Mosque And Islamic Centre
<b>Ward:</b>	Tillydrone/Seaton/Old Aberdeen
<b>Community Council:</b>	Old Aberdeen
<b>Case Officer:</b>	Dineke Brasier



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### RECOMMENDATION

Approve Unconditionally

## **APPLICATION BACKGROUND**

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### **Site Description**

The application site comprises a collection of four buildings with separate entrances, used together as a mosque. The complex consists of three matching two storey buildings and a lower single storey building. All are finished in granite to the front, render to the rear with slated pitched roofs.

The site is located in the Old Aberdeen Conservation Area and is in an area designated as an existing community facility due to the presence of the University of Aberdeen.

### **Relevant Planning History**

171356/DPP – Change of use from Class 9 (dwelling house) to Class 10 (non-residential institutions) (retrospective) – Approved conditionally 20 February 2018

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

The proposed development consists of the following elements:

- a. Construction of three matching dormers to the rear roofslope of the three two storey buildings. The dormers would be centrally located in each roofslope, be clad in zinc standing seam; and measure c.3m by c.1.5m;
- b. Construction of ten matching conservation style velux windows in the front roofslope and one in the rear roof slope of the single storey building, each measuring c.1.2m by c.0.8m;
- c. Raising of the roof and wallhead of the rear projection of the single storey building by c.1m.

### **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=PWVVGPBZIX400> .

Supporting statement by the applicant setting out that the additional space created will primarily be used for back office uses such as an office, board meeting room, seminar room and storage areas.

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because the Old Aberdeen Community Council has lodged an objection, and therefore, as the application is recommended for approval, it falls outwith the scheme of delegation.

## **CONSULTATIONS**

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**Old Aberdeen Community Council** – No design statement has been submitted, and the drawings are not clear in terms of the proposed new works/ new facilities. Therefore, unable to make an assessment of potential impact to local traffic/parking and, possibly, noise, both issues which have attracted comments from the community in the past.

**Roads Development Management** – No objection. This proposal would create additional office space and meeting rooms within the top/attic floor but does not provide additional prayer rooms, therefore it is not considered that the proposal shall impact or fundamentally change the day to day operation of the site. Although the site does not currently provide any associated car parking provision it is not considered that the proposal shall be detrimental to the existing situation.

The site is currently well served in terms adequate pedestrian links serving the surrounding area, public transport links along the Spital, which also forms part of National Cycle Route 1.

## **REPRESENTATIONS**

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None received.

## **MATERIAL CONSIDERATIONS**

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### **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.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas.

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

Scottish Planning Policy (SPP)

Historic Environment Policy for Scotland (HEPS)

### **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

CF1: Existing Community Sites and Facilities

D4: Historic Environment

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

## Householder Development Guide

**EVALUATION**

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

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

**Principle of Development**

The site is located in an area designated as an existing community facility, and policy CF1 applies. The designation is due to the presence of the University of Aberdeen in the general surrounding area. This policy sets out that where such an area contains other uses than that for which the area has been designated (in this case the university), and these uses make a positive contribution to the character and community identity of the area, then any proposal for development that would not have a detrimental impact on the community facility, the character of the area or the vitality of the local community will be accepted in principle. In this case, the site is an existing religious institution that seeks to maximise accommodation within the current site through utilising the existing roof space for back office uses such as an office and board meeting room. It is considered that such an intensification of an existing use would not have a detrimental impact on the character of the area or the vitality of the local community, and as such the principle of the development would comply with policy CF1.

**Impact on the Old Aberdeen Conservation Area**

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of policy D1. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment. In addition, the site is located in the Old Aberdeen Conservation Area, and policy D4 applies. This policy sets out that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP (now HEPS) and its own supplementary guidance and conservation area character appraisals.

In this case, the row of four terraced buildings together comprising the application property are relatively modern, finished in granite to the front and render to the rear with slated pitched roofs. In themselves, they do not significantly contribute nor distract from the existing character of the surrounding conservation area.

**Dormers**

The dormers would be located to the rear of the buildings, measure c.3m by c.1.5m and be finished in zinc standing seam cladding. Even though technically the buildings are not residential, the Householder Development Guide sets out criteria in relation to the construction of dormers that would equally apply in this case. It specifically mentions that non-traditional dormers may be accepted on the rear of non-listed buildings in conservation areas. It is considered that the proposed dormers would comply with the criteria as set out in the HDG for the following reasons: the dormers would not dominate or overwhelm the original roof; would not be built directly off the wallhead, would not extend to the ridge, and would be set in more than 600mm from the gable or party wall of each individual property; and would contain significantly more glazing than solid with windows at the extremities. Proposed materials would be zinc, which would not match the roofing materials for the existing buildings. However, taking account of the modest size of the proposed dormers, the existing materials on the rear of the properties consisting of a mix of render for the walls and slates for the roofs, it is considered that the use of this non-traditional material would be acceptable, and would form an acceptable contrast in this context. As such, it is considered that the proposed dormers, due to their scale, design and positioning on the roofs, would not detract

from the character and appearance of the Old Aberdeen Conservation Area, and as such would preserve the existing historic environment in line with policy D4 and relevant national policy and guidance.

### Rooflights

A total of ten rooflights would be positioned to the front and one rooflight to the rear roof slope. All would match in design and size and would measure c.1.2m by c.0.8m. All rooflights would be conservation style and have recessed flashings. To the front, the roof lights would be spread equally over the four buildings, resulting in each individual roof receiving two or three rooflights. As such, it is considered that the proposed rooflights would not have a dominating impact on the roofslope and not detract from the character of the original buildings or the surrounding conservation area. Furthermore, the single rooflight to the rear would be acceptable, and not have a detrimental impact on the surrounding area. As such, this part of the proposal is considered to preserve the character of the surrounding Conservation Area, in compliance with policy D4 and relevant national policy and guidance.

### Raising of the roof

The final part of the proposal is to raise the wallhead and roof height of the existing rear projection. Currently, the ground floor level in this projection is lower than that in the main building resulting in a step down between the front and rear prayer hall. The proposal is to raise the floor level in the rear prayer hall to allow for a single, level prayer hall, and thus improving access. This would necessitate raising the wallhead and roof height of this projection by c.975mm. Currently, the eaves of the rear projection sit well below the eaves of the main building. Raising the wallhead would result in the eaves height of the projection matching those of the main building, whilst the ridge height of the roof would still sit well below the ridge height of the main building. As such, the projection would remain subservient in character to the original building. Proposed materials would match the existing building, with the existing slates reused for the roof. As such, this part of the proposal is considered not to have a detrimental impact and would thus preserve the character of the Old Aberdeen Conservation Area, in compliance with policy D4 and relevant national policies and guidance.

### **Impact on residential amenity**

The site is located on the corner of Spital and Orchard Lane and is set within a cluster of residential properties to the north, north east, east and south. Due to their small scale and massing, the proposed alterations to the buildings would not result in a significant loss of light to any of these dwellings.

The rear of the buildings look out over a shared communal drying green/ outdoor amenity area. This area is currently overlooked by the surrounding dwellings and the rear windows of the application property. The construction of the dormers would therefore not result in a significant increase of overlooking of this space, nor would it result in direct overlooking of any neighbouring residential dwellings.

As the proposal is unlikely to attract significantly more visitors to the premises than in the current layout, it is not considered that there will be an unacceptable impact on residential amenity in relation to noise.

As such, the proposal would not have a detrimental impact on the residential amenity of any neighbouring dwellings.

### **Impact on parking**

The proposal would maximise usage of the buildings through a loft conversion, in effect increasing its floorspace. However, a supporting statement has been submitted, setting out that the proposed uses for these rooms are 'back office' uses, such as an office, board meeting room and storage

areas. As such, these are not likely to result in a significant increase in visitors to the building. No parking is currently available on-site, nor is there any opportunity to create on-site parking, and thus the premises are reliant on on-street parking, public car parks and the use of sustainable transport modes such as walking, cycling and public transport. This is an existing situation, and it is not considered that the proposed alterations to the building would create an unacceptable additional impact on demand for these spaces.

### **Matters raised by the Community Council**

Concerns with regards to clarify of the proposal – *The proposal is as described above and presented sufficiently clear in the drawings and additional statement accompanying the application.*

Potential impact on parking and noise – *These issues are addressed above in the evaluation.*

### **RECOMMENDATION**

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Approve Unconditionally

### **REASON FOR RECOMMENDATION**

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The proposed alterations to the buildings are considered to preserve the character and appearance of the surrounding Old Aberdeen Conservation Area and would not have a detrimental impact on the use of the surrounding area as an existing community facility. In addition, it would not have a detrimental impact on residential amenity of neighbouring properties, nor would it have an unacceptable impact on parking. As such, the proposal is considered to comply with policies CF1 (Existing Community Sites and Facilities), D1 (Quality Placemaking by Design), D4 (Historic Environment) and T2 (Managing the Transport Impact of Development) of the 2017 Aberdeen Local Development Plan, the Householder Development Guide and relevant sections in Scottish Planning Policy and Historic Environment Policy for Scotland. There are no material consideration that would warrant refusal in this instance.

### **CONDITIONS**

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None

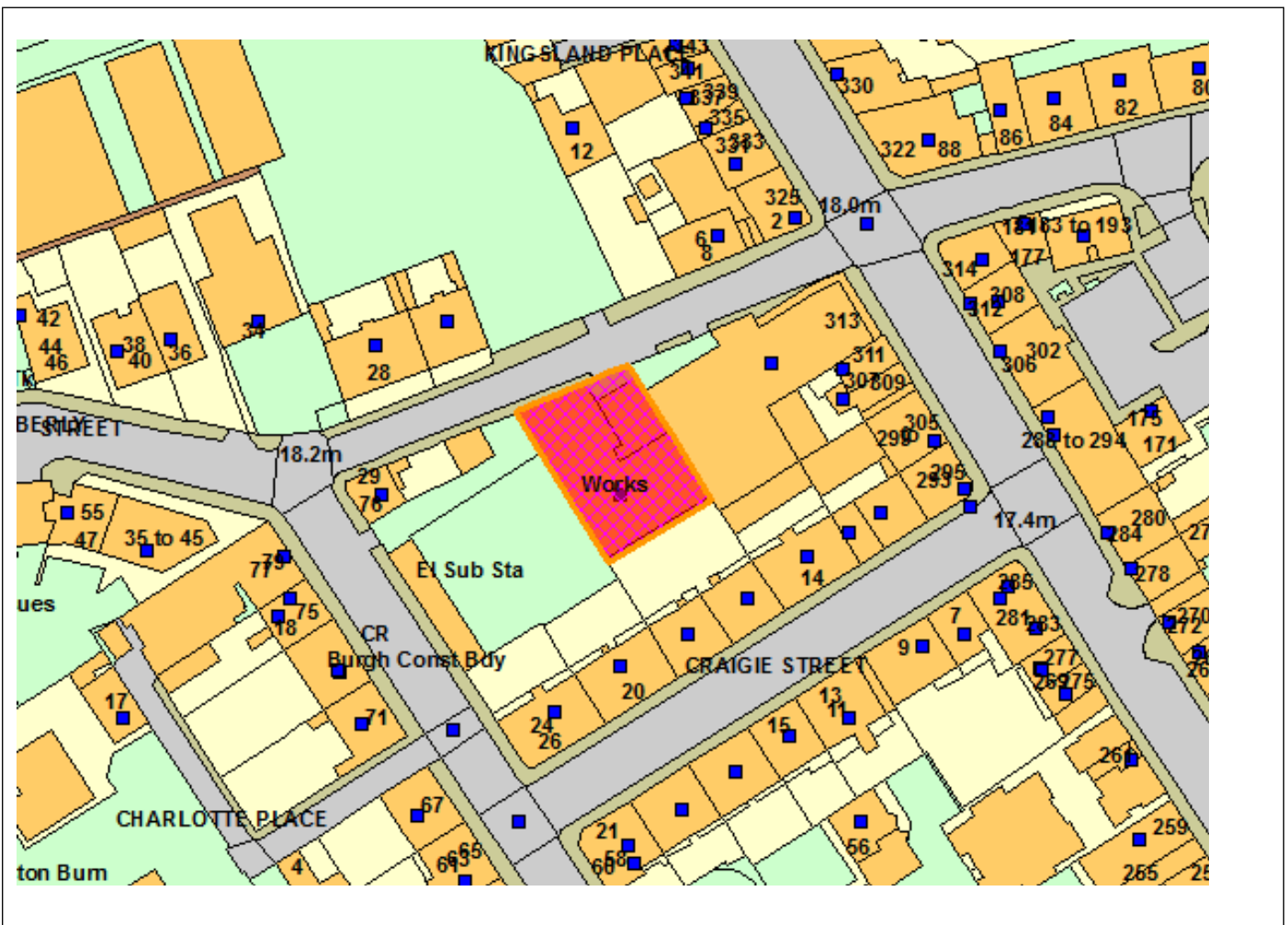
### **ADVISORY NOTES FOR APPLICANT**

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None

 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<p><b>Planning Development Management Committee</b></p>
	<p>Report by Development Management Manager</p>
	<p><b>Committee Date: 31 October 2019</b></p>

<b>Site Address:</b>	Scottaspress, 15 Maberly Street, Aberdeen, AB25 1NA
<b>Application Description:</b>	Redevelopment of an existing site for erection of 10 residential flats over 3 storey's including demolition and all associated works
<b>Application Ref:</b>	190982/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	21 June 2019
<b>Applicant:</b>	Aberdeen Capital Investment Ltd.
<b>Ward:</b>	George Street/Harbour
<b>Community Council:</b>	George Street
<b>Case Officer:</b>	Aoife Murphy



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## **RECOMMENDATION**

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Approve Conditionally subject to the conclusion of a Legal Agreement

## **APPLICATION BACKGROUND**

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### **Site Description**

The site is located within a mixed use area within the City Centre boundary and currently accommodates a building which previously housed the printer's workshop for Scottapress Publishers Ltd. The building, which has a mix of 1 and 2 storey elements and encompasses the whole site, now lies vacant.

The site is bound by Maberly Street to the north, with some residential properties and Broadford Works beyond, to the east by a retail unit, to the south by residential properties that front Craige Street and to the west by a substation and residential properties.

### **Relevant Planning History**

182151/DPP - Erection of 16 flats over 4 storeys with associated car parking, Withdrawn 05.04.2019.

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

Proposed is the complete demolition of the existing workshop and erection of a 3-storey residential building. Three 2-bed flats would be located on the ground, first and second floor, while 1 duplex flat would be located between the first and second floor, this equates to 10 flats. The site would also accommodate an area of private garden ground to the south and west, while a bin store and cycle store would also be located along the western boundary. All boundary walls to the south, east and west are to remain.

The proposed materials consist of natural slate roof, grey smooth render grey stained timber linings, reclaimed granite, natural granite and timber windows and doors.

A number of amendments have been made to this proposal, initially 14 flats were proposed over 3 storey's, the number of units was reduced to 12 and finally the current proposal see's 10 units over the 3 storey's with the overall height of the development reduced in line with the Planning Authority's comments. Neighbouring properties were re-notified of each of these amendments. Some design features on the development have been altered including the removal of full height windows and alteration to the roof form and with the reduction of 4 flats, the entrance, as well as the cycle and bin store, have been relocated to the western boundary.

### **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=PTAXZ8BZH0X00>

- Design Statement, dated June 2019.
- Design Statement (revised), dated August 2019.
- Drainage Strategy Plan and Flood Risk Assessment, prepared by Goodson Associates, dated December.
- Geotechnical Design and Environmental Risk Assessment Report, prepared by Goodson Associates, dated September 2018.
- Noise Impact Assessment, prepared by Ethos Environmental Limited, dated April 2019.



### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because the application has been the subject of six or more timeous representations that express objection or concern about the proposal.

## **CONSULTATIONS**

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**ACC - Contaminated Land Team** – No objection. However, given the previous use of the site for industrial purposes, the Service is requesting two conditions be attached requesting a site investigation and remediation plan.

**ACC - Developer Obligations** – No objection. The Service has confirmed that contributions are required for primary education (£2,635), healthcare facilities (£4,616), open space (£1,464) and community facilities (£14,628). Requirements for transportation will be outlined by the Roads Development Management Team.

**ACC - Environmental Health** – No objection. The Service has commented on noise and dust and request that the mitigation highlighted in the Noise Impact Assessment be implemented.

**ACC - Roads Development Management Team** – No objection. The Service has commented on the development with regards to public transport, walking, cycling, parking, travel plan framework and drainage impact. A number of conditions will be required as a result. There will also be a requirement for car club contributions.

**ACC - Waste Strategy Team** – No objection. The Service has provided general comments on waste provision for this site.

**George Street Community Council** – No comments received.

**Scottish Water** – No objection. Confirm that there is capacity at the Invercarnie Water Treatment Works and the Nigg PFI Waste Water Treatment Works.

## **REPRESENTATIONS**

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10 representations have been received (9 objections and 1 neutral). The matters raised can be summarised as follows –

- Loss of existing granite building
- Overlooking
- Overshadowing
- Development not in keeping with the context of the area
- Shortage of parking
- Overdevelopment of the site
- Impact on privacy
- Impact on existing traffic
- Potential impact due to environmental risk given the previous use of the site

Additional neighbour notifications were sent due to changes to the proposal, 2 new and 7 additional comments were received on the second round of neighbour notifications and no new/additional comments were received as a result of the third round of neighbour notifications.

## **MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

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

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

Scottish Planning Policy (SPP)

### **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 D1 - Quality Placemaking by Design

Policy D5 - Our Granite Heritage

Policy NC1 - City Centre Development – Regional Centre

Policy I1 - Infrastructure Delivery and Planning Obligations

Policy T2 - Managing the Transport Impact of Development

Policy T3 - Sustainable and Active Travel

Policy T5 - Noise

Policy H2 - Mixed Use Areas

Policy H3 - Density

Policy H5 - Affordable Housing

Policy NE4 - Open Space Provision in New Development

Policy NE6 - Flooding, Drainage and Water Quality

Policy R2 - Degraded and Contaminated Land

Policy R6 - Waste Management Requirements for New Development

Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency

Policy CI1 - Digital Infrastructure

### **Supplementary Guidance**

Planning Obligations

Transport and accessibility

Flooding, Drainage and Water Quality

Green Space Network and Open Space

Resources for New Development

## **Other Material Considerations**

City Centre Masterplan

### **EVALUATION**

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

This development is not considered to be a strategic proposal that requires cross-boundary consideration, it does therefore not require a detailed assessment against the

#### **Principle of Development**

The site is both located within the City Centre boundary and within a mixed use area, as such Policies NC1 - City Centre Development – Regional Centre and H2 - Mixed Use Areas apply. The City Centre Masterplan is also a material consideration.

Policy NC1 advised that development within the city centre must contribute towards the delivery of the vision for the city centre as a major regional centre as expressed in the City Centre Masterplan and Delivery Programme. While the aim of the City Centre Masterplan is to increase the level of residential units within the city centre. The proposed development would have no impact on any existing retail or office units and given that the proposal offers ten flats, the development is considered to be in compliance with Policy NC1 and the City Centre Masterplan.

With regards to Policy H2, the Local Development Plan advises that applications for new development must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity and where new housing is proposed, a satisfactory residential environment should be created which should not impinge upon the viability or operation of existing businesses in the vicinity.

In the case of this application site, Maberly Street is largely residential, however other uses, such as retail units, a dance studio, public houses and take-aways, amongst others, can be found on the surrounding streets, such as Charlotte Street and George Street. Therefore, to be in compliance with Policy NE2 the development will have to ensure that amenity of the proposed residential units is not impacted due to the surrounding uses or vice versa to ensure compliance with the above policy. This aspect will be addressed in a subsequent section of this report.

#### **Design, Layout and Siting**

The design and layout of the development has been amended through the assessment of this application, the height has been reduced by 2m overall and the number of units proposed has been reduced by 4. The reduction in height and unit numbers has meant that the development now sits more comfortably both on the site and within the existing street scene. Policy D1 - Quality Placemaking by Design seeks to ensure high standards of design that have a strong and distinctive sense of place which take into account the surrounding context. In addition, all new development should be considered to be; distinctive, welcoming, safe and pleasant, easy to move around, adaptable and resource efficient.

While the new development would appear significantly larger than the building it is replacing, given the materials and the building style proposed, it is considered that the flats will appear to be in keeping with the context of the Maberly Street and not dominate the area. As mentioned, the building is now considered to sit comfortably on the site and does not to constitute overdevelopment. The siting of the new development promotes an active frontage along this narrow street as well as promoting the use of sustainable mode of transports, while the re-use of a brownfield site and modern builds allows the development to maximise efficiency.

In terms of layout, the Landscape Supplementary Guidance advises that the layouts for flatted residential schemes shall have clearly defined public and private spaces. In this case, there is a

defined private garden ground to the rear of the site, which will be solely used for the occupants of the development.

Overall, the proposal is considered meet all the criteria highlighted in Policy D1 and, while some concerns have been raised by members of the public, it is considered that the development would be both appropriate and acceptable taking into account the context of the surrounding area.

Policy D5 - Our Granite Heritage advises that the retention and appropriate re-use, conversion and adaption of all granite buildings and granite boundary walls is sought. Where the retention and re-use of a granite feature, building or structure, in whole or part, is unviable then the visible re-use of as much of the original granite as is practically possible as a building material within the development site is required. In this case, the development will see the demolition of a substantial granite building; a fact that has been raised as a concern within the submitted representations. However, the granite will be re-used on portions of the new development on the front, rear and side elevations, in addition the boundary walls are to be retained. While the loss of original granite building is unfortunate, on balance what this development provides in terms of compliance with other policies, while still retaining some of the existing granite, outweighs the loss of the building. As such, the proposal is in compliance with the above policy.

Policy H3 – Density is required to ensure that there is an appropriate housing density on all housing sites, but consideration must be given to surrounding characteristics, residential environment and location. This number of units in this development has been reduced due to changes in the design and layout and it is now considered that current proposal relates better with the context of the surrounding area and would not impact upon it. Therefore, the number of units proposed is considered to be an appropriate level given the site and its surroundings. As such, the proposal the is considered to comply with the above policy.

### **Amenity**

As mentioned within Policy H2, aspects of amenity require careful consideration for any new development and issues such as overlooking, impact on privacy and overshadowing have all been highlighted through representations.

In this instance the application is sited within a mainly residential area and therefore will have a neutral impact on the surrounding properties given they will fall within the same use class. While it is noted that this development is in close proximity to neighbouring residential properties to the north and south, this is expected given the sites City Centre location. However, contextual design adaptations can help reduce any impact while still maintaining a level of amenity for the future occupants of the proposed flats. In terms of overlooking and privacy, windows facing north are separated from windows of the closest residential properties by a public road, while those facing south would be set back from the existing boundary wall meaning that a window to window distance in excess of 20m can be achieved. In addition, the window arrangement on the rear elevation has been amended to remove any full height windows, as such it is unlikely that any undue overlooking/impact on those properties to the south are likely to occur.

While it is appreciated that the proposed development would be larger than the existing building, it is considered that given its location there would be no impact on surrounding properties in terms of sunlight, daylight or overshadowing. The flatted development along Craigie Street is to the south east of the site and therefore will not be affected by any loss of daylight or overshadowing. The site to the east is part of a retail shop and appears to be storage, while the area to the west is a substation with some garden ground beyond that. However, any impact to this area to the west would only be early in the morning, as such it is not considered that there would be an adverse impact. While the area to the north would be affected by loss of daylight and overshadowing, this encompasses the public road and the southern area of Broadford Works, which would be used for car parking, therefore no residential amenity to the north will be affected by this development. Overall, it is

considered that the current levels of daylight and sunlight will not be adversely impacted upon and there are no concerns that overshadowing will impact on any existing residential amenity.

The Landscape Supplementary Guidance advises that individual flats shall be designed to make the most of any opportunities offered by the site to optimise views and sunlight. In this case, while some of the flats are single aspect either looking to the north or the south, all living space/bedrooms with all the proposed flats have large windows, sufficient for letting light into the building. In terms of views, the flats to the rear will outlook the amenity space, while the flats to the front will overlook Marberly Street and Broadford Works beyond. This is considered acceptable given the sites City Centre location.

With regards to the amenity of the proposed development, a Noise Impact Assessment has been submitted, this due to the site proximity to the neighbouring Sainsbury's shop that fronts George Street. The assessment has been reviewed by the Council's Environmental Health Service, who find the assessment and impacts identified in document to be acceptable. The Service has requested that the mitigation measures outlined in that assessment should be implemented prior to occupation and the Planning Authority advise that this will be conditioned.

With regards to the demolition of the building, the Environmental Health Service has also reviewed the site in terms of impact of dust. It advises that a Dust Management Plan will be required to ensure that any mitigations are in place prior to demolition to protect the amenity of the surrounding area. This is considered appropriate by the Planning Authority and will be required by condition.

Overall, the aspect of amenity has been assessed and it is considered that the level of residential amenity currently experienced by neighbouring properties is unlikely to be impacted upon adversely as a result of this development. It is also considered, with the aid of mitigation measures, that the potential impact on the development from neighbouring properties is unlikely to occur. As such, the proposal is in full compliance with Policies H2, T5 and the Landscape Supplementary Guidance.

### **Transport Impacts**

Policies T2 - Managing the Transport Impact of Development and T3 - Sustainable and Active Travel advise that new developments should provide sufficient measures to minimise any traffic impact that may occur as a result of the development. Likewise, new developments should maximise opportunities for sustainable development and should be accessible by a range of transport modes.

In this case the development is located within the City Centre and does not provide any parking spaces. However, the site is readily assessable by other modes of transportation such as walking, cycling and buses, due to its location which is close to George Street and Union Street. In addition, the site would be in close proximity to the City's bus and train stations. In light of this, while no parking is provided, given the location of the development and the variety of transport modes that can be used to access the site, the proposal is considered acceptable. In addition, given the location, future residents could also apply for a parking permit to park on nearby streets. Roads Development Management are therefore satisfied with this aspect of the proposal subject to the submission of a Travel Plan, which will be requested via condition should the application be approved.

Lack of parking provided within the site has been raised as a concern in the objections received for this application. However, the Planning Authority are promoting parking free developments within the City Centre to encourage sustainable development which may help, in some way, with the City's aim in alleviating some issues such as traffic congestion and climate change. In addition, given the Council's Controlled Parking Zones, the future occupants of the site would be entitled to apply for parking permits for neighbouring street and within this zone they would also have the use of both Chapel Street and Denburn Multi-storey car parks. As such both the Roads Development

Management Team and the Planning Authority are satisfied that no parking is provided within the site.

With regards to cycle parking, this is located within the building, adjacent the entrance from Marberly Street. One space is provided per flat, which is in compliance with the requirements outlined in the Transport and Accessibility Supplementary Guidance.

While the development would be acceptable, there is a requirement for car club contributions in order to offset the lack of off-street parking. This contribution will be obtained via a Legal Agreement.

In light of the above the proposal is considered to comply with Policy T2 and T3 of the Aberdeen Local Development Plan 2017 and its associated guidance.

### **Other Matters**

The Developer Obligations Team confirm that contributions are required for primary education (£2,635), healthcare facilities (£4,616), open space (£1,464) and community facilities (£14,628) and as mentioned above, car-club. The applicant has agreed to the related Heads of Terms and these obligations will be secured through a Section 69 Legal Agreement. As such, the development is considered compliant with Policy I1.

With regards to Policy H5 - Affordable Housing, the site is located with the boundary for the Affordable Housing waiver, which was agreed at Planning Development Management Committee in 20 September 2018. As such, there is no requirement for contributions towards affordable housing.

Private garden ground has been included in the development and will provide a level of amenity space to these 10 units. Given the size of the site and the siting of the building, it is not possible to provide any additional space, but it is considered that as the development is centrally located, there is the possibility to use public open space such as Union Terrace Gardens etc. In addition, contributions are required towards the enhancement of existing open spaces in the vicinity of the development site, such as Union Terrace Gardens, as well as Hutcheon Street/Catherine Street Open Space, and Mounthooly Roundabout Open Space. As such, the proposal is considered to be in compliance with Policy NE4 - Open Space Provision in New Development and Supplementary Guidance Green Space Network and Open Space.

The development will be connected to the public water supply. With regards to foul water drainage, it is proposed to connect to the public infrastructure, while surface water will be filtered on site through SUDs before being discharged into the public infrastructure. A Drainage Strategy Plan has been submitted and shows the site can provide the required SUDs. However, the details shown within the plan refer to a previous iteration of the development, while the Planning Authority are satisfied that the site can accommodate the required surface water drainage system, a condition will be attached to any approval, required the submission of up to date details. Scottish Water has advised that there is sufficient capacity at the Invercannie Water Treatment Works and the Nigg PFI Waste Water Treatment Works.

In terms of flooding a Flood Risk Assessment has been reviewed and it is considered that the site is of low risk. The assessment stated that records show no instances of flooding on this site and the development should not expose the site to risks of flooding.

Overall, it is considered that the development is in compliance with Policy NE6 - Flooding, Drainage and Water Quality and associated Supplementary Guidance Flooding, Drainage and Water Quality

In light of the previous use of the site, which was used for industrial purposes, there is a risk of potential contamination. Concerns regarding this aspect have also been highlighted within submitted representations. As such, the application has been reviewed by the Council's

Contaminated Land Team, who has reviewed the proposal and confirm it has no objection to the development. However, it has been requested that a Site Investigation be carried out and submitted for approval along with any plan for remediation that may be required. This is considered acceptable to the Planning Authority and will be attached as conditions should the application be recommended for approval. In light of the above, it is considered that the proposal is in compliance with Policy R2 - Degraded and Contaminated Land.

Under Policy R6 - Waste Management Requirements for New Development, developments should have sufficient space for the communal storage of general waste, recyclable materials and compostable waste. In this instance, the bin store is located within the building with direct access off Maberly Street. The Waste Strategy team has confirmed that they have no objection to this proposal and the Planning Service is satisfied that there is sufficient space in this location for the proposed waste facilities.

As per the requirements of Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency, a condition will be attached requesting the submission of an Energy Statement, which will identify how the development will meet at least 20% of the building regulations carbon dioxide emissions reduction target applicable at the time of the application through the installation of low and zero carbon generating technology.

Given the sites location within the City Centre, it is expected that this development will be assessable to modern communications infrastructure as per the requirements of Policy CI1 - Digital Infrastructure and therefore is considered to be in compliance with this policy.

### **Representations**

A number of concerns were highlighted through the submitted representations, however, it is considered that these have been satisfactorily addressed throughout this report.

### **Time Limit Direction**

As the application lies within the boundary of the affordable housing waiver and exempt from affordable housing, the development is required to begin within 12 months of the date of the decision notice. As such, a time limit direction will be applied to any grant of permission.

### **Period of Determination**

The application was unable to be determined within the statutory time period due to the requirement of additional information such as amended plans, the re-notification of the amended plans, the application being referred to Planning Development Management Committee, the negotiation and agreement of the Heads of Terms and to allow the conclusion of the Legal Agreement. The agent has thus agreed to an extension of time until 30 November 2019.

### **Conclusion**

Overall, it is considered that the development is acceptable and in compliance with all relevant policies highlighted above. The site currently lies un-used and through this proposal will be brought back into use, whilst providing much needed housing within the City Centre. All other aspects such as design, layout, amenity, transport impacts, drainage, waste and developer obligations have been considered and are found to be sufficient. As such, the proposal is therefore recommended for approval.

### **RECOMMENDATION**

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Approve Conditionally subject to the conclusion of a Legal Agreement. The Legal Agreement will include contributions towards primary education (£2,635), healthcare facilities (£4,616), open space (£1,464), community facilities (£14,628) and car club contributions (£4,000).

## REASON FOR RECOMMENDATION

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The development is considered to be appropriate for this mixed use area, whilst meeting the aims of the City Centre Masterplan and will have no impact on the amenity of the area in terms of siting, noise, overlooking, or overshadowing. As such, the development complies with Policy NC1 - City Centre Development – Regional Centre, Policy H2 - Mixed Use Areas, Policy D1 - Quality Placemaking by Design, Policy H3 – Density and Policy T5 – Noise. While there will be a loss of a traditional granite building, it is considered that there is sufficient reuse of granite within the site for the development to be acceptable in terms of Policy D5 - Our Granite Heritage.

Contributions are being sought and secured via a legal agreement in line with Policy I1 - Infrastructure Delivery and Planning Obligations. While no parking is provided for within the site, the site is in an excellent location for a variety of sustainable modes of transport as such the application is in full compliance with Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel. Whilst insufficient amenity space is being provided within the site, compensatory contributions are being sought for the enhancement of nearby City Centre open spaces and the development is in a good area to provide access to these, therefore the proposal is considered acceptable in terms of Policy NE4 - Open Space Provision in New Development.

Connection to public infrastructure is proposed and is acceptable while necessary mitigation measures are required to ensure there is no risk of contamination for future occupants, these will be conditioned, as such the proposal complies with Policy NE6 - Flooding, Drainage and Water Quality and Policy R2 - Degraded and Contaminated Land. Appropriate waste provision is being provided within the site, an energy statement will be required to be submitted via condition and the development is in a suitable location to provide modern connections, therefore the proposal complies with Policy R6 - Waste Management Requirements for New Development, Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency and Policy CI1 - Digital Infrastructure.

Overall, the development is considered acceptable when assessed against all relevant policies of the Aberdeen Local Development Plan 2017 and applicable Supplementary Guidance Planning Obligations, Transport and Accessibility, Flooding, Drainage and Water Quality, Green Space Network and Open Space, Resources for New Development. All concerns raised through submitted representations have been addressed and there is no material consideration which warrant refusal in this instance.

## CONDITIONS

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### Noise Assessment Mitigation Measures

1. The residential units hereby approved shall not be occupied unless noise mitigation measures have been installed, in accordance with the Noise Impact Assessment carried out by Ethos Environmental Limited dated April 2019. The measures once installed, shall be retained in perpetuity.

Reason: In the interests of residential amenity.

### Dust Management Plan

2. No works in connection with the development hereby approved (including demolition) shall take place unless a Dust Management Plan has been submitted to and approved in writing with the Planning Authority. Any mitigation measures highlighted within this plan shall be implemented and retained in full for the duration of the demolition process.



Reason: In the interests of residential amenity.

### **Contaminated Land**

3. No works in connection with the development hereby approved (other than the demolition of the existing buildings) shall commence unless an investigation of the site has been undertaken in accordance with Planning Advice Note 33 'Development of Contaminated Land' and BS 0175:2011+A2:2017 - 'Investigation of Potentially Contaminated Sites – Code of Practice' and a report of that investigation has been submitted to and approved in writing by the planning authority. The investigation report shall include the following:
  1. an investigation to determine the nature and extent of contamination;
  2. a site-specific risk assessment;
  3. a remediation plan to address any significant risks and ensure the site is fit for the use proposed; and
  4. verification protocols to demonstrate compliance with the remediation plan.

Where it is determined by the site investigation report that remediation of the site is required no works in connection with the development hereby approved (other than the demolition of the existing buildings) shall commence unless a remedial scheme has been submitted to and approved in writing by the planning authority. The development hereby approved shall not be brought into use unless the approved scheme of remediation has been carried out in its entirety and a validation report has been submitted to and approved in writing by the planning authority.

Any areas of hardstanding, clean cover or other such barriers within the application site boundary that are included within the approved scheme of remediation and are required to break one or more pollutant linkages shall be permanently retained as such and shall not be disturbed without the prior written approval of the planning authority.

Reason: In order to ensure any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

### **Surface Water Drainage**

4. No building hereby approved shall be occupied unless details the proposed surface water drainage system has been submitted to and approved in writing with the Planning Authority. Once approved the surface water drainage system shall be implemented in full and be permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

### **Travel Plan**

5. The building hereby approved shall *not* be brought into use unless a Travel Plan has been submitted to and approved in writing by the planning authority. *The* Travel Plan shall encourage more sustainable means of travel and shall include mode share targets. It shall identify measures to be implemented, the system of management monitoring review, reporting and duration of the incorporated measures designed to encourage modes other than the private car. *The* building shall *not* be brought into use unless the measures set out in its the approved Travel Plan have been implemented in full.

### **Carbon Neutrality**

6. No building hereby approved shall be erected unless an Energy Statement applicable to that building has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:

- a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development;
- b) Calculations using the SAP or SBEM methods which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy R7 of the Aberdeen Local Development Plan 2017.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

### **Cycle Store**

7. That none of the residential units hereby approved shall be occupied unless the cycle storage facilities as shown on drawing no. 3359 PL-05 B have been provided and are demonstrated to be secure/lockable, via submission of such details.

Reason: In the interests of encouraging more sustainable modes of travel.

## **ADVISORY NOTES FOR APPLICANT**

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### **1. DIRECTION UNDER SECTION 58(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997:**

Aberdeen City Council hereby directs that this planning permission will lapse on the expiration of a period of 1 year from the date of this decision notice, unless the development is begun within that period.

### **2. Noise from Site/Ground Preparation and Construction Works**

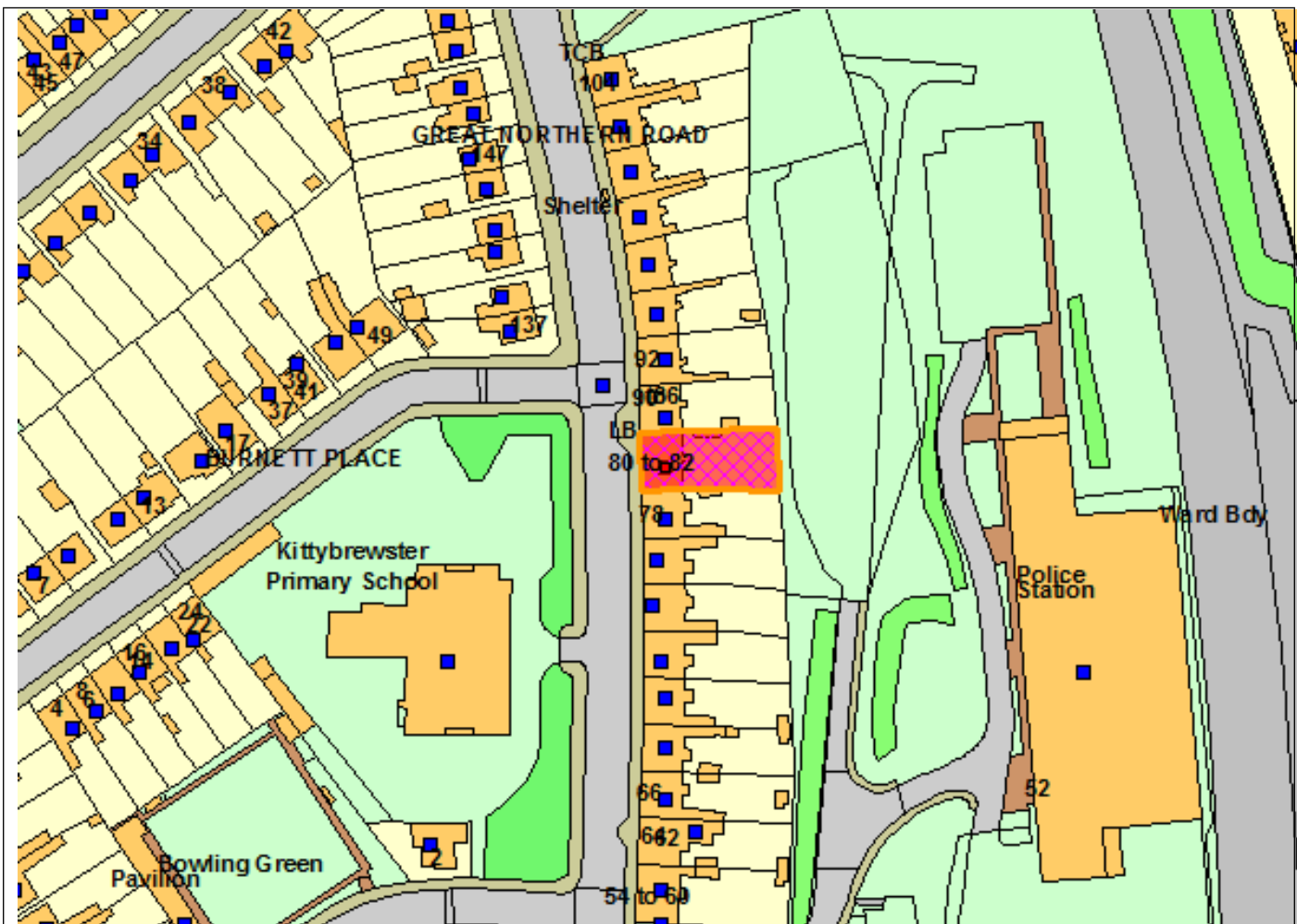
In order to protect the amenity of the occupants of existing nearby residential properties, any development works at the proposed development (including site/ground preparation, demolition, and construction) causing noise beyond the site boundary should not occur outside the following hours:

- i. Monday to Friday 0700 hours to 1900 hours
- ii. Saturday 0800 hours to 1300 hours

This is in line with Aberdeen City Council guidelines.

 <p>onfi7  <b>ABERDEEN</b>          CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p><b>Committee Date:</b> 31 October 2019</p>

<b>Site Address:</b>	M And R Stores, 80 Great Northern Road, Aberdeen, AB24 3QB
<b>Application Description:</b>	Change of use from class 1 (shops) to form one residential flat (sui generis), to include infill of existing shop front and alterations to rear windows
<b>Application Ref:</b>	190768/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	13 May 2019
<b>Applicant:</b>	Mr Mazar Hussain
<b>Ward:</b>	Hilton/Woodside/Stockethill
<b>Community Council:</b>	Rosehill And Stockethill
<b>Case Officer:</b>	Alex Ferguson



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## RECOMMENDATION

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Approve Conditionally

## APPLICATION BACKGROUND

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### Site Description

The application site comprises a 2½ storey traditional granite-built tenement block and its rear curtilage, situated on the eastern side of Great Northern Road, opposite Kittybrewster Primary School. The mid-terraced tenement block incorporates no's 80 & 82 Great Northern Road, with the application relating to no. 80 – a retail unit which occupies the southern half of the ground floor. The northern half of the ground floor level forms one of 5 flats within the building (one at ground floor and two each at first and second floor levels), although the ground floor unit was previously a shop until it was converted to residential use and its frontage infilled in c. 2007. It is believed that the 5 flats within the remainder of the building are all in use as serviced apartments. They are all accessed via one communal entrance door on the front elevation and all have access to the rear garden area to the east of the building.

### Relevant Planning History

Application Number	Proposal	Decision Date
171123/CLP	Proposed use comprising snack and sandwich takeaway shop including sale of heated items for consumption off the premises	21.11.2017 Status: Certificate Issued
102057	Change of use from hot food shop to residential unit and build up shopfront	18.02.2011 Status: Withdrawn by the Applicant
070165	Change of use of the neighbouring shop at no. 84 (Ground Floor Left) to a flat	08.03.2007 Status: Approved Conditionally

## APPLICATION DESCRIPTION

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### Description of Proposal

Detailed planning permission is sought for the change of use of the existing vacant retail unit to a residential flat, and for associated external alterations. The external alterations include:

- The removal and infill of the existing shopfront on the front elevation with granite blockwork to match the existing building;
- The installation of two window openings in the infilled front elevation;
- The reinstatement of two windows (and installation of grey rendered sections) on the rear elevation; and
- The installation of a secure bicycle storage facility in the rear garden area, adjacent to the rear elevation.

The application initially sought consent for the creation of two flats, rather than one, and for different alterations to the front and rear elevation, including the installation of a new front door and pvc panels above the new front and rear windows. Due to concerns raised in respect of the quality of amenity that would be on offer for the occupants of the two flats, as well as issues with the design of the front elevation alterations in particular the proposals were subsequently amended to those noted above.

## 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=PR726MBZFU400>

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because a total of six objections to the application have been submitted by members of the public.

## CONSULTATIONS

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**ACC - Roads Development Management Team** – No objection. Whilst the proposed 2-bedroom flat requires 1.5 parking spaces, in accordance with supplementary guidance, the existing retail unit requires 2 spaces, thus there would be no net detriment in relation to parking demand. Secure cycle parking provision is required and although not initially proposed, was subsequently added to the proposals.

**ACC - Environmental Health** – No objection to the amended proposals to create one dual-aspect flat, with bedrooms located to the rear, but requested that the windows achieve suitable acoustic performance. Satisfied that the amended proposal to install triple-glazed windows to the front elevation would suffice in achieving the required acoustic performance. Initially had concerns regarding the proposal to create two flats, particularly in respect of the front-facing single-aspect unit and how it would be affected by noise from vehicles on Great Northern Road.

**ACC - Waste Strategy Team** – No objection. There are existing 1280l bulk bins for general waste and mixed recycling and a food waste bin on Great Northern Road that the flat can access.

**Rosehill and Stockethill Community Council** – No response.

## REPRESENTATIONS

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Six objections to the application have been received, although it is worth noting that the objections were received based on the initial proposal to create two separate flats and that the neighbouring properties have not been re-notified since the two flats originally proposed were amalgamated to the new proposal for a single flat only. The material considerations raised in the objections can be summarised as follows:

- The proposal for 2 flats would result in the overdevelopment of the tenement and there are insufficient amenities to support two units;
- The proposed external alterations (window design, use of pvc cladding etc) are not in keeping with the character and appearance of the building and the remainder of the street;
- It is preferred that the unit remains in retail use as local shops are sparse in the area;

- A PVC door would not be in keeping with the design of the building, with all other doors solid timber units;
- The rear elevation infills should be built up in granite and the new windows and doors should be constructed from timber rather than pvc;
- There is insufficient car parking in the area and 2 new flats would exacerbate the existing shortfall;
- The existing on-street bins are already at capacity. Any new bins would take up existing on-street car parking spaces;
- The additional two flats would result in undue noise and disruption to the existing properties in the tenement;

A few of the objectors did note that they would not be opposed to the creation of one flat (rather than the two initially proposed), with a door taken off the internal communal hallway and one window installed on the front elevation.

The following non-material considerations were also raised:

- The owner of the shop unit has not contributed toward maintenance of the common areas since 2006. All repairs and maintenance should be equally split with any future flat owners;
- The pvc cladding would cheapen the building and make the remaining flats less appealing when trying to sell.
- The loss of the retail unit would be bad for the remaining retailers in the area, segregating the remaining shops and making them untenable.

## **MATERIAL CONSIDERATIONS**

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### **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 (ALDP)

- D1: Quality Placemaking by Design
- H1: Residential Areas
- NC7: Local Shop Units
- R6: Waste Management Requirements for New Development
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- T5: Noise

## Supplementary Guidance and Technical Advice Notes

- Transport and Accessibility

## EVALUATION

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### Principle of Development

In establishing whether the principle of the proposed development is acceptable in this instance, there are two questions to be asked. Firstly: is the principle of the loss of the existing retail unit acceptable? And secondly: Is the principle of residential use also acceptable?

### Loss of the existing retail unit

As the application site lies outwith any centres identified in the hierarchy (Town, District, Neighbourhood Centres etc), Policy NC7 (Local Shop Units) of the ALDP applies. Policy NC7 states the following:

*Proposals for changes of use from retail to non-retail in local shop units not located in any of the centres identified in the hierarchy will only be allowed if:*

- (1) the applicants can demonstrate a lack of demand for continued retail use of the premises (applicants may be required to demonstrate what efforts have been made to secure a new retail use since the property became vacant);*
- (2) the proposed new use caters for a local need;*
- (3) the proposed use retains or creates a live and attractive frontage; and*
- (4) the alternative use does not conflict with the amenity of the neighbouring area.*

The four criteria of NC7 can be addressed as follows:

#### Demonstrating a lack of demand

The agent has confirmed that the retail unit (originally a newspaper and convenience shop) had lain vacant for approximately 18 months before re-opening in c. 2017 as a takeaway sandwich shop (also Class 1). That venture was unsuccessful and after several months, it closed. Google Streetview images show that the unit has been vacant and marketed (with a 'To Let/May Sell' signboard installed on the property) since at least August 2018: over a year at the time of writing. The premises have been marketed by 'Shepherd Commercial' for continued retail use in that time, to no avail. Hence the owner is now seeking planning permission to convert the property into residential use.

#### The proposed new use caters for a local need

Both the Strategic Development Plan and ALDP highlight that there is a continued need for new housing in Aberdeen.

The proposed use retains or creates a live and attractive frontage

This is assessed in more detail in the 'Design' section of the evaluation below but it is considered that whilst not retaining a 'live' frontage as would be expected in a commercial sense (traditionally involving large glazed areas of a shop front), the proposal to infill the shopfront with granite to match the existing building and to install two window openings (also designed to reflect the existing building fenestration) would create an attractive frontage which complements the remainder of the building and is considered to comply with this criterion of the policy in that context.

The alternative use does not conflict with the amenity of the neighbouring area

This is discussed in more detail in the 'Principle of Residential Use' and 'Amenity' sections of the evaluation but in principle, the addition of a further residential unit to a building and a street already predominantly in residential use would not cause any conflict with the amenity of the area.

Thus it is considered that the loss of the retail unit has been adequately justified in terms of a lack of demand for continued retail use, and that the new residential use and associated external alterations would be compliant with the various criteria and overall aims of Policy NC7.

### **Principle of residential use**

The application site lies within a residential area as zoned in the ALDP. Policy H1 (Residential Areas) of the ALDP is thus applicable. Policy H1 states:

*Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new development and householder development will be approved in principle if it:*

- (1) does not constitute over development;*
- (2) does not have an unacceptable impact on the character and amenity of the surrounding area;*
- (3) does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and*
- (4) complies with Supplementary Guidance*

H1 further notes that:

*Any proposed loss of Local Shops or Community facilities would need to comply with the relevant policies Policy CF1 Existing Community Sites and Facilities and Policy NC7 Local Shop Units.*

Therefore, in order to establish the principle of the proposed residential use, a further, detailed assessment is required in relation to criteria 1, 2 and 4 of Policy H1. The development would not result in the loss of any open space and is thus compliant with criterion 3. As noted in the foregoing section of the evaluation, the proposal complies with Policy NC7.

### Overdevelopment

Traditionally, an assessment as to whether a proposed development constitutes 'overdevelopment' is based on the plot coverage and the percentage by which the footprint of an existing dwelling would be increased by any extensions. However, it is considered pertinent in this instance to assess whether the proposed use would result in the overdevelopment of the tenement block within which it would be sited. In this regard, the general pattern and form of development on the street sees terraced tenement blocks containing 6 flats in total, with three dual-aspect units on each floor (aside from the blocks containing commercial units at ground floor), either side of a central communal stairwell. The original proposal to create two flats in place of the existing retail unit would have seen



the number of units in the building increase to 7, introducing an uncharacteristic form of development and increasing the strain on the existing communal amenities in the process. It is thus considered that the creation of 2 flats, as originally proposed, would have resulted in the overdevelopment of the site. However, following the amendment of the application to amalgamate the two units into one, larger dual-aspect unit, it is considered that the proposal would sympathetically reflect the prevailing form and pattern of development on the street and that it would therefore not constitute overdevelopment.

#### Impact on the character and amenity of the area

The initial proposal would have seen a new PVC front entrance door installed into the front elevation of the building, along with two window openings which would have borne little resemblance to those in the remainder of the façade or the street. PVC infill panels were also proposed above the windows to both the front and rear. The Planning Authority considered that the initially proposed external alterations, particularly to the front elevation onto Great Northern Road, would not have been sufficient in terms of design quality to ensure that the character and appearance of the building and the street as a whole would have been preserved.

As such, following discussions with the applicant, they agreed to amend the proposals to ensure the following:

- the new front elevation windows would be of the same design, scale and alignment as those in the remainder of the building, with the PVC panels omitted;
- the defunct shopfront and fascia would be removed and replaced with granite blockwork to closely match the remainder of the building (a condition is required to ensure the stone type and colour, module size and coursing details are all appropriate);
- the removal of the new front entrance door, which would have been alien to the street, with the flat now proposed to be served by the existing communal entrance door and a new internal door taken off the communal hallway.

The amended proposals are considered to be of sufficient design quality to ensure that the character and appearance of the area would be preserved.

In terms of amenity, whilst the principle of a new residential use within an established residential area is generally acceptable, it was considered that the initial proposal to create two flats could have had a detrimental impact on the amenity of the existing properties within the remainder of the building by adding excessive strain to the existing shared facilities (the rear garden area in particular). It was also considered that the creation of two small (c. 30sqm), single-aspect one-bed flats would not create a sufficient quality of amenity for the occupants of those two flats, particularly for the front-facing flat, due to the heavily-trafficked nature of Great Northern Road and the implications that has on noise emissions.

Policy T5 (Noise) of the ALDP states that in cases where significant exposure to noise is likely to arise, a Noise Impact Assessment (NIA) will be required as part of an application. Whilst the Council's Environmental Health Team requested an NIA be submitted for the initial proposals to create two flats, they noted that suitable changes to the layout with bedrooms located to the rear may remove the need for an NIA. The revised proposal to create one larger, dual-aspect two-bed flat allows the bedrooms to be located to the rear, much quieter side the building and for the flat to be relatively spacious internally, benefitting from a reasonable quality of amenity. Environmental Health were re-consulted on the amended proposals and they are satisfied that an NIA is not required and that the dual-aspect flat would not suffer from noise emissions providing that windows with suitable acoustic performance are installed. In this regard, the amended plans show that triple glazed windows would be installed to the front elevation and a condition is considered necessary,

requiring the triple-glazed front windows to be installed as per the plans, in order to ensure an adequate level of amenity is achieved.

The creation of one flat, as opposed to two, also aligns with the prevailing form and pattern of development seen in the area, as noted in the 'Overdevelopment' section, and it is considered that the addition of a sixth unit to the existing building would not place undue strain on the existing shared amenities.

Thus it is considered that, subject to conditions in respect of the granite detailing for the façade infill and the acoustic performance of the new windows, the amended proposals would see one flat created with an acceptable level of amenity, without detriment to the amenity of the surrounding area and of sufficient design quality to preserve the character and appearance of the building and the wider area. The proposals are therefore considered to comply with Policies D1 and T5 of the ALDP, as well as criterion 2 of Policy H1.

#### Compliance with Supplementary Guidance (SG)

Aside from compliance with the Transport and Accessibility SG, which is assessed in the following section of the evaluation on 'Transport and Accessibility', there is no other supplementary guidance which is specifically relevant to this application.

To summarise, it is therefore considered that the proposed development would comply with all four criteria of Policy H1 (Residential Areas) of the ALDP.

#### **Waste Management**

The Council's Waste Strategy Team confirmed that the initially proposed two flats would be able to use the existing adjacent on-street waste and recycling bins. Adequate waste storage facilities are already in place for the one flat to be created and the proposals are therefore compliant with Policy R6 (Waste Management Requirements for New Development) of the ALDP.

#### **Transport and Accessibility**

Whilst the proposed 2-bedroom flat requires 1.5 parking spaces, in accordance with supplementary guidance, the existing retail unit requires 2 spaces, thus there would be no net detriment in relation to parking demand. The flat is situated in an accessible location, in close proximity to regular bus services, and a secure cycle parking facility is proposed to be installed in the rear garden area (although a condition is added requiring further detail of the structure and requiring its installation prior to occupation). Thus it is considered that the proposed development would not have an adverse impact on on-street parking provision and that the property would be capable of being accessed via sustainable modes of transport. As such, the development is considered to comply with Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP, as well as the Council's SG on Transport and Accessibility.

#### **Concerns raised by objectors**

The majority of the concerns raised by objectors in the representation received have been addressed in the amendments made to the initial proposals, and in the foregoing evaluation. The remaining points raised can be addressed as follows:

- The rear elevation infills should be built up in granite and the new windows and doors should be constructed from timber rather than pvc

*The initially proposed pvc front door has been omitted from the proposals, with the one flat now proposed to take access internally from the communal stairwell. The rear elevation infills*

*above the new windows to be installed were initially proposed to be constructed with pvc cladding, which the Planning Authority agreed would not be a satisfactory material. Whilst the use of granite to match existing would be acceptable, the applicant's amended proposal to utilise a grey render is also considered to be acceptable, given that its colour would sympathetically match the granite and the rear elevation is not visible from any public viewpoints. The grey render would adequately preserve the character and appearance of the area. Given the building is not listed nor within a conservation area and the vast majority of existing windows in the terrace are pvc-framed, it is not proportionate to require the new windows to be timber-framed. Whilst the original window positions and fenestration patterns have been amended to match the remainder of the building, the use of pvc as a frame material would not harm the character or appearance of the area and is thus acceptable.*

## **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.

## **Extension of Time**

The submission of amended plans and subsequently the additional time required in order to take the application to the Planning Development Management Committee, have taken the application beyond the target 2-month determination period. As such, the applicant has agreed to several extensions to time for the determination of the application, with the latest one expiring on 8 November 2019.

## **RECOMMENDATION**

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Approve Conditionally

## **REASON FOR RECOMMENDATION**

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The existing retail unit has been vacant and marketed for continued retail use for at least 12 months, without success. The loss of the retail unit is considered to be justified in accordance with Policy NC7 (Local Shop Units) of the Aberdeen Local Development Plan (ALDP). The original proposals to create two flats and the associated external alterations were considered to be unacceptable with regard to preserving the character and amenity of the area. The application was subsequently amended and the revised proposals to create one flat, with more sympathetic external alterations, are considered to create a satisfactory residential environment, preserve the character and amenity of the area, not constitute overdevelopment and not result in the loss of any open space, all in accordance with Policy H1 (Residential Areas) of the ALDP. The external alterations, subject to the submission of further details via condition, have been designed with due consideration for the context of the site in accordance with Policy D1 (Quality Placemaking by Design) of the ALDP. The new flat would not unduly suffer from noise emissions, in accordance with Policy T5 (Noise) of the ALDP. The flat would not create any additional requirement for car parking compared to the existing retail unit and would incorporate a secure cycle parking facility which would encourage sustainable and active travel in accordance with Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the ALDP, as well as the corresponding Transport and Accessibility supplementary guidance. The occupants of the flat could utilise existing on-street communal bins and the proposals are thus compliant with Policy R6 (Waste Management Requirements for New Development) of the ALDP.

## CONDITIONS

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### (1) Granite sample and module size / coursing details

A sample of the granite to be used in the front elevation façade infill, along with along with full details of the blockwork size, coursing specification and mortar mix shall be submitted to, and agreed in writing by, the Council as Planning Authority. Thereafter, prior to the occupation of the flat, the infill works to the front elevation shall be carried out in full accordance with the agreed details and those shown in the approved drawing MH0219-002c, or similar as has been agreed in writing by the Planning Authority.

Reason: In order to preserve the character and appearance of the area.

### (2) Cycle storage details and implementation

Prior to the occupation of the flat, full details of the secure cycle storage facility shown on approved drawings MH0219-001d and MH0219-003c shall be submitted to, and agreed in writing by, the Planning Authority and thereafter the cycle storage facility shall be installed in accordance with the agreed details.

Reason: In the interests of encouraging sustainable and active transport.

### (3) Installation of triple-glazing

The new windows to be installed on the front (Great Northern Road) elevation, shall be triple-glazed, in accordance with the hereby approved drawing MH0219 – 001d.

Reason: In the interests of ensuring an adequate level of amenity is provided for the occupants of the new flat.

## ADVISORY NOTES FOR APPLICANT

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### WASTE

A kitchen caddy and binliners plus associated information will be supplied from Aberdeen City Council for each resident free of charge.

Please note that levels of provision may alter in line with changing service requirements across the city that corresponds to alterations in legislation.

No garden waste will be provided for flat residences as it is assumed grounds will be maintained as part of a service charge for the building and undertaken by a commercial contractor.

It is pertinent to note that these services will be provided taking account of the following:

#### General points

- **No excess** should be stored out with the containment provided. Information for extra waste uplift is available to residents at either [www.aberdeencity.gov.uk/wasteaware](http://www.aberdeencity.gov.uk/wasteaware) or by phoning 03000 200 292.

- Further information can be found in the Waste Supplementary Guidance available at: <https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/7.1.PolicySG.ResourcesForNewDevelopmentTC.P.4.8.9.12.13.pdf>

**Developers must contact Aberdeen City Council a minimum of ONE month before properties will be occupied.**

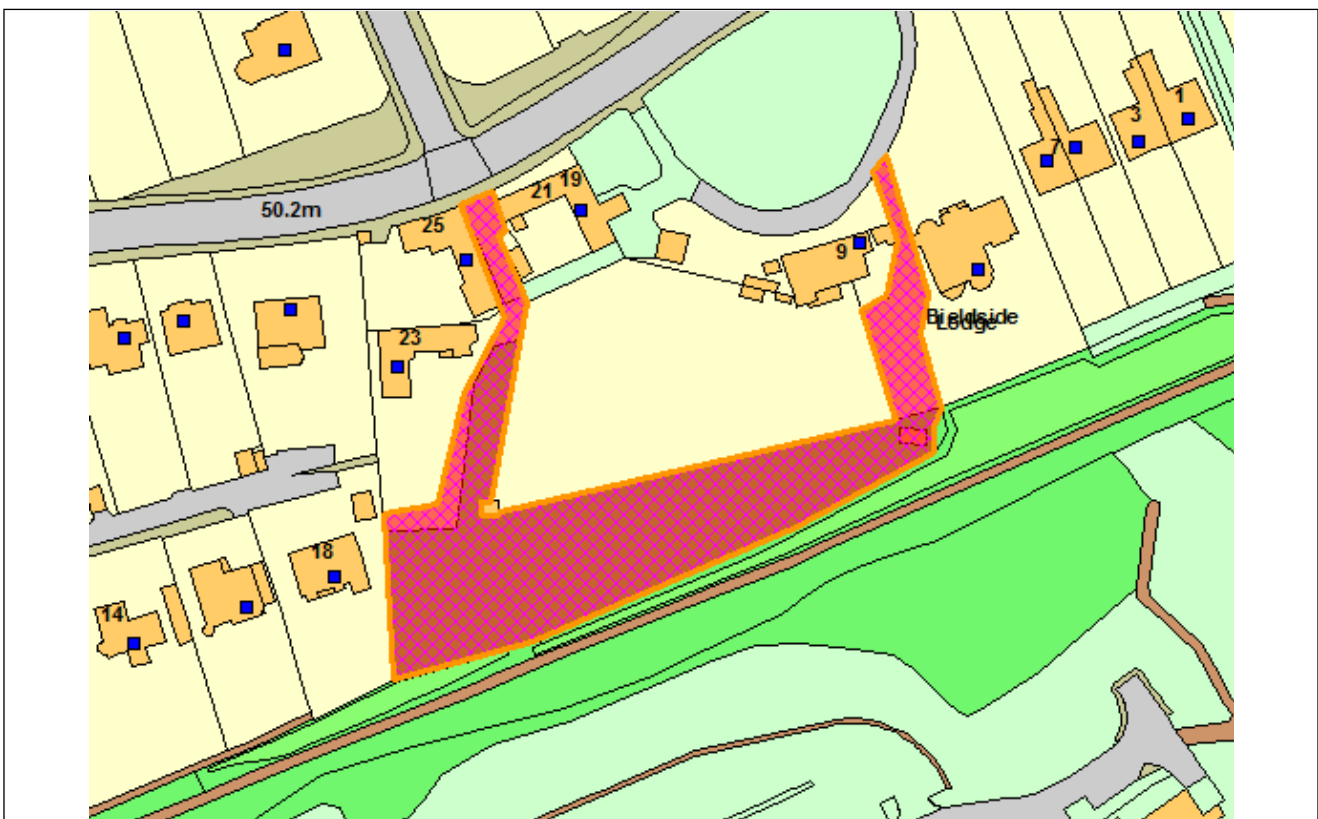
In the final stages of completion, a representative from Aberdeen City Council's Waste team will assess the site to ensure that all of our considerations have been implemented.

Should you have any further queries or wish to discuss these comments further, please do not hesitate to contact Hannah Lynch ([halynch@aberdeencity.gov.uk](mailto:halynch@aberdeencity.gov.uk))

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 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<b>Planning Development Management Committee</b>
	Report by Development Management Manager
	<b>Committee Date: 31 October 2019</b>

<b>Site Address:</b>	Land at Bieldside Lodge, North Deeside Road, Bieldside, Aberdeen AB15 9AD
<b>Application Description:</b>	Approval of matters specified in condition 1(iv) (Construction Method Statement) related to Planning Permission in Principle P120491 for the erection of a dwellinghouse
<b>Application Ref:</b>	190917/MSC
<b>Application Type</b>	Approval of Matters Specified in Conditions.
<b>Application Date:</b>	5 June 2019
<b>Applicant:</b>	Mr Iain Hawthorne
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bieldside And Milltimber
<b>Case Officer:</b>	Lucy Greene



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**RECOMMENDATION**  
**Approve conditionally**

## **APPLICATION BACKGROUND**

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### **Site Description**

The application site consists largely of part of the garden ground associated with Bielside Lodge, the latter lying to the north east of the site. The site also includes a connected strip of land extending northwards and linking with North Deeside Road, so that it wraps around the walled garden to the Category B listed Bielside House and would originally have formed part of its grounds. The site is on a steep south facing slope.

The submissions state that the site extends to 3545m<sup>2</sup>. The main area is approximately 120m in length, whilst varying between approximately 35m and 7m in width. This main area of the site contains a number of trees protected by Tree Preservation Order (TPO) and is otherwise roughly grassed and self-seeded with smaller plants. There is a fall of 12m between North Deeside Road and the southern end of the garden to the rear of Bielside Lodge. There is a further fall east/west across the site of 10m between the southern corner of the garden to the rear of Bielside Lodge and the main site to the south of the Bielside House gazebo. The eastern leg falls 9m between the shared horseshoe driveway and the main part of the site.

On the eastern side the site includes the south west corner of the garden ground immediately to the rear of Bielside Lodge. It should be noted that the application site boundary does not include the driveway linking Bielside Lodge and Bielside House to North Deeside Road. (This driveway is 'horseshoe' shaped and was partly included in the Planning Permission in Principle (PPiP) application site boundary.)

On three sides the site is bounded by the walled garden to the listed Bielside House. An elevated summer house/gazebo, forms a distinctive corner feature within the boundary wall. The wall and summerhouse form part of the listing. There is a metal gate within the walled garden wall providing access, across the application site and through a further gate, onto the Deeside Walkway. The southern boundary of the site runs along the boundary of the former Deeside Railway line, now a public walk and cycle way, part of the Core Path Network and a Local Nature Conservation Site. To all other sides the area is residential.

### **Relevant Planning History**

**120491** Planning Permission in Principle for Erection of Dwellinghouse Approve conditionally with legal agreement 22.12.2015

**170028/MSC** Approval of matters specified in conditions 1(design/landscaping/boundary treatment/method statement) 6(finishing materials) 7(drainage works) 8(foul sewerage facilities) 10(landscaping) 12 & 13(care, protection and maintenance of trees) of P120491 for erection of dwellinghouse. Refused 27.04.2018

**PPA-100-2090** Decision Appealed to Scottish Ministers Part allow and part refuse 11.12.18  
Permission granted for conditions 1(i), 1(ii), 1(iii), 6, 7, 8, 10, 12 and 13; Permission refused for condition 1(iv) – Construction Method Statement

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

This application relates to the matters specified in condition 1(iv) of the Planning Permission in Principle 120491. A previous MSC application approved the matters of: design of house,



landscaping, boundary treatments, external finishing materials, surface water drainage, foul drainage and water, planting of trees and landscaping, tree protection during works, management proposals for trees.

The application includes a construction method statement and supporting information to satisfy the following condition:

*(1) that no development pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the planning authority for approval of the matters specified in this condition and such approval has been granted; these matters being details of :...*

*(iv) a construction method statement including details of how construction of the house and any retaining structures shall take place avoiding damage to the listed structures near to the site, including the garden wall and summerhouse; and, how construction vehicles and materials will be brought to and stored upon the site, including how these will be transferred onto the site taking into account the need to protect trees. - in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.*

It should be noted that tree protection details have already been approved under the previous application 170028/MSC and are shown on drawing no. BLB-1711-TP-A.

The proposed construction methodology is summarised as follows:

- Detailed dilapidation photos would be taken prior to the commencement of work.
- A vibration monitor would be set up by a specialist engineer in the ground adjacent to the listed wall, this would be set to sound an alarm at 33% maximum recommended vibration level;
- Means of construction access for delivery of materials, plant and equipment would be mainly via the Deeside Way, via existing timber gates. This may involve remote decanting of larger loads. Detailed timings and restrictions would be agreed with Aberdeen City Council (ACC) via a licence from the Estates Team;
- Tree protection fencing would be erected around trees to be retained. This was approved under application 170028/MSC.
- Trees to be removed would be felled and stumps ground down.
- In order to protect the listed garden wall and summerhouse (pertaining to Bielside House) a protection fence would be erected. This is shown on drawing SK01 Rev C and would consist of timber posts in concrete foundations, with timber boarding fixed to the south side of the posts. The protection fence would be 2m from the listed structures other than a section that would extend further from the fence in order to encircle the root protection area of a tree (ref 850)
- Three laydown areas and a site hut / laydown area are indicated on plan A1-04 Rev C.
- The rear wall of the proposed house would consist of a retaining wall using contiguous piling to form the proposed retention system. The area to the south would then be excavated for the erection of the house.
- Concrete would be piped from North Deeside Road via the strip of land to the west of the garden to Bielside House as indicated on drawing A1-04 Rev C
- The concrete delivery pipe would be in sections and each would be carried into place by two people. It would be laid along the strip of land to the west of the garden to Bielside House, and prevented from excessive movement by restraints pegged into the ground. Wood chips would be used to protect tree roots.

## **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=PSM66GBZGMM00>

The supporting information includes the following  
Construction Method Statement by Burns Construction (Aberdeen) Ltd V3 (October 2019)  
Drawings, including Drainage Layout 101 Rev H, Temporary Works Layout A1-04 Rev E, Temporary fence to protect existing wall SK01 Rev C  
Email from Ramsay and Chalmers 02.10.2019, as amended by email of 08.10.2019  
Emails from Astell Associates dated 19 September 2019 & 2 October 2019  
Review of Information by David Narro Associates 16 September 2019 and subsequent note  
Letter from Greencat Geotechnical 2 August 2019  
Ramsay and Chalmers Report dated 20 August 2019  
Statement on Construction Method by NORR, 4 June 2019 (sections subsequently amended by later documents), including:  
Greencat Geotechnical Ground Investigation of May 2019  
TechnikGS letter 'New Retaining Wall' dated 4 June 2019

## **CONSULTATIONS**

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**Cults, Bieldside And Milltimber Community Council** – Objection is summarised as follows: The CBMCC strongly objects to the construction access being taken from the Deeside Way, due to the hinderance to recreational use, for safety reasons and due to the weight of equipment causing damage to the Walkway.

Objection is also made to the use of the side roads of Bieldside for the loading and unloading of equipment over a protracted period.

The pumping of concrete from North Deeside Road is a further point of objection, due to potential for disruption of traffic and possible land ownership issues in the vicinity of the access to Bieldside Mill.

## **REPRESENTATIONS**

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158 representations, some with supplementary comments, have been received (135 objections, 18 in support and 5 neutral). The matters raised can be summarised as follows –

1. Deeside Walkway and surrounding public areas
  - Damage to surface and trees/ vegetation on the Deeside Way due to construction related vehicles;
  - Principle of use of Deeside Way for construction in terms of impact upon the users of the path, including those with special needs. Concern that the Walkway would be closed for a significant period.
  - Safety concerns due to use of walkway by construction related vehicles and its role as a public route.
  - Suitability of access to Walkway from Golf Road and adjoining minor roads.
  - Loss of parking at the access point to the Walkway near to the Golf Road bridge
  - Impact of removal of materials from site in terms of accumulation of mud and dust on neighbouring roads and public areas
  - Delivery of concrete from North Deeside Road – disruption to traffic.
  - The Notice of Motion by Councillor Boulton, to the city Growth and Resources Committee of 26<sup>th</sup> September in relation to use of the Deeside Way is noted, and it is stated that the construction access relating to this application is entirely at odds with this.

2. Trees

- Impact of proposals on protected trees – the site is covered by two Tree Protection Orders (TPO 56 and 96)
- Concrete pipe would be within root protection areas of protected trees.
- That the stump grinder used to remove tree stumps would create vibrations that would risk damaging the listed structures.

### 3. Land Ownership issues on application site and adjoining areas.

#### 4. Damage to Listed Wall and Gazebo

- Listed retaining wall sits on topsoil, the gazebo is supported by the wall and any degree of vibration puts both at risk. The recommendation by the independent engineers David Narro Associates (DNA) that dilapidation photos are taken is evidence that no degree of vibration is acceptable.
- Following installation of retaining wall and excavation of area for house, lateral movement in ground behind (to north of) retaining wall would risk damage to listed structures.
- That the requirement for hand digging of the foundations to the protective fence as recommended by DNA, indicate the fragility of the listed structures. There remains concern that the installation of the fence would have an adverse impact on the listed structure.
- That the requirement to monitor vibrations suggests that there would be an impact on the listed structures, this is not acceptable, as there should be no impact. The objector queries the process following works ceasing due to anticipated damage. The Ramsay and Chalmers Statement on the condition of wall and impact of piling, focuses on the current condition of the wall, whereas the key issue is the proposed house construction.
- That the concrete pumping route is unsuitable due to additional loading on the retaining listed wall, and that there is insufficient space between the gazebo and protective fencing.
- Concerns remain regarding the impact of surface water drainage on the listed structures, as the plan indicates that the detailed design would be provided by others.
- That the two trial pits carried out by Green Cat Geotechnical, confirm the fragile nature of the wall.

#### 5. Procedural matters

- Legal agreement associated with Planning Permission in Principle (PPiP) is substandard and does not reflect Committee decision.
- Site area of this current application is different to that of the PPiP
- Inadequate Council response to drilling of boreholes and poor administrative procedures of the Council.
- That the Council did not follow the terms of the licence granted for access to the Deeside Way for borehole drilling
- That planning permission is required for the use of the timber gates that were installed within the fence along the southern boundary of the application site.
- That the engagement of an independent engineer indicates that the planning authority does not find the application submission satisfactory and in that case the application should have been refused.
- That the multiple submissions of further information, confirms that it is simply not possible to undertake construction without damage to the listed structures.

#### 6. Flood Risk – in terms of surface water overland flows.

- 7. That the level of objections received is a material consideration that should lead to the refusal of the application.

Expressions of support were also received, these are summarised as follows:

- 8. That sufficient detail has been provided in the construction methodology to alleviate concerns

9. That the Council's licence system controls use of the Deeside Walkway, including potential damage; use of the line is minimal and is necessary for those living in the area
10. Positive comments about design of house.
11. Canvassing by principal objectors without particulars of application being explained.

## **MATERIAL CONSIDERATIONS**

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### **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.

There is a statutory duty under section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Act to preserve the listed building.

### **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 D4 – Historic Environment  
Policy H1 – Residential Areas  
Policy NE5 – Trees and Woodland

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

Trees and Woodland Supplementary Guidance

### **Other material considerations**

Appeal Decision Notice on PPA-100-2090 dated 11.12.18

## EVALUATION

The principle of development was established by the permission granted under Planning Permission in Principle (PPiP) Reference 120491.

It is not therefore relevant to revisit the matters of principle that were considered at that time, other than in so far as the details of the current application are relevant to those matters. There no further matters raised that require consideration under Policy H1 – Residential Areas. The proposal relates to the method of construction of a residential unit that has been granted planning permission in principle and is not discordant with Policy H1.

The previous MSC application approved the matters of: design of house, landscaping, boundary treatments, external finishing materials, surface water drainage, foul drainage and water, planting of trees and landscaping, tree protection during works and management proposals for trees.

**The only matter for consideration (and that can be legitimately be considered) in terms the current application is whether the submissions are satisfactory in terms of the following condition:**

*1. that no development pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the planning authority for approval of the matters specified in this condition and such approval has been granted; these matters being details of :...*

*(iv) a construction method statement including details of how construction of the house and any retaining structures shall take place avoiding damage to the listed structures near to the site, including the garden wall and summerhouse; and, how construction vehicles and materials will be brought to and stored upon the site, including how these will be transferred onto the site taking into account the need to protect trees. - in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.*

The outcome of the appeal PPA-100-2090 to the Scottish Government's Planning and Environmental Appeals Division is a material consideration. The Reporter's decision was to approve, other than in respect of condition 1(iv), which was refused with the reasoning for refusal as follows:

*"The construction method statement*

*15. Policy D4 of the local development plan requires the protection, preservation and enhancement of the historic environment. Although not expressly cited in the 1981 listing description of Bielside House, the retaining wall and the gazebo are features of special architectural or historic interest and are an integral part of the category 'B' listed building. I note earlier comments from Historic Scotland that a modern listing description of Bielside House would specify all of the 'Arts and Crafts' style garden structures and walls as essential elements in the merit of the listed group. I conclude that the wall and the gazebo are undoubtedly very important elements of the listed Bielside House.*

*16. I have carefully studied the contents of both the letter from Ramsay and Chalmers of 9 September 2016 and the subsequent construction method statement (CMS) submitted on behalf of the appellant by Anderson Construction and dated April 2017, in response to condition 1(iv).*

*17. The retaining wall along the northern boundary of the appeal site is some 5.8 metres from the closest part of the proposed house. It is constructed of random rubble with lime and sand mortar and displays a simple decorative coping. No evidence has been provided setting out the means and sufficiency of its foundations. Neither was this apparent during my site inspection. At the south-western part of the garden of Bielside House the random rubble wall supports the brick and timber construction of the gazebo. As pointed out by the Architectural Heritage Society of Scotland the haphazard placement of the wall's irregular shaped stonework, and the absence of an horizontal*

*bedding surface, could increase the vulnerability of the structure to changes caused by groundworks in its vicinity.*

*18. The construction of the house requires the excavation of an undisclosed volume of soil and the formation of an internal reinforced concrete retaining wall. The CMS proposes the erection of a protective hoarding some 2 metres from that part of the wall and gazebo where excavations would be undertaken. To the appellant the hoarding would afford protection from accidental damage by plant and machinery and, it is submitted, from potential undermining due to the new building excavations.*

*19. To the appellant the construction process would not involve any, unnamed, abnormal construction activities, and any activity likely to cause any “undue and excessive” vibration would be prohibited. The north wall of the house would be constructed at a distance from the existing boundary wall and gazebo to avoid what is termed any unspecified “special construction techniques”. Excavation works for the wall of the proposed house would involve “careful excavating” to formation level and the creation of a “safe and stable bank” up to the existing ground level at the position of the temporary hoarding. The appellant’s contractor and consulting structural and civil engineer are satisfied that the measures will be sufficient to protect the wall and these parties would be responsible for ensuring that there is no damage caused during construction. The proposed protection measures are supported by the council’s planning officer.*

*20. I have no evidence that the council had advice from independent structural engineers before reaching its decision. However I consider that the importance of preserving the boundary wall and gazebo cannot be overstated. Any weakening of the boundary wall and its foundations could lead, over time, to its movement and even partial collapse. The retaining function that it performs could be compromised with adverse consequences for the retained garden ground to the north. Even a very small alteration to that part of the boundary wall where it supports the gazebo could have adverse consequences for the integrity of that important historic structure.*

*21. I find that many of the appellant’s underlying assumptions relative to condition 1(iv) are not substantiated by strong evidence. No technical details has been submitted to justify how the “sufficiently” robust fence is at an “appropriate” distance to provide “sufficient” comfort that the construction of the house will not impact on the boundary wall’s stability and condition, thereby not requiring “special” construction techniques. Construction methods would avoid “excessive” but unquantified vibrations in the “vicinity” of the boundary wall and gazebo although, contrary to this intent, other techniques such as piling would be introduced “locally”, should these be deemed necessary.*

*22. It has not been demonstrated how the 2-metre-high hoarding, while stopping the passage of plant in proximity to the boundary wall, will prevent the undermining of the wall. I have no evidence on the integrity and properties of the “safe and stable bank”, and its reinstatement, which would rise to the ground level of the proposed fence, some 2 metres from the boundary wall. No reference is made to the construction effects of the private domestic pumping station and any associated underground piping, shown some 5 metres south of the boundary wall on drawing 101 ‘Drainage Layout’. It has not been demonstrated whether the extensive construction works under the appeal site’s existing surface would result in changes to surface runoff and subsurface drainage, potentially causing the destabilisation of parts of the historic boundary wall. No details of the means of importation of pumped concrete are demonstrated, with the exception of access from the “top end of the site” being considered.*

*23. The requirements of policy D1 ‘Historic Environment’ of the local development plan and my statutory duty under section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Act require a much greater degree of certainty than that which is before me in order to ensure the preservation of the historic wall and the gazebo. Having regard to the statutory*

*duty my conclusion is that the proposal would not preserve the listed building and I agree with the council and refuse to discharge condition 1(iv) of planning permission P120491."*

The following conditions were attached to the approval:

#### Conditions

1. That any tree removal works agreed in terms of this planning permission shall take place outside the bird breeding season, which for the purposes of this permission shall be taken to be beginning of March until the end of August.

Reason: In the interests of protecting wildlife.

2. That works shall not take place unless there remains in place on site the scheme for the protection of trees and to be retained on the site during construction works as approved under this MSC permission in relation to condition 12 (Ref. 120491) and this has been agreed on site with the planning authority.

Reason: In order to ensure adequate protection for the trees on site during the construction of the development.

3. That all planting, seeding and turfing, including the sedum roof, comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority.

Reason: In the interests of the amenity of the area.

4. That any tree work which appears to become necessary during the implementation of the development shall not be undertaken without the prior written consent of the planning authority; any damage caused to trees growing on the site shall be remedied in accordance with British Standard 3998: 1989 "Recommendation for Tree Works" before the building hereby approved is first occupied.

Reason: In order to preserve the character and visual amenity of the area.

5. That no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the planning authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: In order to ensure adequate protection for the trees on site during the construction of the development.

6. The proposals shall be carried out in complete accordance with the management proposals for the care and maintenance of all trees to be retained and for any new areas of planting (to include timing of works and inspections) and as approved under condition 13 (Ref.120491), unless the planning authority has given prior written approval for a variation.

Reason: In order to preserve the character and visual amenity of the area.

7. The structures required for the site hut and welfare area shall not be delivered to the site via the Deeside Walkway, unless details are submitted to and agreed in writing by the planning authority showing how this can be implemented without damage to trees.

Reason In the interests of protecting trees.

8. No plant, machinery or construction vehicles shall access the area of the site in which construction is proposed to take place via either the western access to North Deeside Road, or via the Bielside Lodge / car park area and the eastern access.

Reason: In the interests of protecting trees.

9. The pipes for the underground services shall not be installed other than in accordance with further details of the thrust boring technique being submitted to the planning authority, including a report from a suitably qualified person on the suitability of the site, details of the machinery size and pit locations.

Reason: In the interests of protecting trees.

The relevant issues for consideration, taking into account the information contained within the supporting documents above and the Reporters reasons for refusal are summarised as:

impact on listed structures of groundworks for the house itself, pumping station and underground piping, including resultant vibrations; adequacy of the proposed protection measures; impact of surface run-off and subsurface drainage works on listed structures; details of pumping concrete; impact on listed structures and trees of vehicular access and movements, storage and movement of materials and temporary structures required for the construction.

Other matters raised by objectors as summarised above will also be given careful consideration.

The relevant issues for consideration, taking into account the information contained within the supporting documents above and the Reporters reasons for refusal are summarised as:

impact on listed structures of groundworks for the house itself, pumping station and underground piping, including resultant vibrations; adequacy of the proposed protection measures; impact of surface run-off and subsurface drainage works on listed structures; details of pumping concrete; impact on listed structures and trees of vehicular access and movements, storage and movement of materials and temporary structures required for the construction.

Other matters raised by objectors as summarised above will also be given careful consideration.

### **Independent Engineer**

In response to the Reporter's decision, the planning authority engaged an independent professional civil engineer to provide advice on the construction method and supporting information. David Narro Associates of 36 Argyle Place, Edinburgh undertook a review of the application information and letter dated 16 September is available on the planning website as noted above. This identified some additional information requirements, whilst stating that if these minor additional points could be addressed, then it is believed that this would satisfy the planning condition 1(iv) in terms of listed structures.

### **Impact on listed structures**

The application submissions include ground investigation, a site investigation and specialist recommendations for the new retaining wall. These form the evidence base on which the proposed construction method has been formulated.

The independent engineer has considered the information submitted and provided a review to the planning authority. This accepted the proposals put forward by the applicant with additional information required as follows:



<b>Issue Raised</b>	<b>David Narro Associates (DNA) comment</b>	<b>Further Information &amp; Conclusion</b>
Adequacy of protection fence to prevent undermining	The construction method now involves piling and then excavation, therefore the issue of undermining is dealt with by the construction methodology. Concern raised about size of foundations to temporary fence and method of its construction, removal and reinstatement of ground.	Foundations to temporary fence have been reduced in size and method for hand digging and reinstatement has been added. DNA considers that the submissions satisfy requirements of condition in this respect.
Piling – monitoring and checking	Type of piling is considered appropriate. Dilapidation photographs should be taken before and after works. Walls should be visually inspected during piling and after each piling event.	Revised method statement includes reference to dilapidation photographs, visual inspection and that if any change is noted works shall cease. DNA considers that with attachment of planning condition requiring continual visual inspection, inspection after each piling event and comparison with dilapidation photos, then the proposals satisfy the requirements of the condition in this respect.
Pumping of concrete from North Deeside Road	Further information required: a drawing showing the route that the concrete pipe would take and a method statement for the works, including how pipe is conveyed from North Deeside Road; and consideration of any additional surcharge onto the existing retaining wall.	Drawing A1-04 D has now been submitted showing the route of the concrete pipe via the strip of ground to the west of Bielside House garden. Details have been provided for this being carried by hand in sections, laid on a 150mm layer of wood chippings to protect tree roots and restrained. DNA considers that satisfactory details have been provided in relation to additional surcharge onto the existing listed retaining wall to Bielside House.
Excavation effects of private domestic pumping station	Location of pumping station is to south of house. Construction method covers this point as the proposal is for piling first and then excavation.	No further information requested. DNA confirms that satisfactory details have been provided in relation to additional surcharge onto the existing listed retaining wall to Bielside House.

<p>Effect of construction on surface water run off and subsurface drainage, with potential to destabilise listed wall.</p>	<p>DNA notes report by Greencat that the water table is below the level of the new building. A statement was required in respect of overland flows to ensure there is no change in the way water may collect against the listed structure in heavy rainfall due to the presence of the proposed house.</p>	<p>Drawing 101 Rev H was submitted and DNA considers that shows drainage proposals that would satisfy the requirements of the condition.</p>
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The supporting information describes how the proposed house would be constructed whilst protecting the integrity of the listed structures nearby. A number of conditions are proposed that require monitoring and protection measures, it is therefore considered that in terms of this current application, the proposal complies with Policy D4 – Historic Environment.

**Use of Deeside Walkway for construction access.**

As previously stated, most recently in the report on application 170028/MSC, permission for the use of the Deeside Walkway to provide access to the site for construction, including delivery of materials, plant and equipment is for the Council in its capacity as land owner. The Council has an established procedure for the issuing of licenses for access to the Walkway and this is not a legitimate material planning consideration and therefore cannot be taken into account by the planning authority as part of the assessment of this application. Similarly, the creation of access surface between the walkway and the existing timber gates, is outside the application site and creation of a temporary access track for construction falls within permitted development rights which does not require planning permission. The use of the gates for access for construction would be permitted by virtue of the permitted development rights for temporary construction access where planning permission has been granted for development.

**Trees**

The trees on site are covered by two Tree Protection Orders as noted above. The location of development, tree removal and tree protection measures were approved as part of the PPIP application and previous MSC. With the tree protection fences in place vehicles would be kept outside these areas. Laydown areas are also located outside root protection areas. A condition allows for scaffolding to be erected within the tree protection fences, only where the details have been approved, there is industry standard guidance on scaffolding design, which is referred to in the condition wording. A condition also requires vibration monitoring during ‘stump grinding’ although it is the level of vibration from the machinery involves is low.

In terms of the pumping of piped concrete near to protected trees, this would involve measure to protect roots including a layer of wood chippings and restraints to prevent excessive movement of the concrete pipe. In view of the above, it is considered that trees would be protected within the context of the previous permissions, and the proposal complies with Policy NE5 ‘Trees and Woodland’.

**Other Matters Raised by Objectors**

Many of the matters raised by objectors are dealt with by the above. The following matters were also raised:

- Impact on public roads of pumping concrete and the possible decanting of plant, machinery and materials into smaller vehicles – these matters are not material planning considerations. Where necessary authorisation would need to be sought from the Roads Authority.

- Level of objection – in this instance, this is not a material consideration in itself that would lead to refusal of the application. Applications are determined on the merits of the issues.
- Engagement of independent engineer – the engineer was engaged in order to provide independent advice on technical matters. This was a matter raised by the Reporter in the appeal decision letter.
- Multiple submissions of information – these further submissions have added further detail to the application and there is no planning reason why this cannot be assessed on its merits as part of the application.

## **RECOMMENDATION**

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Approve conditionally

## **REASON FOR RECOMMENDATION**

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That the proposed construction methodology as set out in supporting documents and plans, together with conditions that require monitoring and protection measures to be implemented and retained in place, provides a sufficient degree of certainty that the proposal would preserve the fabric of the listed wall and gazebo to Bielside House. This accords with Policy D4 – Historic Environment. In the context of the tree works tree protection measures already approved the following the measures and methodology in the application submissions would not result in damage to the protected trees. This accords with Policy NE5 – Trees and Woodland. The proposal satisfies the requirements of Condition 1(iv) of application 120491.

## **CONDITIONS**

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1. That the foundations for the temporary fence shall be in accordance with drawing SK01 Rev C and excavation, post construction removal and reinstatement of the ground shall be by hand digging only. Reason: in the interests of protecting listed structures.
2. That prior to development commencing a full dilapidation photographic survey shall take place of all elevations of the listed retaining wall to the garden of Bielside House that bound the application site, including the gazebo. These shall be numbered and submitted to the planning authority together with a location plan sufficient to identify the location of each photograph. Within 2 months of the completion of the construction of the house (as defined by a Building Warrant completion certificate), a further set of photographs shall be taken and submitted to the planning authority, together with a formal assessment of the dilapidation photographs against the listed structures.  
Reason: in the interests of preserving listed structures.
3. Tree stump grinding and construction, including excavation, shall not take place unless there remains in place and operating, vibration monitoring equipment in the vicinity of the listed structures in a position that shall be agreed in writing with the planning authority; vibration monitors shall have audible alarms. Vibrations shall not exceed 10 mm/s, with a first alarm warning at 5mm/s. The listed structures shall be monitored during piling, with visual inspections after each piling event, including checking of listed structures against dilapidation photographs. A record shall be kept of the maximum vibration level for each day where piling takes place. Should monitoring (in accordance with these conditions and the construction method statement) indicate impact on the listed structures, piling work shall cease and not take place unless there has been a report submitted to and approved in writing by the planning authority recording levels of vibrations and a revised construction methodology.

Reason: In the interests of preserving the listed structures.

4. That no scaffolding shall be permitted within the protected areas specified in the scheme of tree protection approved under application 170028/MSC other than in accordance with the details that have been submitted to and approved in writing by the planning authority and these shall accord with the relevant BS5837

Reason: In order to ensure adequate protection for the trees on site during the construction of the development.

5. The structures required for the site hut and welfare area shall not be delivered to the site via the Deeside Walkway, unless details are submitted to and agreed in writing by the planning authority showing how this can be implemented without damage to trees.

Reason In the interests of protecting trees.

6. No plant, machinery or construction vehicles shall access the area of the site in which construction is proposed to take place via either the western access to North Deeside Road, or via the Bieldside Lodge / car park area and the eastern access. Where concrete shall be delivered by pipe via this route, this shall be only in accordance with the approved drawing showing location of pipe and including installation of restraints.

Reason: In the interests of protecting trees and listed structures.

7. The pipes for the underground services shall not be installed other than in accordance with further details of the thrust boring technique being submitted to the planning authority, including a report from a suitably qualified person on the suitability of the site, details of the machinery size and pit locations.

Reason: In the interests of protecting trees.

8. That in accordance with Ramsay and Chalmers drawing SK01 RevA (within the NORR Statement) the piling shall be no closer than 5.5m from the face of the listed retaining wall – in the interests of preserving the listed structures.

9. That there shall be a suitably qualified engineer on site at all times during piling operations, for the purposes of monitoring and supervising the piling operations. That works shall not take place unless details, including name of company, qualifications and contact details of the engineer have been submitted to and approved in writing by the planning authority – in the interests of preserving the listed structures

## **ADVISORY NOTES FOR APPLICANT**

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### **HOURS OF DEMOLITION AND CONSTRUCTION WORK**

Unless otherwise agreed in writing with Aberdeen City Council Environmental Health Service (poll@aberdeencity.gov.uk / 03000 200 292), demolition or construction work associated with the proposed development should not take place out with the hours of 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No noisy work should be audible at the site boundary on Sundays.

Where complaints are received and contractors fail to adhere to the above restrictions, enforcement action may be initiated under the Control of Pollution Act 1974.

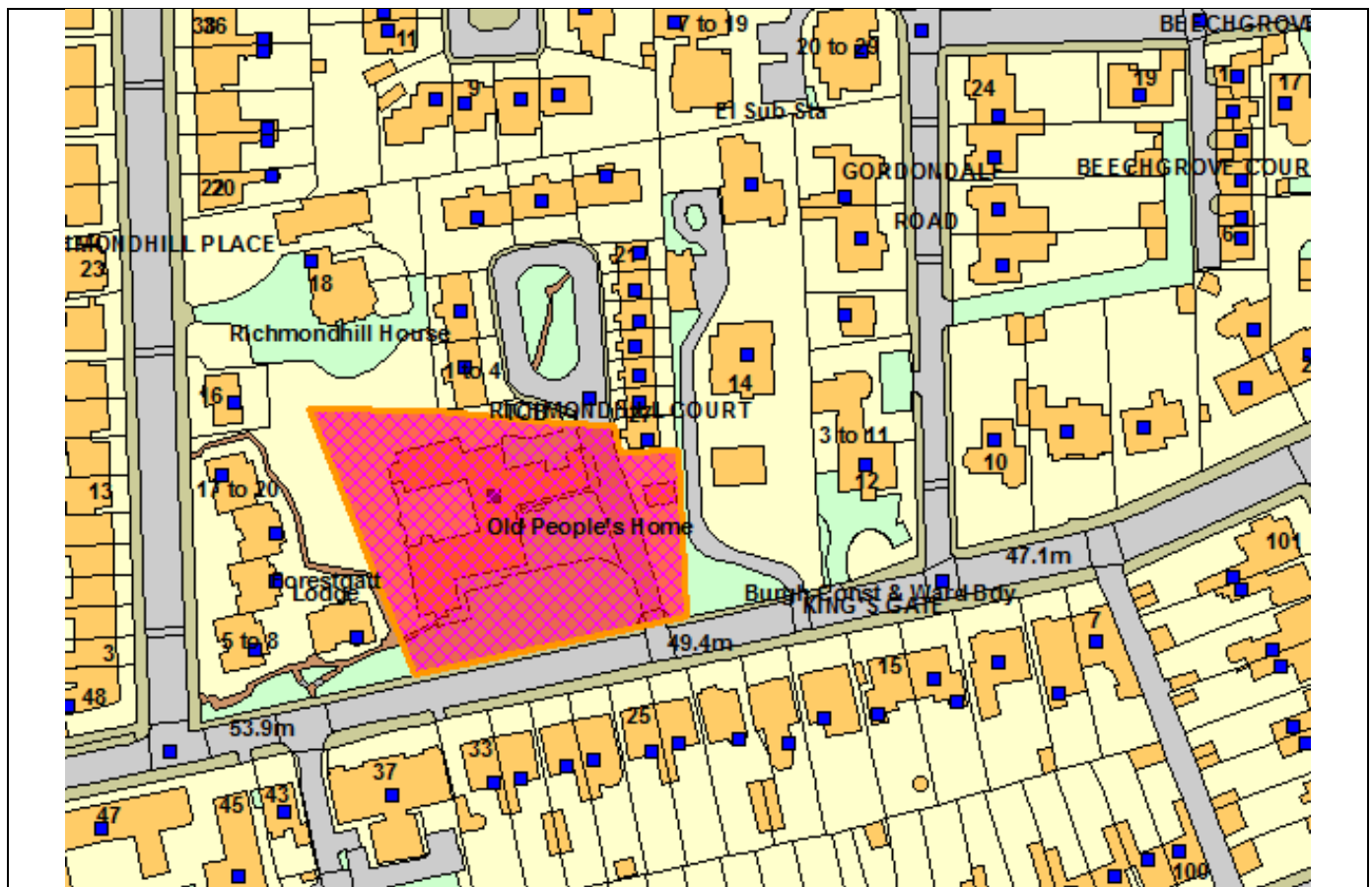


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: Thursday 31<sup>st</sup> October 2019**

<b>Site Address:</b>	22 King's Gate, Aberdeen, AB15 5FA,
<b>Application Description:</b>	Erection of residential development comprising 41 residential flats set over 4 storeys; formation of car parking area, landscaping and all associated infrastructure works
<b>Application Ref:</b>	181699/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	28 September 2018
<b>Applicant:</b>	CALA Mgmt Ltd & Aberdeen Social Service (VSA)
<b>Ward:</b>	Mid Stockert/Rosemount
<b>Community Council:</b>	Rosemount And Mile End
<b>Case Officer:</b>	Jamie Leadbeater



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### RECOMMENDATION

Refuse

## APPLICATION BACKGROUND

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### Site Description

The site comprises a vacant detached c. mid 20<sup>th</sup> Century two-storey care home building and associated amenity ground set within mature woodland on the northern side of Kings Gate within the Albyn Place/Rubislaw Conservation Area. The site area equates to 0.43 hectares in size.

The site takes access off a narrow (4.8m), un-adopted road called Richmondhill Court which also serves 27 other residential units to the north of the site managed by Castlehill Housing Association. Housing within this development comprises a mix of flat units set within two storey terraces and single storey terraced houses. Immediately to the west of the site exists 5 flat roof two-storey flatted blocks comprising approximately 20 residential units built in 1960s/1970s with shared area of communal open space situated to the rear (east) of all units. A large detached two and half storey granite villa carrying a category C-listing, known as Richmondhill House, exists immediately to the north of the site and is set approximately 3m above the floor level of the vacant care home, which is managed by joint applicant, VSA.

In terms of the wider context, the prevailing character of the surrounding area i.e. Richmondhill Place to the west, Gordondale Road to the East and King's Gate to the south, all comprise of dwellinghouses and flats set within two to three storey high buildings with nearly all finished entirely in traditional granite blockwork. Most buildings also incorporate a number of similar features such as bay windows, dormer windows, pitched slate roofs, chimneys, and timber windows and doors. Whilst this prevailing character is depicted from building of late 19<sup>th</sup> Century/early 20<sup>th</sup> Century age, there are some examples of more modern developments which utilise these design features – particularly on King's Gate and Gordondale Road.

In terms of designation, the site falls within a defined “residential area” on the Aberdeen Local Development Plan (ALDP) 2017 Proposals Map, to which Policy H1 in the ALDP attaches. Furthermore, the site falls within Albyn Place/Rubislaw Conservation Area, the boundary wall along the southern boundary of the site falls under the curtilage of the category C-listed Richmondhill House, and most trees within the site boundary are covered by a Tree Protection Order (TPO).

### Relevant Planning History

Application Number	Proposal	Decision Date
181747/CAC	Complete demolition of 2 storey building	Status: Pending Consideration
Pre-Application Enquiry: 181219/PREAPP	Demolition of existing vacant care home and erection of 49 residential units	Letter issued 24/07/2018 outlining concerns about likely adverse impacts of a development of this scale on the conservation area and likely pressure it would place upon protected trees, as well as impacts on neighbours' amenity.

## APPLICATION DESCRIPTION

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### Description of Proposal

Detailed Planning Permission (DPP) is sought for the erection of 4 storey flat block, including recessed ‘penthouses’ on top floor comprising of 41 no. flats (38 x 2 bedroom and 3 x 1 bedroom) with associated car parking, re-landscaping works and alterations to road entrance. This is an

amended proposal whereby the original proposal has been reduced from 5 to 4 storeys and the number of flats reduced from 49 to 41 units.

In terms of appearance, the external walls are proposed to be primarily finished in a white render with intervals of synthetic grey stone columns, apart from the top (third) floor which would be finished in a dark grey metal cladding including the roof. Dark grey uPVC windows are located throughout each elevation with sets of French doors serving lounge areas to terraces at ground floor level and balconies on floors one to three. External doors and rainwater goods would also be made from a similar dark grey uPVC. Photovoltaic panels would be affixed to the roof of the top floor but, the drawings do not indicate how they would sit on the roof.

In terms of site layout, the flatted block is proposed to be built upon a U-shape footprint which shall be served by a landscaped courtyard entrance including pedestrian access from external car parking area to south with gardens serving ground floor flats delineated by hedging. Additional car parking shall also flank either side of Richmondhill Court. Communal cycle and bin stores shall be contained within the ground floor area of the building. Green space shall exist around the western and northern side of the building in the form of a steep embankment whilst some flat grassed area shall be located between the mature trees lining the southern boundary and car parking area to the south of the courtyard area.

In terms of the residential floor layout, the ground floor would comprise of 1 x one-bedroom and 9 x two-bedroom flats. The first and second floors would comprise 1 x one-bedroom and 11 x two-bedroom flats per floor area. All flats across these floor areas would benefit from an outdoor balcony area with balustrading. The third (top) floor would comprise 7 x two bedroom flats each with their own outdoor balconies area which are set within the footprint of the building given the footprint of the top floor is set off the eaves of the building.

In terms of landscaping, the entrance courtyard area would incorporate a balance of soft and hard landscaping with grassed areas defined by hedging with shrubs and trees. Other small pockets of grass would be of located around the periphery of the site at the foot of established trees, which will involve existing shrubs and bushes to be removed along the eastern and southern boundaries. A minimum of 6 existing trees in the south-eastern corner of the site are proposed to be removed to make way for development.

### **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=PFO1N4BZHNR00> .

- Affordable Housing Off-Site Delivery Justification
- Arboricultural Impact Assessment
- Daylight Analysis
- Design & Access Statement
- Drainage Assessment
- Ecological Constraints Survey
- Geo-Environmental Desk Study
- Refuse Vehicle Swept Path Analysis
- Letter from Halliday Fraser Munro (HFM) on behalf of applicants in support of the application, dated 21/06/2019
- Topographical Survey
- Transport Statement
- Tree Survey Report

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the application has been subject of more than 5 objections.

## CONSULTATIONS

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**ACC - Developer Obligations** – Assessment received, which seeks the following:

- Affordable Housing at 25% by way of £389,500 (10.25 units x £38,000) commuted sum or provision of 10 off-site units with commuted sum of £9,500 (see section of affordable housing);
- Primary Education - £0.00. Development would not result in Mile End Primary School going over capacity;
- Secondary Education - £0.00. Development would not result in Aberdeen Grammar School going over capacity;
- Community Facilities - £8,050. To be used at Rosemount Learning Centre;
- Sport and Recreation - £31,041. To be used for new drainage works at Harlaw Playing Fields;
- Open Space - £5,893. To be used towards Westburn Park/Victoria Park improvements; and,
- Healthcare - £18,579. To be used by NHS Grampian in reconfiguring healthcare facilities provision in city centre.

**ACC – Environmental Health Service** – No objection. Risk of site contamination is low but should any be discovered in the event of the application being approved and works implemented, the applicant/developer should contact the Planning Authority.

**ACC - Flooding & Coastal Protection** – No objections

**ACC - Roads Development Management Team** – Do not object. Access proposals would improve visibility at the existing access onto King's Gate and also would be wide enough to accommodate emergency vehicles in the absence of a secondary emergency access. Level of car parking would be acceptable taking into account cycle storage would be provided and the site is located on a bus route.

**ACC - Waste Strategy Team** – Satisfied that refuse vehicles can safely enter and exit the site. Bin storage capacity information provided

**Rosemount & Mile End Community Council** – Wish to support the objections submitted by local residents, particularly in relation to the height of the proposal relative to neighbouring properties and the effect that this will have on the amenity of those properties. This is considered to be a major impact and causing residents considerable concern.

## REPRESENTATIONS

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A total of 31 individuals or interest parties have submitted written representations, all of which object to the proposals. Following the first neighbour notification process 22 representations from individuals or interest parties were received (24 letters in total) and a further 9 individuals submitted representations (15 letters in total - 6 letters were from people who also objected to the original proposal) when neighbours were re-notified and the application was re-advertised to the wider public, upon the submission of amended plans which reflect the proposal being considered in this report.

Castle Hill Housing Association, who own and manage the properties at 1 – 27 Richmondhill Court for elderly residents, which utilises the same access as the site off King's Gate, is included in the number of those who have submitted representations.



The reasons for objection can be summarised as follows from the first period of advertisement and neighbour notification –

- Overdevelopment of site;
- Height of the building is excessive at c. 15m high and is out-of-keeping with the surrounding area;
- Finishing materials not in-keeping with site's context and would look out of place;
- Height and proximity of the building to neighbouring properties would create an overbearing impact and result in loss of daylight and increase in overshadowing to neighbours;
- Proximity of windows and balconies to neighbouring properties would have an adverse overlooking impact;
- Lack of on-site parking would result in indiscriminate parking and congestion in neighbouring streets;
- Mile End primary school is already overcapacity and this development would potentially worsen that situation;
- Given the likely impact on trees and wildlife, an Environmental Impact Assessment should have been sought;
- Would result in loss of trees covered by Tree Preservation Order;
- Negative impact of character and amenity of conservation area;
- Proposed design is contrary to ALDP design policy;
- Existing entrance to Richmondhill Court off King's Gate is dangerous enough without intensifying use of it;
- Loss of existing building would have an adverse impact on local community as facility promotes diversity in the area;
- Construction phase would result in restricted access for rescue services vehicles to Richmondhill Court;
- There is no precedent for building development of this size and design in the area;
- Increased traffic on King's Gate which is already a busy road;

Additional/further reasons for objecting to the proposals following re-advertisement and neighbour notification –

- The amended proposal disregards the guidance and parameters set by ACC Planning Service in their letter dated 10 May 2019 to the applicant to make the proposals acceptable;
- Affordable housing should be built on-site, instead of off-site, as new affordable housing should be used to house key health workers given the site's close proximity to Aberdeen Foresterhill complex;
- The development increases pressure on doctors, dentists and schools. This development would overload the west end of Aberdeen with more residents without the sufficient infrastructure to support the population;
- The skyline of the area is going to be altered considerably as the proposed building will be taller than the highest point of the existing building and considerably higher than most of it;
- The proposal would threaten the quiet and restful ambience of Richmondhill Court sheltered-housing complex;
- Proposed parking ratio of one space per flat would be insufficient, especially without provision of at least 10 spaces for second cars/visitors;
- There is insufficient provision for pedestrian access. The proposed new pedestrian gate through the wall leads to no footpath and elderly residents residing in the housing association units on Richmondhill Court would be forced to walk up road with car parking proposed on either side

## **MATERIAL CONSIDERATIONS**

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### **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.

With regards to Conservation Areas; Section 64 (1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (PLBCAA) requires that in the decision-making process special attention shall be paid to the desirability of preserving or enhancing the character or appearance of such areas. This includes views into, within, and out of Conservation Areas.

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

- National Planning Framework 3 (NPF3)
- Scottish Planning Policy (SPP)
- PAN 60: Natural Heritage
- PAN 67: Housing Quality
- PAN 68: Design Statements
- PAN 78: Inclusive Design
- Historic Environment Scotland (HES) – *Managing Change in the Historic Environment: Setting*
- Historic Environment Policy for Scotland (HEPS)
- Designing Streets
- On-line flooding advice

### **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 CF1: Existing Community Sites and Facilities
- Policy CI1: Digital Infrastructure
- Policy D1: Quality Placemaking By Design
- Policy D2: Landscape
- Policy D4: Historic Environment
- Policy H1: Residential Areas
- Policy H5: Affordable Housing
- Policy I1: Infrastructure Delivery and Planning Obligations

- Policy NE4: Open Space Provision in New Development
- Policy NE5: Trees and Woodland
- Policy NE6: Flooding, Drainage and Water Quality
- Policy NE9: Access and Informal Recreation
- Policy R6: Waste Management Requirements for New Development
- Policy R7: Low and Zero Carbon Buildings and Water Efficiency
- Policy T2: Managing the Transport Impact of Development
- Policy T3: Sustainable and Active Travel

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

- Affordable Housing (Supplementary Guidance)
- Flooding, Drainage and Water Quality (Supplementary Guidance)
- Green Space Network and Open Space (Supplementary Guidance)
- Low and Zero Carbon Buildings, and Water Efficiency (Supplementary Guidance)
- Planning Obligations (Supplementary Guidance)
- Resources for New Development (Supplementary Guidance)
- Transport and Accessibility (Supplementary Guidance)
- Trees and Woodlands (Supplementary Guidance)

### **Other Material Considerations**

- Albyn Place and Rubislaw Conservation Area Character Appraisal and Management Plan

## **EVALUATION**

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### **Background and submission of amended proposals**

In response to the issue raised in objections that the amended proposal disregards the guidance and parameters set by ACC Planning Service in their letter dated 10 May 2019, it is considered appropriate and helpful to explain briefly the background that led to the submission of the amended proposals.

In arriving at the proposals being considered in this report, the Planning Service engaged extensively with the applicants in both writing and through a series of meetings since the commencement of pre-application discussions in July 2018, all with the purpose of seeking resolution to a significant number of issues and concerns arising from the proposed development. At the pre-application stage, for a proposal of 49 flats in a 5-storey building, a detailed explanation was provided on why the proposals would not be supported due to unmitigable tensions and conflicts with local development plan policy.

The first iteration of the proposal under this application replicated that proposed at pre-application stage. The Planning Service again relayed strong doubts over the acceptability of the scheme in the last quarter of 2018, and subsequently through further written correspondence culminating in the letter dated 10 May 2019 (which also included detailed guidance on how to make the proposal acceptable) and a number of meetings over many months, all for the purpose of seeking to resolve significant issues highlighted at pre-application stage, through a thorough review of the planning application and from consideration of the written objections from the public. However, the necessary amendments were not forthcoming. The amendments that were submitted on 20 September 2019 and which were re-advertised and re-notified to neighbours, are not in accordance with the guidance and advice provided by Planning Officers in May 2019, nor do they otherwise address the issues and concerns raised. The following assessment outlines why the amended proposal falls well short of what is considered necessary to make the proposal acceptable i.e. the proposal being contrary to numerous policies in the Aberdeen Local Development Plan 2017, which is not outweighed by any other material considerations.

## Principle of the Proposed Development

Policy H1 in the ALDP states it supports new residential development in designated residential areas, providing it meets the following: it does not constitute overdevelopment, does not have an unacceptable impact on the character and amenity of the surrounding area, does not result in the loss of valuable and valued areas of open space, and complies with relevant supplementary guidance. The following paragraphs shall seek to analyse the merits of the proposal in line with these requirements to then conclude where the proposal complies with the policy or not.

In addition to the above, Policy CF1 in the ALDP is equally applicable given the existing building on the site constitutes an 'existing community facility' having most recently provided a form of healthcare. The policy states that where such buildings become surplus to current or anticipated future requirements, alternative uses which are compatible with adjoining uses will be permitted in principle. One of the joint applicants – VSA – who are a well-established care provider in the city, have confirmed in their supporting literature that the existing building is surplus to their anticipated current and future needs. Public concern has been expressed about the loss of the facility given it diversifies the tenure of housing on offer in the area, but the policy makes allowances for this providing the alternative use is compatible with neighbouring residential uses, which it would be if found to be wholly acceptable.

### Matter of "Overdevelopment"

The site is heavily constrained by protected trees along the southern and eastern boundaries and by embankments on the western and northern boundaries, although the northern boundary also includes some fencing and trees to create a physical boundary with Richmondhill House. The existing building is large and the proposed replacement building would further develop the site area by increasing the built footprint by 12% as per the applicant's submitted "Planning, Design and Access Statement". Furthermore, whilst the existing site arrangement has limited areas of green amenity space (along the eastern and southern boundaries), the proposed external car parking arrangement would encroach into these areas and thus reduce what little amenity space there is. This is necessitated by the need to provide 1 car parking space per flat – a ratio which falls under the 1.5 spaces per 1 and 2 bedroom unit technical standards set out in the Transport & Accessibility SG applicable in this part of the city – and makes no provision for with no visitor parking. Some of the car parking spaces proposed would be delivered within the footprint of the building due to the limited scope to deliver these externally and even the proposed external car parking arrangement would necessitate the removal of three healthy mature trees which contribute to the character of the site and local area. The resultant proposed layout is therefore considered to be comprised of minimal car parking, less of what little amenity space once existed, less protected trees which contribute heavily to the character of the site and built footprint which is overly dominate/disproportionate to the size to the site area.

On consideration of the height, form and massing of the proposed building relative to the existing building and prevailing heights of buildings in the surrounding area, the proposed building would be significantly and substantially over-scaled and tall, would be unduly prominent on the King's Gate streetscene and imposing on neighbouring buildings, particularly those on Richmondhill Court. Review of the floor layouts highlight that a large proportion of the 41 flats proposed would be merely served by single aspect outlooks when it would be more desirable and in-keeping with building in the surrounding area for each unit to have at least a dual aspect, to optimise the level of residential amenity afforded to prospective residents.

Taking into account the main points in the above analysis, it is considered the proposal represents substantial 'overdevelopment' of the site, which accords with concerns expressed by objectors. The overdevelopment centres upon attempting to erect a building on the site which is out-of-keeping in respect of scale, form and massing whilst trying to fulfil the servicing requirements of the high density

of units within the envelope of that building but with limited scope in which to deliver these requirements within such a constrained area. The applicant was advised at pre-application stage that the numbers proposed was likely to be too high and the Planning Service engaged with the applicant during the application process to provide advice on how the issues could be remedied. The applicant's letter (produced on their behalf by Halliday Fraser Munro), attempts to address these concerns but their arguments were not considered to be suitable justification to overcome the Planning Service's concerns.

For the avoidance of doubt, it is acknowledged that the level of development is an attempt by the applicant to maximise the value of their existing asset to reinvest in another unrelated scheme, but such a consideration can have no material bearing on the merits of the scheme and cannot be taken into account in the assessment and determination of the application, nor used as justification for supporting the proposal. Furthermore, and closely related, on page 4 of the applicants agent's letter dated 21<sup>st</sup> June 2019 it is suggested that the height and scale of the development is reflective of development viability considerations arising from the costs incurred by demolishing the existing building and any associated land remediation works that may be required. However, the applicant has not submitted a 'development viability' assessment or any documented evidence to demonstrate what these costs are and how it does accurately affect the viability of redeveloping the site. As such, the issue of 'viability' cannot be considered as a material consideration in this case.

#### Impact on character of the surrounding area (including Albyn Place/Rubislaw Conservation Area

##### *Proposed 4 storey flatted block*

The prevailing character of the surrounding area, as set out in the "site description", comprises large granite buildings of between two and three storeys height dating from the Victorian and Edwardian periods encompassing a range of similar features, set amongst mature trees. Site accesses and associated boundary treatments are also of modest scale to reflect that fact that most buildings were built pre the motorised vehicle. Such character sets the context for what type and quality of design is expected for any replacement building on the application site. Both policies H1 and D1 in the ALDP require new developments city-wide to be of a high quality and complementary to their surrounds as result of contextual appraisal. The site and surrounding area to the south, east and west also fall within the Albyn Place/Rubislaw Conservation Area upon reflection of the site and surrounding area's historic significance. Such a designation adds greater sensitivity to the site's context and raises the expectation and necessity for new development to be of a high quality and complementary scale and style. Subsequently, adherence to Policy D4 (Historic Environment) is an essential requirement if the proposal is to be viewed favourably.

The applicants have submitted "Planning, Design and Access Statement (PDAS)" with the application to attempt to justify and illustrate their design-approach at the outset and the applicants' consultants HFM has also submitted a further written statement on 21/06/19 to further justify the applicants' design approach. The PDAS states that the proposal would be "a high quality, contemporary flatted residential development on the northern edge of the Rubislaw Conservation Area". However and importantly, Section 64 (1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a statutory duty on the decision-maker to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas, irrespective of where a site is located within the designated area.

Upon review of the proposed replacement 4 storey building it is considered the structure has a distinctly modern, uniform arrangement set upon a U-shape footprint with inner courtyard with modern finishing materials. Such an architectural approach is standardised rather than creating a bespoke design suitable for and complementary to the site's historic context and parameters, which is evident from the fact the design relies heavily on the size of window openings to give the building any visual interest to each elevation. The proposed finishing materials are considered to be of an

inferior quality to the Aberdeen granite which characterises the full exterior of the greatest proportion of buildings in the surrounding area. Even the most modern development on the opposite side of King's Gate – as quoted in the applicants' PDAS' - benefits from use of a granite frontage. Synthetic stone and large areas of white render would be 'alien' in appearance to buildings in the immediate surrounding area and wider Albyn Place/Rubislaw Conservation Area. Not even the existing mature trees in full leaf would screen such an overt visual contrast from King's Gate, in particular and inevitably Richmondhill Place also, as indicated by the applicants' submitted photomontages. Through drawing 10573 P(--)-23A the applicants have attempted to draw comparisons with other similar consented design schemes off Midstocket Road and off Springfield Road, but the context and site parameters of these sites are completely different. Importantly, neither of these developments are located within a conservation area and thus are of no relevance to the consideration of this application. Such similar design comparisons also provide evidence that the design proposed is not bespoke for the site, when this is what has been deemed necessary for the site.

### *Site Access alterations*

Whilst it is accepted the proposed alterations to the site access off King's Gate is needed to meet the technical requirements of the Roads Service as a consequence of the level of development proposed, an entrance widening of the proposed scale would have a significant adverse visual impact on the character of King's Gate, its streetscene and the wider Albyn Place/Rubislaw Conservation Area. Such works would entail the removal of protected trees and part of the original listed wall pertaining to Richmondhill House which contribute positively to the character and amenity of the conservation area and the 'setting' of the category C-listed Richmondhill House. It is also noted that no detailed elevation proposals of the access alterations have been provided to demonstrate how such works could be sensitively integrated into the existing listed wall. This information was requested but has not been forthcoming.

Overall, it is considered the proposed scale, form, massing, fenestration pattern and finishing materials of the proposed building would collectively be at complete odds with the prevailing character and appearance of buildings in the surrounding area and wider part of the Albyn Place/Rubislaw Conservation Area. Furthermore, the scale of the proposed alterations to the existing site access – including removal of protected trees – would adversely affect the character of the site, King's Gate streetscene and wider conservation area. As such, the proposal is considered to be at odds with the relevant provisions of Policy D1, D4 and H1 in the ALDP.

### Impact on amenity

Sustainable development encompasses an aspect of social responsibility and inclusion, within which falls the consideration of amenity.

It is accepted that privacy and the protection of general amenity constitutes a material consideration in the decision-making process and is an important design objective in ensuring that residents of properties bounding any development site and those occupying new accommodation feel at ease within and outwith their accommodation. This position is reflected within the requirement to create safe and pleasant places set within ALDP policy D1 (i.e. avoid unacceptable impacts on adjoining uses/invasion of privacy) and policy H1, that in part, seeks to ensure that development will not have an unacceptable impact on the amenity of the surrounding area. At the national level the need to maintain and respect amenity is referenced within SPP.

There is a recognition that within in tight urban environments there will be a degree of overlooking between dwellings and surrounding garden/amenity areas, particularly from above ground floor level. Such views tend to be oblique and where these views are direct, their impact is mitigated by

adequate separation distances created by gardens/amenity areas backing onto each other or by design solutions.

### *Amenity Impact Upon Neighbouring Properties*

The main indicators of whether a proposed development would have an acceptable impact on neighbours amenity are as follows: whether windows serving habitable rooms or private garden ground would be overlooked; whether the height and proximity of a new building would create an undue overbearing impact on neighbouring properties; and whether the height and proximity of a new building would impact on natural daylight permeation into existing properties and/or create additional overshadowing.

Upon review of the position of windows throughout the building, the rooms they serve, and their orientation and proximity to windows within neighbouring properties, it is not considered the proposed floor arrangement and fenestration pattern would pose any privacy concerns. Flats incorporated into the floors above the main entrance to the building from the inner courtyard would look directly into a blank gable of the two storey block of flats to the north of the site and the flats occupying the floor space within the south-west corner of the site shall also look partially into a blank gable pertaining to the two storey block of flats immediately to the west of the site.

Section E-E on drawing no. 10573 P(--)-20 clearly shows the building would tower over the existing nearest two storey block of flats to the north, separated by a mere 9m. Additionally, the proposed site plan indicates the proposed four-storey building would be set 13m away from the two storey block of flats to the west and 15m away from the nearest of the seven single storey cottages lining the east of Richmondhill Court to the immediate north-east of the site. Whilst there is no defined rule, when the height and massing of the proposed building is factored into the equation relative to the existing neighbouring two storey and single storey buildings on Richmondhill Court, the proposed building would be viewed as a far more imposing structure compared to the existing building giving rise to the sensation of the building being “overbearing”. Therefore, the concerns expressed by objectors on this issue are considered valid. Moreover, the incorporation of balconies serving units 14 and 26 in the north-east corner of the flatted block would only worsen the overbearing impact from the single storey cottage, given they create the feeling of people being on top of you. It should also be noted that similar impact is likely to occur from the first and second floor balconies on the west elevation for those neighbouring residents wishing to make use of their communal garden ground.

Mindful that the proposed building is considered to be a far more imposing structure than the existing two-storey building with hipped roof, consideration needs to be given to the impact on daylighting within neighbouring properties. Public concern has been raised through the representation process about the loss of natural daylight to such properties and a likelihood of increased overshadowing. The applicants have submitted a Daylight Analysis for the main four quarter days of the year to demonstrate what extent of overshadowing is likely to arise from the proposed building and remaining trees all year round. Upon consideration of this information, the main impact arising from the development will be the level of extensive overshadowing throughout the middle of the day during the course of the year on the two storey flat building immediately to the north of the site and during the mid-late afternoon on the three most southerly single storey cottages to the north-east. There would also be significant increased overshadowing to the communal garden ground of residential units to the west of the site. As such, it is clear the proposed development would increase the expanse of overshadowing to neighbouring units and garden ground throughout different times of the day and in turn reduce the level of natural light permeating into residential units in particular, which shall ultimately adversely affect these neighbouring residents residential amenity and vindicate their concerns.

Overall, the impact on neighbours' general residential amenity, in the round, is not considered acceptable and ultimately the proposal would worsen their level of existing residential amenity and therefore only serves to vindicate neighbours' concerns.

### *Quality of Amenity to be Afforded to Prospective Occupiers*

Whilst there is no defined rule, the general main considerations in determining if adequate residential amenity could be achieved are as follows: Quality of aspect/outlook and capacity to acquire natural daylight; sense of internal space; privacy; and quality/size/convenience of dedicated external amenity space. All considerations are discussed below.

Twelve of the flats proposed would have a 'single aspect' internal layout and a further eight units would only qualify as being 'dual aspect' by the position of one small window serving lounge/kitchens on an adjoining elevation. Such an arrangement would reduce these units' exposure to natural daylight throughout the course of the day, which is an intrinsic element of 'good' residential amenity. Specifically, the single aspect flats on the inner western side of the proposed entrance courtyard area would benefit from least permeation of natural light given its relationship with the sun's path, the height of mature trees to the south and proximity of opposing units on the opposite side of the courtyard within the same development. These three units would be exposed to unacceptable levels of natural light and given the building's layout and height, there would be no scope to remedy this. In addition, whilst ground floor units 4 and 5 have a dual-aspect arrangement, the windows serving bedrooms on the rear (northern) elevation would receive very little sunlight throughout the day given the sun's path coupled with the windows looking onto a close steeply sloping grass embankment and two storey gable of the neighbouring flatted block set on top of it c. 8m away. As such, this proposed arrangement is not considered acceptable. The location of these flats were originally occupied by internal car parking space under the original proposals until the applicant amended the scheme in September 2019.

In terms of proposed flat sizes, whilst the Council has no adopted space standards, consideration of space standards from other planning authorities in Scotland would suggest that the size of units are very much on the limits of acceptability for two bedroom and one bedroom flats, especially when considering each flat would be afforded an open-plan kitchen and living room arrangement with no utility space to accommodate the laundry facilities. This is a further important in achieving good quality residential amenity.

With regards to privacy, the units proposed on the eastern and western side of the inner courtyard would directly overlook each other and would be separated by less than 18m (approximately 15m), the normal distance regarded as being sufficient to design-out overlooking. Specifically, balcony areas pertaining to units 10, 22 and 34 on the inner western side of the courtyard present a platform for direct overlooking into flats on the eastern side of courtyard's bedrooms. Whilst this could to some extent be addressed by resident's 'common sense' approach by using curtains/blinds, given this would be out of the control of the Planning Authority, the proposed floor arrangement would not present an ideal living arrangement amongst residents if they are to be afforded an appropriate level of private amenity. The landscaping within the courtyard area would have limited screening benefit for those units looking onto each other at ground floor level. Those units on the periphery of each floor are likely to achieve a more enhanced level of private amenity given they would not be any direct overlooking with neighbouring properties, but balconies on floors serving units on the western side across floors one and two (8 units in total) would look directly on the area of communal open space associated within the flats to the west, so privacy could be jeopardised when that area of land outwith the site is used by neighbouring residents.

Another consideration in determining acceptable level of amenity is whether or not the development would be served by an appropriate level of dedicated amenity space. It is clear from the proposed site plan that there would be a distinct lack of usual amenity space within the site proportionate to



the number of residential units proposed. The provision of balconies on floors one and two, given their size, does little to offset this demand. It is accepted that the proposed penthouse balconies would offer an adequate level of amenity space but these are in the minority in this scheme. Whilst the Developer Obligations assessment proposes to mitigate the shortfall in dedicated space at Victoria/Westburn Park, the site is quite geographically disconnected from these parks (1.2km away on pedestrian route) and even if the applicant agrees to pay the required sum, it would not fully address the shortfall in amenity opportunities presented to prospective residents when considered in the round.

### Loss of Public Open Space

The site does not contain any designated public open space on the ALDP 2017 Proposals Map, and therefore the development in its proposed form would not give rise to any loss of public open space.

### Conclusion on compliance with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design)

Upon full consideration of the abovementioned issues, it is not considered the proposal would satisfy the requirement of the site's land-use designation policy – Policy H1 – and therefore the proposal would not be compliant with this policy, rendering the principle of development unacceptable. Additionally, given the proposed design and scale of the building is considered to be incompatible with the character of the surrounding area and would neither afford all prospective residents an adequate level of residential amenity or safeguard existing neighbouring resident's general amenity, the proposal would fail to comply with the relevant expectations of Policy D1 in the ALDP.

### Impact on setting of listed building

As set out in the site description, category B-listed Richmondhill House neighbours the site to the north-northwest. Policy D4 in the ALDP requires new development to be of high-quality design which respects the "setting" of listed buildings. Historic Environment Scotland *Managing Change in the Historic Environment: Setting* document also provides specific guidance on what constitutes the 'setting' to a listed building and the procedures for assessing which provides helps to set the boundaries for consideration of the impact arising from the proposed development.

In reviewing the historical layout of Richmondhill House, a designed landscape once existing between its principal (southern elevation) and King's Gate. This arrangement is deemed to form the principal setting. It is clear that since its original formation, the area covering the building's original setting has largely be developed encompassing the existing building on the application site and buildings immediately to the north (within Richmondhill Court) and the west (between the site and Richmondhill Place). Subsequently, it is fair to deduce that the listed building's original setting has largely been compromised, however some views do remain from King's Gate. Mindful that the existing building is two storeys in height, the proposed building would be approximately double the height and much greater in mass by virtue of its form and therefore would largely mask Richmondhill House from view in its entirety where a partial view at least still exists. To this end, the proposed change in scale of a building on the application site would worsen the impact of built development on the listed building's original 'setting', a view taken by the Council's Senior Conservation Officer. As such, the proposal is considered to conflict with the requirements of Policy D4 in the ALDP and Historic Environment Scotland's "Managing Change in the Historic Environment: Setting" guidance.

### Impact on trees

The trees within the site benefit from a Tree Preservation Order (TPO) dating back to 1962 due to the significant contribution that the trees make to the landscape character and local amenity of the

area, and since then the Alyn Place/Rubislaw Conservation area designation has added an additional level of protection to these trees.

Policy NE5 in the ALDP and its associated Supplementary Guidance (*Trees and Woodlands*) establishes a presumption against all activities and development that will result in the loss of or damage to trees that contribute to local amenity and character. The Policy and SG notes that to assess impacts of proposed development upon trees, specialist surveys and plans area required. These requirements were highlighted to the applicants at pre-application stage and the Planning Service expressed doubts that the proposed level of development could be achieved without adversely affecting the protected tree, however full judgement would be reserved until the Planning Service was in possession of the appropriate surveys.

A Tree Survey and all associated documentation, including an Arboricultural Impact Assessment, have been submitted which have been reviewed by the Council's Tree Officer. In summary, the documentation identifies that 6 trees shall be lost to make way for the proposed development, of which 3 of these trees are of the highest retention categories given they are prominent and therefore make a significant contribution to the landscape character and amenity of the local area. Moreover, upon consideration of the submitted material the Council's Tree Officer is of the view that the likely number of trees to be lost as a consequence of the proposals would be significantly greater than 6, both in the short and long term. This judgement is centred upon the fact that additional hard surfacing to create new external car parking would worsen the already limited new rooting environment within the trees Root Protection Areas (RPAs), having taken cognisance of the proposed finished site levels which would either be equal or lower than present levels giving rise to a high probability that works would compromise the quality of existing route systems which would be of detriment to trees long-term health. Weakened roots would inevitably give rise to the strong possibility that protected trees would need to be removed for health and safety purposes.

Mindful of the above analysis and views taken by the Council's Tree Officer, it is considered the proposal would give rise to an immediate loss of some existing trees and also give rise to a strong likelihood of further tree loss, of which are intrinsic to the site and surrounding areas character and amenity. Subsequently, the proposal is not compliant with the relevant requirements of Policy NE5 in the ALDP and its associated Trees and Woodlands supplementary guidance.

## **Other Issues**

### Developer Obligations and Affordable Housing

Scottish Government Circular 3/2012 (the Circular) sets out the circumstances in which planning obligations can be used to overcome obstacles to enable the grant of planning permission. In this way development can be permitted / enhanced and potentially negative impacts can be reduced.

The Circular critically notes that the Development Plan should be the point at which consideration of the potential need for and use, of planning applications begin. In this regard the provisions of the Circular are embodied within the ALDP, most notably Policy I1 and attendant Supplementary Guidance, together with policies H5 (Affordable Housing) and NE4 (Open Space).

With regard to the provision of open space in new developments, Policy NE4 in the ALDP recognises that where it is not possible to increase the amount of open space a commuted sum towards off-site provision or enhancement of existing open spaces will be sought. The Obligations Assessment seeks a commuted sum in this respect for £5,893 to provide addition play space at either of the nearest public parks, Westburn Park and Victoria Park. The same assessment seeks payments in respect of Community Facilities, Sport & Recreation and Healthcare, as provided for under the Circular.

On the matter of affordable housing; Policy H5 in the ALDP states housing developments of 5 or more units require to contribute no less than 25% of the total number of units as affordable housing. However, under the policy's associated Supplementary Guidance off-site provision and/or a commuted sum in lieu of on-site affordable housing may be deemed appropriate in certain circumstances.

Allowing for the scale of the proposed development the affordable housing obligation can be addressed either by delivering 10 affordable units off-site with the balance (i.e. 0.25 of a dwelling) by a contribution of £9,500; alternatively, an off-site payment against all the affordable housing totalling £389,500,000.

The applicant has indicated they would be willing to enter a legal agreement (under Section 69 of the Local Government Act or under Section 75 of the Town and Country Planning Act) to enable the Council to secure the sought-after range of developer obligations, which would be a competent mechanism in which to ensure compliance with Policy I1 in the ALDP, should Members be minded to grant planning permission. With regards to satisfying the affordable housing requirements of Policy H5, joint applicant VSA, has offered to deliver 10 units off site within a 20-bedroom specialist care home facility, consented (under application 170744/DPP) but not yet developed, at 450 Holburn Street/corner of Abergeldie Road. Whilst the proposal would not constitute mainstream 'affordable housing' there would be scope within the Affordable Housing SG to accommodate this request, most likely via a Section 75 legal agreement. If applicant could not fulfil their intention to deliver the units off-site, then a Section 75 legal agreement would need to ensure the £389,500 commuted sum could be secured instead to ensure compliance with Policy H5 in the ALDP.

#### Access, Parking and Waste

The main servicing requirements for the proposal would be vehicular access to the site, parking and waste storage and these matters are assessed against policies T2, T3 and R6 in the ALDP and their respective supplementary guidance documents, as well as Fire & Rescue Service advice.

As a consequence of the level of development proposed and the fact the applicant sees no scope to create a secondary access to the site to accommodate emergency vehicles, the existing access is required to be significantly widened to deal with the a range of possible scenarios involving emergency vehicles. the Council's Roads Service are content from a technical road safety perspective that the proposed accessed arrangement is acceptable. Additionally, the Roads Service has also considered the findings of the submitted Transport Assessment and are content the proposed level of car parking – although below the standards set out in the Transport & Assessment SG – would be acceptable in this case. As such, the proposal would accord with the relevant requirements of Policy T2 in the ALDP. The proposed inclusion of accessible cycle parking within the proposed building and the fact a bus stop already in front of the site on King's Gate would ensure prospective residents have the opportunity to make use of sustainable means of transport and therefore the proposal would comply with Policy T3 in the ALDP. Subsequently, this should allay objectors' concerns centred upon the road safety arising from the road junction off Richmondhill Court being intensified. The development is designed to minimise dependency on the private vehicle and accommodate the likely parking needs of prospective residents but in the absence of any visitor spaces, it is entirely plausible that the concerns expressed by the objectors about visitors parking on surrounding streets and placing additional pressure on on-street parking availability may be justified.

Whilst the proposed widening of the access – including partial removal of the existing listed boundary wall – would create a solution that is technically acceptable to the Roads Service, as set out previously in this report, the proposed solution is considered unacceptable by the Planning Service because of its adverse impact on the character and appearance of the conservation area and 'setting' of the Richmondhill House.

With respect to waste arrangements, the submitted swept path analysis from the applicants' engineer demonstrates that a refuse vehicle could safely manoeuvre within the proposed car parking area as per the consultation response from the Council's Waste Strategy Team. The proposed ground floor plan demonstrates that the building could accommodate the number of shared bins that would be provided by the Council's Waste Service and would be sited as reasonably far away from windows serving habitable living space within the development. As such, it is considered the proposal would satisfy the relevant requirements of Policy R6 in the ALDP and associated requirements set out in the Resources for New Developments SG.

### Drainage

The applicants have submitted a drainage assessment to determine if the proposed development could be served by an appropriate SuDS (Sustainable Urban Drainage System) to prevent localised flooding and to ensure the safe discharge of foul water from the site. The assessment recommends that foul water and surface water run-off is channelled from parts of the site into the existing combined public sewer, which Scottish Water has suggested there is present capacity within their infrastructure to accommodate. The Council's Flooding and Coastal Protection team have considered the proposals and raised no objection. As such, it is considered the proposal satisfies the relevant requirements of Policy NE6 in the ALDP.

### Digital Connectivity, Energy Efficiency and Water Efficiency

No information has been supplied with the application to demonstrate compliance with policies C11 and R7 in the ALDP to establish the development energy and water efficiency merits as well as its likely level of digital connectivity. However, if Members are minded to grant planning permission, it is considered reasonable and competent to control compliance with these policies through use of appropriately worded planning conditions.

## **Other Matters Raised in Representations Yet to be Addressed**

### Environmental Impact Assessment

The site area is less than 0.5 hectares in area and the site has no environmentally sensitive designations. As such, it was not considered necessary to seek an Environmental Impact Assessment with the application.

### Precedent

Both local and national planning policies are not prescriptive on what design of buildings would be deemed acceptable to secure planning permission. In this regard each application is considered upon its own merits. Therefore, the question of precedent does not arise.

### Implications of development on pupil capacity at Mile End primary school

The Developer Obligations assessment indicates that there are no capacity issues at Mile End Primary School, and that based on school forecasts, there would be scope to accommodate the likely number of new pupils which may arise if the development is consented. The forecasts take into account existing and projected birth rates. The standard formula used by Developer Obligations used on similar developments city-wide would expect a maximum of 6 new pupils to arising from the development if consented.

### Additional impact on doctors and dentists

It is acknowledged, if consented, built and occupied, the development could place greater pressure on existing facilities occupied by doctors and dentists. This potential impact would be mitigated through payment of the Healthcare contribution identified in the Developer Obligations assessment. The money would help NHS Grampian manage this provision within the site's catchment area.

### Insufficient provision for pedestrian access

It is accepted that the proposed new pedestrian linkage through the front boundary wall from the bus stop on King's Gate may be of benefit to prospective residents of the proposed flats, but given the proposal entails car parking on both sides of Richmondhill Court this could present an unsafe arrangement for elderly residents residing in the 27 residential units immediately to the north of the site.

### **Equalities**

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics. In coming to this assessment the Planning Authority has had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

### **Strategic Development Plan implications**

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

### **Concluding comments**

In conclusion, whilst the proposed use of the site for mainstream residential use is considered acceptable the proposed scale and design of the development would be out-of-keeping with the site's context and therefore pose a threat to public visual amenity, as well as potentially harming the residential amenity levels currently enjoyed by neighbouring residents. In this respect, the principle of development is not acceptable under Policy H1 in the ALDP. Whilst the applicants have attempted to justify the level of development being of great importance to generate funds to develop another care home consented under application 170744/DPP, such a consideration has no material bearing on the proposed recommendation. Equally, justifying the proposed numbers through the requirements of Policy H3 (Density) in the ALDP – as set out in their "Planning, Design and Access Statement" is of little materiality, given the policy is only applicable to sites' of 1 hectare or more. The site only measures 0.43 hectares. The starting point is to ensure the proposal complies with relevant policies the Aberdeen Local Development Plan, which it does not in the round.

Beyond the above considerations, the form, massing, scale and appearance of the proposed building would be totally out-of-keeping with the prevailing character of the buildings within the Albyn Place/Rubislaw Conservation Area and would only worsen the impact of development on the 'setting' of Richmondhill House from King's Gate. The proposed alterations to the existing access would contribute to the proposals harmful impact on the setting of the listed building, as well as being at odds with the character of the conservation area. The loss of trees, protected by a Tree

Preservation Order, arising from the proposed works to alter the access and car parking area, would also adversely affect the character and amenity of the conservation area.

Subsequently, overall, whilst the proposal may carry some merits in respect of satisfying technical requirements for access, parking and waste, the proposal would be fundamentally at odds with policies H1, D1, D4 and NE5 in the Aberdeen Local Development Plan 2017 as well as other relevant national policy and guidance. Such conflicts with key policies in the ALDP materially outweigh any technical merits and therefore the application is recommended for refusal.

If committee members are alternatively minded to approve the application, this shall be subject to the completion and successful registration of a legal agreement to secure means of affordable housing and payment of all 'developer obligations'. Additionally, approval should also be subject to a number of conditions which ensure the implementation of: tree protection measures, car parking, cycle parking, bin storage, details on altered access wall, finishing material samples, water saving technologies, energy-saving measures within construction, and any other reasonable requirements necessary to satisfy relevant ALDP policy demands.

## **RECOMMENDATION**

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Refuse

## **REASON FOR RECOMMENDATION**

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On consideration of the proposal and all submitted supporting information, set within the context of relevant local and national policy and guidance, the proposal is considered unacceptable for the following reasons:

- 1) The proposed development, by virtue of its disproportionate layout, loss of and the reduction in number of protected trees, and excessive height and massing, would constitute "overdevelopment" of the site thus rendering it non-compliant with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.
- 2) The proposed design - by virtue of its form, scale, layout and pallet of finishing materials - would not suitably respect the site's historic context taking cognisance of the established pattern of development, prevailing height of buildings and existing architectural styles in the surrounding area - which are intrinsic to the character and amenity of the Albyn Place/Rubislaw Conservation Area. Additionally, the proposed scale of alterations to the existing site access would give rise to a loss of character to the site and would be out-of-keeping with those on King's Gate. As such, the proposals fails to comply with Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017, Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017, as well as the relevant sections of Scottish Planning Policy, Historic Environment Policy for Scotland and Historic Environment Scotland Guidance on "Managing Change in the Historic Environment: Guidance Notes".
- 3) The proposed development, by virtue of its external car parking layout and alterations to the existing access, would result in both in the loss of existing trees and place existing trees under undue pressure to be removed in the future, trees of which are protected by a Tree Preservation Order (TPO) and contribute heavily towards the character and amenity of the site and wider Albyn Place/Rubislaw Conservation Area. As such, the proposal would be at odds with Policy NE5 (Trees and Woodland) and Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017.

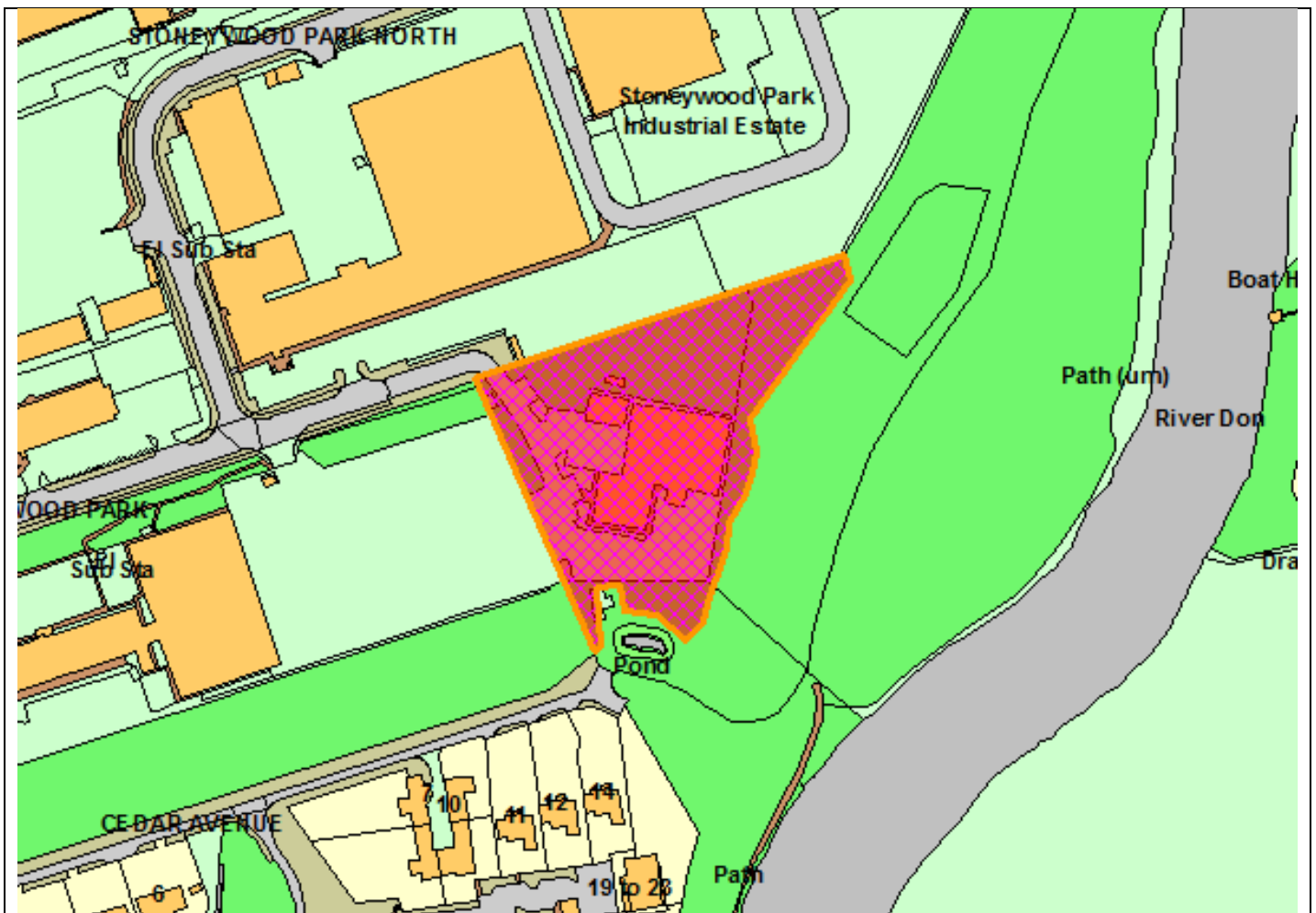
- 4) The proposed flatted block, by virtue of its siting, scale and massing and external appearance, as well as the alterations to the listed boundary wall, would have an undue adverse impact on the 'setting' of category C-listed Richmond Hill House located to the north of the application site. As such, the proposal is considered to be at odds with Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017 and Historic Environment Scotland guidance "Managing Change in the Historic Environment: Setting".
- 5) The proposed flatted block, by virtue of its height and proximity to the northern boundary, would have an undue adverse impact on the level of residential amenity currently afforded to residents living in flats immediately to the north of the site on the western side of Richmondhill Court through creating an overbearing impact and causing overshadowing during times of the day when people expect the optimum level of general residential amenity. Therefore, the proposal would fail to satisfy the relevant requirements of Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.
- 6) The proposed flatted block, by virtue of its height, massing and inclusion of balconies in the north-east corner of the building, would have an undue 'overbearing' and overshadowing impact on the nearest single storey cottages located immediately to the north-east of the site. Therefore, the proposal would fail to satisfy the relevant requirements of Policy D1 (Quality Placemaking by Design) and Policy H1 (Residential Areas) in the Aberdeen Local Development Plan 2017.
- 7) The proposed floor and window arrangement within the flatted block would not allow prospective residents of all units within the development to achieve an acceptable level of general residential amenity insofar that the single aspect units looking onto the inner courtyard across floors ground to third floor would be exposed to significantly restricted daylight and privacy. As such, the proposal is considered to comply with the general amenity expectations implicit to Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.

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 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2 style="margin: 0;">Planning Development Management Committee</h2> <p style="margin: 5px 0 0 0;">Report by Development Management Manager</p> <p style="margin: 5px 0 0 0;"><b>Committee Date:</b> 31 October 2019</p>
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<b>Site Address:</b>	Woollard And Henry, Stoneywood Park, Aberdeen, AB21 7DZ
<b>Application Description:</b>	Change of use from amenity land to industrial including installation of security fence around enlarged site; formation of yard space and car parking (partly retrospective)
<b>Application Ref:</b>	191010/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	25 June 2019
<b>Applicant:</b>	Woollard & Henry Ltd
<b>Ward:</b>	Dyce/Bucksburn/Danestone
<b>Community Council:</b>	Dyce And Stoneywood
<b>Case Officer:</b>	Robert Forbes



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### RECOMMENDATION

Refuse and Enforce

## APPLICATION BACKGROUND

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### Site Description

The site comprises existing industrial premises (approx. 5000 square metres) together with adjacent undeveloped woodland located to the north, east and south. It is accessed via Stoneywood Park within an industrial estate. The woodland forms part of a larger woodland area which was to be retained as public open space in association with the adjacent housing development but has been purchased by the applicant.

Immediately to the east of the site is a recently constructed public path which functions as a recreational route and runs along a wooded riverside embankment. The south of the site is bounded by a SUDS pond developed as part of the adjacent housing development. To the south of this lies a suburban housing development (allocated as OP17 – Stoneywood in the Aberdeen Local Development Plan). Mature woodland / tree belt extending west from the site, parallel to Cedar Avenue and towards Stoneywood Road is protected by a Tree Preservation Order (No.257).

### Relevant Planning History

Application Number	Proposal	Decision Date
190152/DPP	Change of use from amenity land to industrial including installation of security fence; erection of workshop with offices and staff facilities with associated works and car parking (partly retrospective)	19.03.2019 Status: Withdrawn
171180/DPP	Extension of yard at Unit 1 Stoneywood Park	Refused January 2018
110790	Residential Development (425 houses) with supporting facilities / open space (Stoneywood Estate)	02.05.2102 Approved with conditions / legal agreement

## APPLICATION DESCRIPTION

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### Description of Proposal

Change of use of the amenity open space / woodland to form open yard space / ancillary land associated with the existing industrial use. The additional area of land is about 4500 square metres of which approximately 250 square metres would be yardspace at the south edge of the site. The agent has advised that the additional yard space is urgently required by their clients due to the amount of business this company generates for Aberdeen and the North-East and the requirement to store materials for their business to keep pace with this demand.

The proposal has been amended by deletion of a proposed workshop/office building and yard space located at the north of the site. In mitigation of the proposed tree removal a hedge is proposed to be planted along the eastern site boundary, immediately adjacent to the existing public path. A total of 43 parking spaces would be provided on site (compared to 35 currently). 6 of these spaces would be located on an area of existing trees located at the west edge of the site.

A 2.3m high chainlink metal security fence has been constructed immediately west of the existing public path. The mesh section of the fence is 1.9m high and is surmounted with 3 horizontal barbed wire strands. Retrospective permission is sought for this element of the 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=PTNR52BZH6S00>.

Tree Survey; Bat Survey

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because in excess of 6 objections have been received and thus falls outwith the Council's Scheme of Delegation.

## CONSULTATIONS

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**ACC - Roads Development Management Team** – No public / road safety concerns identified. Note that 8 additional car parking spaces are proposed.

**ACC - Environmental Health** – The proposal is nearby to residential property on Cedar Avenue which lie approximately 20 metres to the south of the site. Advise that insufficient information exists to provide a definitive response on the matter of noise impact and specifically, whether the undertakings at the proposed development have potential for an adverse noise impact on the amenity of the occupants of existing neighbouring residences. Request that a condition be imposed to address potential contamination.

**Aberdeen International Airport** – The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding unless any planning permission granted is subject to a condition regarding bird management.

**Dyce And Stoneywood Community Council** – Object due to conflict with policy NE5 regarding protection of trees / woodland. Consider that the mature woodland is a key landscape feature of the banks of the River Don. Note that the site is zoned as green space network and lies within OP17 opportunity site for residential development. Note that the security fence has been installed and request its removal.

## REPRESENTATIONS

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One letter of support has been received from a resident of Inverurie, pointing out that significant tree removal has already taken place on land to the south of the site, to enable the adjacent housing development and referring to economic benefits of the proposal (e.g. job creation).

53 objections have been received, primarily from residents of the adjacent housing areas. Their concerns relate to -

- Loss of mature woodland / trees (96 trees);
- Loss of urban green space / green space network;
- Conflict with policies NE1 / NE3 / NE5;
- Adverse impact on wildlife;
- Adverse impact on the setting / enjoyment of the recreational public footpath to the east;
- Increased noise / visual intrusion / light pollution / loss of tree screening and associated adverse impact on residential amenity;
- Availability of surplus brownfield industrial premises / yard space in the local area;

- Alleged unauthorised tree removal / works and erection of a security fence;
- Visual / safety impact of fence on users of the path due to effective reduction in its usable width;
- Increased physical pollution risk associated with the proposed use, including risk to the river Don;
- Positive mental health benefit of existing woodland;
- Adverse climate change impact associated with woodland removal;
- History of previous refusal nearby (at opposite end of Cedar Avenue);
- Adverse impact on house prices (not a planning matter);
- Inability to mitigate loss of mature woodland / trees;
- Creation of an undesirable precedent for similar proposals for expansion of industrial sites.

Many objectors also request that enforcement action be taken to secure removal of the unauthorised security fence which currently runs along the eastern edge of the path and now separates it from the woodland to the west.

## **MATERIAL CONSIDERATIONS**

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### **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 2014 (SPP)

- Para 194 (A Natural, Resilient Place – Policy Principles)
- Para 216 - 218 (A Natural, Resilient Place – Woodland)

The Scottish Government's Policy on Control of Woodland Removal 2009 – This expresses a strong presumption in favour of protecting Scotland's woodland resources and provides policy direction for decisions on appropriate woodland removal in Scotland.

PAN60 (Natural Heritage) - 2000

PAN 65 (Planning and Open Space) 2008

Draft Guidance on Net Economic Benefit and Planning - 2016

### **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.

The SDP is now 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 SPP.

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 (ALDP)**

D2: Landscape  
H1: Residential Areas  
NE1: Green Space Network  
NE3: Urban Green Space  
NE5: Trees and Woodland  
NE6: Flooding, Drainage & Water Quality  
NE8: Natural Heritage  
NE9: Access and Informal Recreation  
T3: Sustainable and Active Travel  
T5: Noise  
OP17: Stoneywood

### **Supplementary Guidance (SG) and Technical Advice Notes**

Stoneywood Development Framework and Masterplan 2011  
Noise  
Landscape  
Natural Heritage  
Trees and Woodlands  
Green Space Network and Open Space

### **Other Material Considerations**

Open Space Audit 2010  
River Don Corridor Framework 2012

Scotland's Forestry Strategy 2019 – 2029 (SFS), published by the Scottish Government (Scottish Forestry) in 2019. This has an objective to increase the contribution of woodland to a healthy and high quality environment. It also recognises the important contribution that individual trees outside of forests and woodlands make to enhancing Scotland's rural and urban landscapes, their role in addressing air pollution, and their biodiversity and cultural value.

## **EVALUATION**

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### **Principle of Development**

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. Although the development has been amended to delete a proposed workshop work, it would result in the conversion of amenity woodland to industrial land. This raises significant policy conflicts, as identified below, as the undeveloped parts of the site do not lie within an area identified for industrial development and there is potential for conflict with residential amenity. The development is considered to be contrary to various local plan policies and related strategies and to supplementary guidance as set out below.

### **Residential Amenity**

The yard is currently 77m away from the closest house to the south (14 Cedar Avenue), with its garden edge being 46m from the yard. The development would result in these distances being reduced by 12m.

Notwithstanding that no noise impact assessment has been submitted, as required to assess the impact of the proposal relative to local development plan policy T5 (Noise) and related guidance, the expansion of the industrial use at the site onto adjacent land, which is not allocated for industrial purposes would detract from the residential amenity of the area (by reason of loss of amenity space and intervening woodland, the increased proximity of industrial operations to housing and potential noise disturbance, visual intrusion and light pollution that would result) such that the proposed development is contrary to the objective of policy H1. It would result in the loss of valuable and valued areas of open space which form part of a consented housing development (reference 110790) and would have an unacceptable impact on the character and amenity of the surrounding area. The loss of valued open space and unacceptable impact on the amenity of the surrounding area result in conflict with specific criteria within policy H1.

### **Loss of Trees / Woodland**

Policy NE5 Trees and Woodlands expresses a presumption against all activities and development that will result in a loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. A tree survey of the affected area has been submitted by the applicant and reviewed by the Council's Environmental Policy Team.

In terms of climate change mitigation objectives, the removal of trees / woodland and its conversion to industrial use / yard space would result in an adverse impact due to the consequent erosion of tree woodland / cover within the City and the inability to effectively mitigate the loss of the mature woodland within the site by replacement planting / creation of new woodland.

Notwithstanding that none of the trees within the site have statutory protection by virtue of a Tree Preservation Order or location within a conservation area, there remains a statutory duty to have regard to protection of trees in considering planning applications. The Council's Tree Officer has advised that the submitted tree report is inadequate as it does not comply with the relevant British Standard. Notwithstanding that technical point, extensive tree removal forms part of this proposal which would result in an unacceptable loss of tree cover and subsequently a negative impact on both landscape quality and biodiversity. Approximately 96 established trees would be removed, including mature deciduous (primarily beech) specimens of amenity value. The proposal does not therefore accord with policy NE5 and related guidance. The Council's Tree Officer has advised that the loss of this area of woodland would also expose other trees which would otherwise be protected from the wind. This risks tree loss beyond that identified in the applicant's tree report.

Although the submitted plans imply that some trees would be retained with the site, the long term practicality of ensuring retention of mature trees within the context of an industrial yard / use is highly questionable, given permitted development rights in relation to formation of hard surfaces within industrial sites and unlikely to be a sustainable proposition, even if conditions were imposed in attempt to secure such tree retention / minimise disturbance during construction (e.g. due to formation of yard space/hardstanding and conflict with operational requirements). It is highly likely that if change of use were granted, all such trees within the site would be at risk of subsequent removal due to their conflict with operations within the proposed yard space.

Use of conditions would not offset or mitigate the adverse environmental impact of the development given the direct and significant loss of mature woodland and the sensitivity of the location of the site adjacent to the River Don and a popular public recreational path.

The Scottish Government's Policy on Control of Woodland Removal applies and requires that woodland removal should be allowed only where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Approval for woodland removal should be conditional on the undertaking of actions to ensure full delivery of the defined additional public benefits. In this context, whilst it has

been indicated that this development would aid continued expansion of the business, it is not considered that such potential limited economic benefit would represent an overriding wider public benefit, so as to outweigh the negative public impacts set out above and as such does not comply with the Scottish Government's policy. Indeed, such expansion could be facilitated by relocating to a more suitably sized premises or constructing new premises on allocated business and industrial land, for which there is a plentiful supply within the Aberdeen City region.

As the mature deciduous woodland / trees on the site contribute to a high quality environment, their removal would conflict with a key objective of the SFS.

### **Loss of Greenspace / Open Space**

PAN 65 states that -

*“The planning system plays an important role in protecting valuable and valued open space... The credibility of the planning system can be significantly undermined when policies on the protection and provision of open space are set aside in development management decisions without sound and clear justification.”*

The woodland within the site forms part of open space as designated within the Stoneywood masterplan and OP17 housing development. It is clearly valued by residents of this development, as evidenced by the scale of objection. The greenspace within the site is part of the Green Space Network Core with links to Local Nature Conservation Site (LNCS) River Don Corridor, Stoneyhill, Grandhome / Persley, Kirkhill North.

Notwithstanding that the site has been purchased by the applicant, the conversion of the woodland within the site to industrial yard space and the position of the existing fence results in unacceptable loss of and severance of public access to the woodland area within the site, in conflict with the objectives of policies NE1, NE3 and NE9, and PAN 65. It is noted that no replacement public open space is proposed.

Through the Community Council's response and representations from individual residents, it has been made clear that the local community in the area place particular value on the green space which exists in and around Stoneywood Estate, both in terms of what it contributes towards the parkland character of the area and the wildlife habitat it provides. Several representations highlight the range of wildlife which can be found in the woodland, including red squirrels (a protected species), deer, foxes and birds. By encouraging connectivity between habitats, the Green Space Network helps to improve the viability of species and the health of isolated habitats and ecosystems.

The proposed development is clearly in contravention Policy NE3 and related guidance as it would result in the loss of an area of woodland, considered to be urban green space. No equivalent green space is proposed and even if it was, the relevant additional criteria could not be met, such as the proposal having no significant loss to the landscape character and amenity of the site and surrounding area.

The removal of the woodland would evidently destroy this part of the green space network and erode the network in the wider sense. It may also encourage other businesses within Stoneywood Industrial Estate to seek the removal of other parts of the woodland belt. The use of conditions would not offset or mitigate the adverse environmental impact of the development given the direct and significant loss of mature woodland and the sensitivity of the location of the site adjacent to the River Don and a popular public recreational path.

### **Landscape Impact**

Although no landscape and visual impact assessment has been submitted in support of the proposals, indicative landscape proposals are included on site. Notwithstanding a lack of some details, it is considered that the general impact of the proposal can be sufficiently assessed relative to the objectives of local development plan policies D1 and D2 and related guidance.

The conversion of the woodland to industrial yard space / use and the loss of mature trees proposed is considered to result in a direct adverse landscape impact, particularly given the sensitive riverside location of the woodland and that this landscape change would be highly visible to users of the public path adjacent to the site and residents of some houses located to the south. Many of the objectors recognise that the path and woodland is a valuable recreational asset located with a natural environment of high quality. Its location running along the bank of the river Don adds increased weight to this landscape sensitivity, as recognised by various Council approved documents, including the Stoneywood Development Framework and Masterplan of 2011 and the River Don Corridor Framework of 2012.

In addition to this impact, the fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the public path. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that sensitive receptor. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. The fence is therefore considered to conflict with local development plan policies D1 and D2. It is considered that a relocated fence / boundary treatment on the edge of the existing authorised industrial site would provide adequate security for that operator.

Use of conditions would not offset or mitigate the adverse environmental impact of the development given the direct and significant loss of mature woodland and the sensitivity of the location of the site adjacent to the River Don and a popular public recreational path.

### **Ecological Impact**

PAN 60 states that -

*“The planning system has a vital role to play in safeguarding the natural heritage and building environmental capital... Networks of green open space in and around our urban areas make it possible for people to maintain daily contact with nature and offer opportunities for local communities to play an active part in caring for the environment.”*

Although the site is not protected by statutory natural heritage designations, it includes mature woodland located adjacent to the river Don and which fulfils an important role as a wildlife corridor, such that there is a relatively high degree of ecological sensitivity. The submitted bat survey has been reviewed by Council officers and is considered to demonstrate that there would be no direct / adverse impact on bat roosts. However, no other ecological surveys have been submitted and it is known that protected species such as red squirrels are present in the wider Stoneywood area.

Removal of mature trees on this scale and conversion of the woodland to industrial use would inevitably reduce the ecological value of the site by reason of the loss of existing habitat / foraging potential. Such erosion of an established woodland is therefore considered to conflict with the objectives of policy NE8, related guidance and PAN60.

### **Surface Water Drainage**

The development would be likely to result in increased surface water runoff due to hard infrastructure required by the development. It may also result in increased pollution risk to the river Don. Replacing woodland with hard concrete / impervious yard space would contribute towards



surface water runoff causing localised risk of flooding and carrying pollutants to the nearby water bodies.

No Drainage Impact Assessment has been submitted to allow assessment by ACC Flooding Team and analysis relative to policy NE6. Given that no SUDS measures are proposed within the site, the proximity of the site to the river Don, the proposed industrial use and the undeveloped nature of the existing woodland, there is a risk that approval would result in increased risk of pollution and/or increased flood risk to adjacent land. Incorporation of SUDS within the site or on adjacent land would be likely to result in increased loss of adjacent woodland / trees as is evident in relation to the adjacent housing development.

### **Socio- Economic Considerations**

No material evidence has been provided that the development would result in a net economic benefit that would justify approval contrary to the various policies which it infringes. Although the applicant claims that the development is urgently required to enable growth of the business at the site, it is noted that the previous application for the same proposal was withdrawn in March 2019. In light of the downturn in oil and gas activity in the Aberdeen area and the availability of surplus and undeveloped industrial land it is considered likely that the proposed development could be accommodated on business / industrial zoned land elsewhere within the Aberdeen area.

No evidence has been provided that the proposal would result in significant social benefits that outweigh the adverse environmental impacts or that the proposal would contribute to the objective of sustainable economic development.

### **Road / Public Safety**

Although many of the objectors identify a concern that the fence creates a safety hazard due to its proximity to the path and effective narrowing of the usable width of this recreational pedestrian / cycle through route, the Council Roads officers have not identified this as a concern. However, the planting of a screen hedge immediately adjacent to the path as proposed may conflict with user perceptions of public safety, reduce the open nature of its setting and may therefore reduce the attractiveness of the path to users in conflict with the objective of policy T3. Any intensification in the vehicular use of the existing site access due to the limited additional car parking proposed on site is not considered to result in traffic generation concerns / adverse impact on the public road network.

### **Precedent**

In light of the previous planning application for extension of yard space at Unit 1 Stoneywood Park, there is recent evidence of pressure for similar proposals nearby. Approval of the application would result in the creation of an undesirable precedent for similar proposals for expansion of nearby industrial sites resulting in further loss of trees and woodland and encroachment towards a residential area.

### **Enforcement Action**

The fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the public path. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that sensitive receptor. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. The fence is therefore considered to conflict with local development plan policies D1 and D2. Notwithstanding that the site has been purchased by the applicant, the position of the fence results in unacceptable severance of public access to the woodland area within the site in conflict with the objectives of policy NE1, NE3 and NE9. It is considered that a relocated fence / boundary treatment on the edge of the existing authorised industrial site would provide adequate security for that operator. It

is therefore considered that enforcement action should be sought in order to remove the existing fence and enable public access to the woodland.

### **Other Considerations**

Impact on property values is not a material planning consideration.

### **Conclusion**

The extensive loss of trees / woodland proposed and conversion of the green space within the site to industrial use is considered to be unacceptable and would not be outweighed by any significant economic / social benefit. Enforcement action is required to remove the unauthorised fence.

In the event that the Committee do not agree with the recommendation, members may wish to consider the need for further environmental impact information (e.g. revised tree survey, landscape and visual impact assessment, further ecological surveys, drainage impact assessment and noise impact assessment) to be submitted prior to determination, as requested by relevant consultees (e.g. the Council's Environment Policy Team and Environmental Health Service).

### **RECOMMENDATION**

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1. Refuse planning permission;
2. Instruct enforcement action to secure removal of the unauthorised security fence.

### **REASON FOR RECOMMENDATION**

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#### **1. Reasons for refusal -**

##### Loss of Mature Trees / woodland

The loss of mature woodland / established trees directly conflicts with the objectives of policy NE5 (Tree and Woodland) of the Aberdeen Local Development Plan 2017 and wider climate change mitigation objectives and the objectives of sustainable development. It is considered that the extent of loss of mature trees cannot be adequately mitigated by replacement planting on site. Use of conditions / compensatory planting would not adequately offset / mitigate the adverse environmental impact of the development given the direct and significant loss of mature woodland and the sensitivity of the location of the site adjacent to the River Don and a popular public recreational path.

##### Loss of Greenspace / Open Space

Notwithstanding that the site has been purchased by the applicant, the conversion of the woodland within the site, which forms part of a consented housing development, to industrial yard space and the position of the existing fence results in unacceptable loss of / severance of public access to the woodland area within the site in conflict with the objectives of policies NE1 (Green Space Network), NE3 (Urban Green Space) and NE9 (Access and Informal Recreation) of the Aberdeen Local Development Plan 2017 and PAN 65. It is noted that no replacement public open space is proposed. Use of conditions would not offset / mitigate the adverse environmental impact of the development given the direct and significant loss of mature woodland and the sensitivity of the location of the site adjacent to the River Don and a popular public recreational path.

##### Adverse Landscape Impact

The conversion of the woodland to industrial yard space and the loss of mature trees proposed is considered to result in a direct adverse landscape impact, particularly given the sensitive riverside

location of the woodland and that this landscape change would be highly visible to users of the public path adjacent to the site and residents of some houses located to the south.

The fence which has been installed is considered to have a significant adverse impact on an important local natural landscape feature (i.e. mature open woodland) and the setting of the public path. The industrial appearance of the fence is particularly visually incongruous in such a sensitive woodland setting, and results in significant detriment to the amenity and enjoyment of the open space area. Given that it is positioned immediately adjacent to the public path, there is no space for intervening soft landscaping to screen it from that visual receptor.

#### Residential Amenity

Notwithstanding that no noise impact assessment has been submitted, as required to assess the impact of the proposal relative to local development plan policy T5 (Noise) of the Aberdeen Local Development Plan 2017, the expansion of industrial use at the site onto adjacent land which is not allocated for industrial purposes would detract from the residential amenity of the area (by reason of loss of amenity green space and intervening woodland which forms part of a consented housing development, the increased proximity of industrial operations to housing and potential noise disturbance and visual intrusion that would result) The loss of valued open space and unacceptable impact on the amenity of the surrounding area result in such that the proposed development is contrary to policy H1.

#### Precedent

Approval of the application would result in the creation of an undesirable precedent for similar proposals for expansion of nearby industrial sites resulting in further loss of trees / woodland and encroachment towards a residential area.

#### Surface Water Drainage

No Drainage Impact Assessment has been submitted to allow assessment by ACC Flooding Team. Given that no SUDS measures are proposed within the site, the proximity of the site to the river Don, the proposed industrial use and the undeveloped nature of the existing woodland, there is a risk that approval would result in increased risk of pollution and/or increased flood risk to adjacent land. Incorporation of SUDS within the site or on adjacent land would be likely to result in increased loss of adjacent woodland / trees.

## **2. Justification for Enforcement Action**

Enforcement Action is sought to ensure removal of the existing unauthorised security fence and enable public access to the adjacent woodland area within the site / protect the landscape setting of the public riverside / woodland path adjacent to the site in accordance with the objectives of ALDP policies D1: Design; D2: Landscape; H1: Residential Areas; NE1: Green Space Network; NE3: Urban Green Space; NE9: Access and Informal Recreation.

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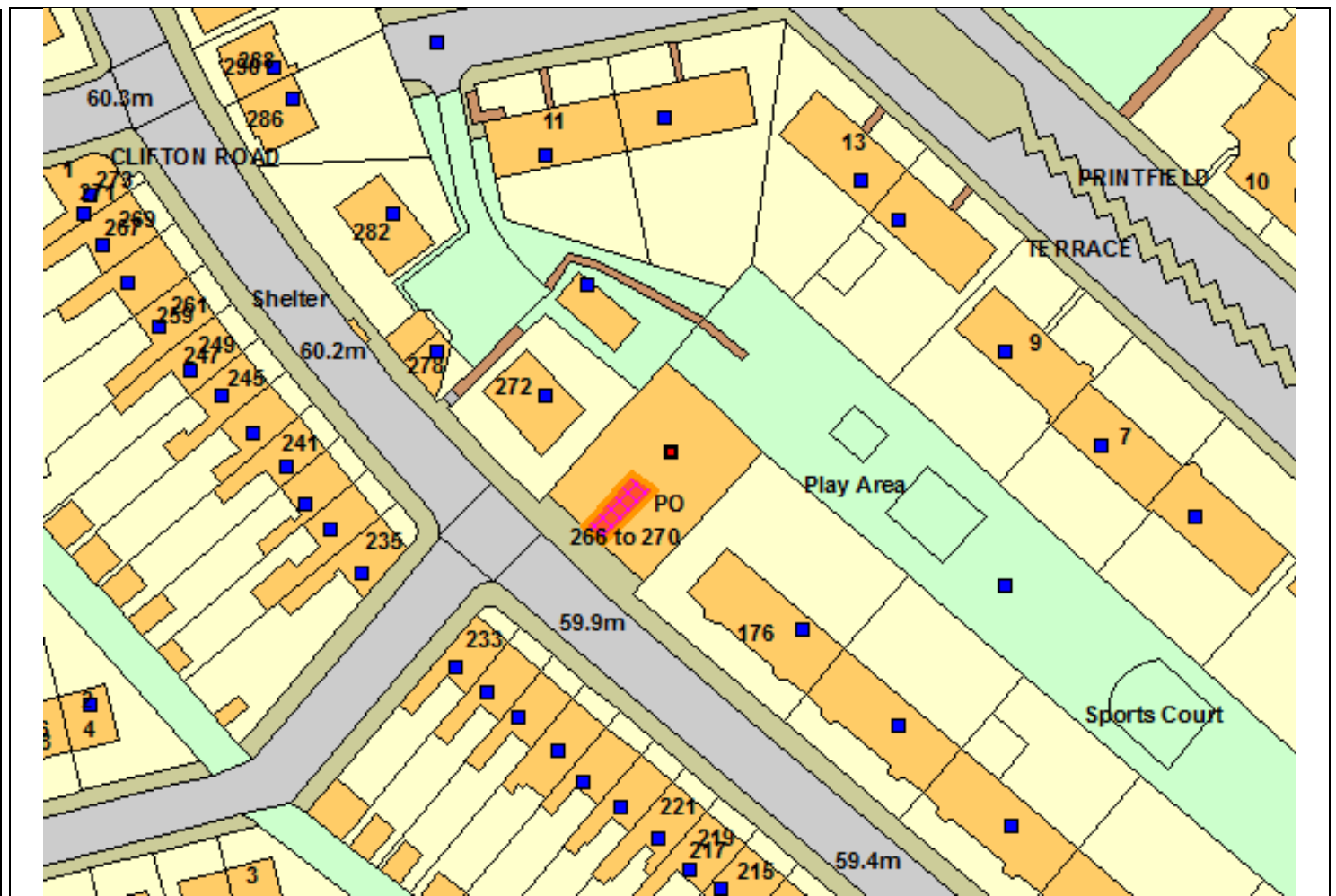


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 31 October 2019

<b>Site Address:</b>	Loose Ends, 268 Clifton Road, Aberdeen, AB24 4HA
<b>Application Description:</b>	Change of use from class 1 (shops) to hot food takeaway (sui generis) and installation of ventilation duct
<b>Application Ref:</b>	191372/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	18 September 2019
<b>Applicant:</b>	Mr Sudheer Jinkala
<b>Ward:</b>	Hilton/Woodside/Stockethill
<b>Community Council:</b>	Woodside And Hilton
<b>Case Officer:</b>	Robert Forbes



## RECOMMENDATION

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Refuse

## APPLICATION BACKGROUND

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### Site Description

The site comprises part of a single storey granite building of 1930s origin. The unit is currently vacant and was previously used as a hairdresser / beauty salon with access from the front (south). The adjacent units within the building are in commercial use, with the unit to the west in class 1 retail use (Spar general store / post office). The unit to the east is used as a class 3 café / take-way (Moon Bakes and Flakes) which closes at 5pm.

The building is flanked by residential properties, primarily 2 storey terraced houses, with 3 storey flats to the rear (north). It has a granite parapet fronted façade and hipped roof clad with natural slate. The central section of the building has a flat roof. There is no servicing access to the rear of the premises or associated car parking area. Clifton Road functions as a bus route and provides on street parking for surrounding residents and customers.

### Relevant Planning History

Application Number	Proposal	Decision Date
190782/DPP	Change of use from class 1 (shops) to hot food takeaway (sui generis) and installation of ventilation duct	27.06.2019 Status: Withdrawn
850709	Conversion for use as hot food take away	23.05.1985 Refused

The above application was refused at committee on the following grounds -

1) that the proposal, if implemented, would be (a) detrimental to the amenity of the neighbourhood in general and of the adjoining dwellinghouses in particular by reason of the increased activity, noise, cooking odours and litter likely to be occasioned by the proposals; and (b) prejudicial to public safety by reason of the increase in traffic and parking which could reasonably be anticipated

in an already heavily trafficked street; and (2) that the volume of local opposition to the proposal is such as to justify a refusal of the application

Planning application 060260 was refused by Committee in June 2006 for a similar proposal nearby at 306 Clifton Road due to adverse impact on residential amenity and parking / road safety risk. A subsequent appeal against this decision was dismissed in February 2007.

Planning application 090534 was refused by Committee in May 2009 for a similar proposal nearby at 278 Clifton Road due to adverse impact on residential amenity and traffic congestion;

An application for change of use of No. 266 to form a mixed class 3 use and take-away was approved conditionally in 2017 (ref. 171498/DPP).

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

Permission is sought for a change of use to form a hot food take away with ancillary cold food sales / storage / staff facilities. The servery / kitchen area would include a fryer, with ventilation via an external flue connected to an extractor and terminating to an external roof flue. The public area would be located at the frontage of the site adjacent to the display window / servery. Bin storage is proposed within the rear part of the building.

The flue would be of galvanised metal construction and would extend above the sloping roof plane of the frontage of the building by around 1m. It would be located in the central section of the building and would be visible from the street.

### **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=PXEJS8BZJ9P00>

Supporting Statement - Ventilation / Noise Information

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because the number of objections received (seven) exceeds the threshold figure specified in the Council's Scheme of Delegation.

## **CONSULTATIONS**

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**ACC - Environmental Health** – Advise that the documentation submitted by the applicant contains inaccuracies with regard to the distances to the nearest sensitive receptors and does not fully demonstrate nor provides sufficient information on the effectiveness of the local extract ventilation (LEV) at addressing the risk of malodour from cooking activities, impacting on the amenity of neighbouring residential properties. Whilst containing some technical information relating to noise emissions, there is no assessment of a suitable frequency analysis of the equipment noise output and its impact and thus this Service is unable to say with any certainty that noise will be suitably controlled.

**ACC - Roads Development Management Team** – Note that the site lies outwith any controlled parking zone. No objection regarding car parking impact, traffic generation or access. Request clarification of proposed bin storage arrangements.

**ACC - Waste Strategy Team** – No objection.

**Woodside And Hilton Community Council** – No response received.

## **REPRESENTATIONS**

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A total of 7 valid objections have been received raising the following matters -

- Adverse impact on residential amenity (e.g. generation of odours / noise / litter / late night opening / loitering of people / youths / anti-social behaviour);
- Traffic generation / road safety danger / adverse impact on residential parking;
- Conflict with local development plan policy H1 and guidance;
- No evidence of lack of demand for retail use / conflict with policy NC7;
- Lack of demand for further hot food uses (available facilities nearby);
- Adverse visual impact of proposed flue / conflict with policy D1;
- Lack of technical supporting information;
- Adverse impact on property value (n.b. this is not a material planning consideration and will not be addressed in the evaluation).

## **MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

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

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

Scottish Planning Policy (SPP) expresses a presumption in favour of development which contributes to sustainable development. Policy regarding retail / town centres encourages their protection. Para 70 states -

*“Decisions on development proposals should have regard to the context provided by the network of centres identified in the development plan and the sequential approach.”*

### **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.

The SDP is now 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 (ALDP)**

H1: Residential Areas



T5: Noise  
 NC7: Local Shop Units

## Supplementary Guidance and Technical Advice Notes

Noise  
 Harmony of Uses

### EVALUATION

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#### Principle of Development

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. The acceptability of the development is dependent on detailed assessment, as addressed below.

#### Impact on Residential Amenity

The site lies within an identified residential area, as designated in the ALDP. In such areas, the need to protect residential amenity is a key consideration in determining acceptable alternative commercial uses for the premises. This can take precedence over other considerations, notwithstanding the benefits of seeking active use of the premises, in terms of sustainability. Policy H1 states -

*“Within existing residential areas, proposals for non-residential uses will be refused, unless-*  
*(1) they are considered complementary to residential use; or*  
*(2) it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity”.*

The Harmony of Uses SG states -

*“The protection of the living conditions of residents in close proximity to any proposed hot food shops....will form a major consideration in assessing applications of this nature”....*  
*“Applications within close proximity to residential units will be refused where it is considered that there may be significant adverse impacts on residential amenity in terms of noise, vibration, odour, traffic disturbance, litter or hours of operation.”*

It is noted that the site lies within a residential zoned area and notwithstanding the recent approval at 266 (in 2017), there is a history of refusal of similar proposals nearby. This is due to the generation of odours, litter and late-night noise. The adjacent unit only operates during the day and does not operate exclusively as a hot food take away, so that there are significant differences with the current proposal. The physical and policy context of the previous refusals at 278 and 306 Clifton Road were very similar to the current proposal and there has been no substantive change in the physical context of the site in the intervening period, such that these decisions are considered to have a degree of materiality, notwithstanding that the most recent decision was over 10 years ago. No satisfactory technical supporting information has been submitted with the proposal demonstrating how these impacts could be satisfactorily addressed or mitigated and therefore it cannot be concluded that the proposal would accord with relevant local development plan policy and the Harmony of Uses SG.

#### Retail Impact

Although the existing retail unit is vacant and not located within a designated retail centre such that policy NC6 does not apply in this instance and there is no direct conflict with SPP, this historic use provides a complementary supporting function to the residential area as a hairdresser / beauty

salon. Policy NC7 (Local Shop Units), which relates to proposals for change of use away from retail premises located outwith any identified centre, does apply. It is apparent from Google Streetview imagery that although the unit was vacant, with a 'To Let' displayed in March 2019, the previous occupier (Halo Hair and Beauty) was in operation in July 2018. The proposed alternative hot food takeaway use conflicts with policy NC7, as it has not been demonstrated by the applicant that there is a lack of demand for the continued retail use of the premises. Further, it has not been demonstrated that the new use would cater for a local need. Additionally, the proposed use would conflict with the residential amenity of the area.

### **Related Technical Matters**

Although some information regarding noise and odour treatment has been submitted in support of the proposal, this is considered to be inadequate to conclude that there would be no adverse impact on amenity. Given that Aberdeen Local Development Plan Policy T5 (Noise) expresses a presumption against noise generating development being located close to existing housing, as reinforced by the Harmony of Uses supplementary guidance, there is a fundamental conflict with this policy. Notwithstanding the potential introduction of ventilation at the premises, for which some technical details have been provided, there remains significant uncertainty that ventilation / odour control measures could be addressed such that there would be no conflict with residential amenity, as required by policy H1.

In addition, the use is likely to be open later in the evening than the existing use and adjacent café and likely to generate activity on the street that could not be controlled by planning condition. It is considered that the amenity concerns raised by the proposal cannot be adequately addressed by condition, particularly given the potential for increased disturbance to surrounding residents (e.g. due to potential anti-social activity and noise generation outwith the premises particularly late in the evening).

Although no specific evidence has been provided that the proposal would create a live or attractive frontage, as expected by policy NC7, the layout plan indicates that the existing window and access would remain. Were the use to be acceptable, details of the window treatment could be conditioned. No details of refuse storage have been provided, as expected by policy R6 (Waste Management) and related guidance. However, the layout plan indicates a refuse storage area within the premises and details of this and access arrangements could be required by condition.

### **Visual Amenity**

The proposed flue is a feature which does not match the design or materials of the existing building or the traditional building materials prevalent in the surrounding area. It would be a relatively incongruous feature in the street scene and set on the principal elevation which faces onto attractive Victorian terraced housing of traditional construction opposite the site. Although it would be set back from the frontage it would be clearly visible from adjacent roads and pavements. Thus, it is considered that the flue as proposed would have a detrimental visual impact and does not accord with the design quality expectation of local development plan policy D1. An alternative flue termination within the flat roofed section of the building, set back further from the frontage, may provide a more visually acceptable solution.

### **Traffic / Road Safety Impact**

Although it is likely that many potential customers would be nearby residents, with a notional similar catchment to the existing retail use, the location of the site and nature of the use has potential to draw increased car borne custom, which would not accord with the objective of sustainable development. Notwithstanding the possibility that the proposed use may increase numbers of drivers stopping at the premises (e.g. in relation to collection / delivery of food), given the absence of objection from ACC Roads officers on parking or safety grounds, it is considered that the traffic generation and any potential road safety impact of the development would not be so significant as to warrant refusal.

### **Matters Raised in Representation**

These are considered to raise valid planning considerations which are addressed in the above detailed analysis. The alleged lack of demand for further hot food uses in the area is not a material consideration which would justify refusal of the application.

### **Conclusion**

The proposed change of use would be detrimental to residential amenity due to increased generation of odour, litter and noise (e.g. from ventilation systems and increase in vehicle traffic late in the evening). Further, it has not been demonstrated that there is a lack of demand for continued retail use of the premises. The proposed flue would have an unacceptable visual impact on the streetscene. As a result, the proposal is contrary to policies H1, NC7 and D1 of the local development plan and the associated supplementary guidance.

In the event that Members are minded to grant the change of use, conditions relating to limiting the hours of operation (7am – 5pm), the provision of details of ventilation to prevent odour nuisance, the provision of a noise assessment, details of display window treatment and details of refuse / waste storage are recommended.

### **RECOMMENDATION**

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Refuse

### **REASON FOR RECOMMENDATION**

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01. The proposal would be likely to result in adverse impacts on, and thus conflict with, residential amenity due to increased generation of odour, litter and noise (e.g. from ventilation systems and increase in vehicle traffic / activity late in the evening) and therefore conflicts with Aberdeen Local Development Plan policy H1 (Residential Areas) and related supplementary guidance regarding Harmony of Uses.

02. The proposal conflicts with Aberdeen Local Development Plan policy NC7 (Local Shop Units) as it has not been demonstrated that there is a lack of demand for continued retail use of the premises and the proposed use would conflict with the amenity of the area.

03. The proposed flue, as currently sited / designed, would have an unacceptable visual impact and does not accord with the design quality expectations of Aberdeen Local Development Plan. policy D1: Quality Placemaking by Design

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## ABERDEEN CITY COUNCIL

<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	31 <sup>st</sup> October 2019
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Breach of Planning Control at Soju (now Valentino's), 70 Carden Place, North Linn Farm and 2 Queen's Gardens
<b>REPORT NUMBER</b>	PLA/19/397
<b>CHIEF OFFICER</b>	Gale Beattie
<b>REPORT AUTHOR</b>	Gavin Clark
<b>TERMS OF REFERENCE</b>	14 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 erection of an outdoor bar enclosure unit on the first-floor terrace area with associated works at Soju - 70 Carden Place;
- the unauthorised installation of several storage containers and associated works at North Linn Farm; and
- the non-compliance with conditions associated with the demolition of a garage to rear and formation of 2 parking spaces at 2 Queen's Gardens.

### 2. RECOMMENDATION(S)

That the Committee: -

*Soju (Now Valentino's) – 70 Carden Place;*

- 2.1 Authorise the serving of an Enforcement Notice upon the owner of the property, to rectify the breach of planning control by removal of the unauthorised bar enclosure unit. An application for planning permission was refused under delegated powers on the 3<sup>rd</sup> April 2019. No appeal was submitted.
- 2.2 Agree that the breach should be remedied by the removal of the unauthorised bar enclosure.

### *North Linn Farm*

- 2.3 Authorise the serving of an Enforcement Notice upon the owner of the property, to rectify the breach of planning control. An enforcement file was opened on the site in relation to the siting of several large steel storage containers erected on agricultural land without planning consent in January 2017; despite repeated requests these structures have not been removed from site, and no planning application has been submitted to rectify the breach of planning control.
- 2.4 Agree that the breach should be remedied by the removal of the unauthorised storage containers.

### *2 Queen's Gardens*

- 2.5 Authorise the serving of an Enforcement Notice upon the owner of the property, to rectify the breach of planning conditions associated with the planning consent. Planning permission and listed building consent was approved conditionally in September 2018 for the demolition of the garage to the rear and formation of two parking spaces. This included conditions in relation to the formation of a boundary wall and associated landscaping; to date these works have not been completed. A Breach of Condition Notice was served on the owner of the property on the 19<sup>th</sup> April 2019; this has not been complied with either.
- 2.6 Agree that the breach should be remedied by serving an enforcement notice to require that the conditions associated with the planning application/ listed building consent are complied with.

## **3. BACKGROUND**

### Basis of the Report

#### *Soju (Now Valentino's) – 70 Carden Place;*

- 3.1 In February 2019 a partially retrospective application for planning permission (Ref: 190177/DPP) was submitted for the erection of outdoor bar enclosure unit on first floor terrace area with associated works. The application was refused under delegated powers on the 3<sup>rd</sup> April 2019 for the reasons detailed in section 3.7 of this report.
- 3.2 No works to rectify the works have taken place, and no appeal against the Planning Authority's decision was submitted. The Council therefore seeks to take formal enforcement action to rectify the breach of planning control on site by requiring the removal of the unauthorised bar enclosure unit.

### *North Linn Farm*

- 3.3 In January 2017 a complaint was received (Ref; ENF170017) in relation to the installation of several large steel storage containers erected on agricultural land without planning consent. There has been various correspondence with the site

owner, including the serving of a Planning Contravention Notice in November 2017. To date no planning application has been submitted to rectify the breach of planning control and the works on site therefore remain unauthorised.

- 3.4 No works to rectify the unauthorised development have taken place. The Council therefore seeks to take formal enforcement action to rectify the breach of planning control on site by the removal of the unauthorised storage containers.

#### *2 Queen's Gardens*

- 3.5 In May 2018 applications for planning permission and listed building consent (Ref: 180829/DPP and 180845/LBC) for the demolition of garage to rear and formation of 2 parking spaces. These included conditions requiring the formation of a boundary wall and the provision of landscaping within the curtilage of the site. The works have been completed on site and neither the boundary wall nor the landscaping have been provided. A Breach of Condition Notice was issued on the 19<sup>th</sup> April 2019; this has not been complied with either.
- 3.6 No works to rectify the unauthorised development have taken place. The Council therefore seeks to take formal enforcement action to rectify the breach of planning control on site by requiring the formation of a boundary wall and the provision of landscaping within the curtilage of the 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.

*Soju (Now Valentino's) – 70 Carden Place;*

3.7 The application for planning permission was refused as it was considered that:

- 1) By virtue of the proposed development's scale and siting at first floor level - relative to Albert Lane, Fountainhall Road and Blenheim Place in particular - the development has an undue adverse visual impact on the character and amenity of the Albyn Place/Rubislaw Conservation Area, mindful that it is a type development uncharacteristic the designation when viewed in isolation. As such, the proposal fails to comply with the relevant requirements of Policy B3 (West End Office Area), Policy D1 (Quality Placemaking by Design) and Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017, as well as relevant national policy and guidance published by Historic Environment Scotland; and,
- 2) The proposed development would visually increase the massing and prominence of an unsympathetic extension to a historic building within the Albyn Place/Rubislaw Conservation Area. This type of development has been identified as a "threat" to the special architectural and historic interest of the Albyn Place/Rubislaw Conservation Area in the Albyn Place/Rubislaw Conservation Area Character Appraisal and Management Plan, and therefore would contribute to worsening this threat by neither preserving nor enhancing the qualifying interests of the conservation area. As such, the proposed development fails to comply with the relevant provisions of Policy B3 (West End Office Area) and Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017 and national guidance published by Historic Environment Scotland on 'managing change in the historic environment'; and,
- 3) The proposed outdoor bar unit, as demonstrated by its unauthorised operation, has materially altered the function of the outdoor first floor terrace from: an area of the licensed premise which allows outdoor seating only and in a location situated a significant distance and requiring negotiation of a convoluted access route, such that it is limited in its level of use and also intermittent used; to a new separate fully serviced external and elevated bar area, giving rise to more intensified and prolonged noise disturbance as a consequence of a greater and prolonged usage. These concerns have been verified by recent noise complaints to the Environmental Health Service. Further, given the proposals offer no means of suitably mitigating this continued noise disruption threat to the nearest residential properties, it is considered the proposed development would have an unacceptable impact on the residential amenity. Such an adverse impact would mean the proposal fails to comply with the relevant provisions of Policy B3 (West End Office Area) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.



## North Linn Farm

- 3.8 The application site is located within the Green Belt, where Policy NE2 (Green Belt) applies; the Planning Authority would need to consider whether the works were in accordance with the aims and aspirations of this policy, as well as consider any other material planning considerations that would be relevant to the determination of a planning application.

## 2 Queen's Gardens

- 3.9 The applications for planning permission were approved conditionally; with the following conditions:
1. That demolition of the existing garage building shall not commence until the rear boundary wall hereby granted planning permission has been erected in complete accordance with Plan No's 04 Rev E, 02 Rev B & 06. Reason - in the interest of visual amenity of the area.
  2. That all planting, seeding and turfing comprised in the approved scheme of landscaping as shown on drawing No. 04 Rev E, or such other drawing as may subsequently be submitted and approved in writing by the planning authority, shall be carried out no later than the 1st planting season following demolition of the garage and any trees or planting which within a period of 5 years from the 1st planting season following demolition of the garage, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted for the purpose by the planning authority. Reason: in the interests of the amenity of the area.
  3. That notwithstanding the detail shown on Drawing No 04 Rev E, the landscaped area shall be enclosed by means of a low level, built wall of no less than 300mm in height, with such wall being erected prior to all planting, seeding and turfing shown on drawing No 04 Rev E being carried out. Reason: in the interests of the amenity of the area.
  4. That samples of all proposed materials including granite and brick shall be submitted to and approved in writing by the planning authority prior to the commencement of works. Reason: in the interest of protecting the special character of the listed building; and
  5. That details of the lime mortar mix to be used to fix the granite and brick stones shall be submitted to and approved in writing by the planning authority prior to the commencement of works. Reason: in the interest of protecting the special character of the listed building.
- 3.10 Conditions 1, 2 and 3 detailed above have not been complied with; and the development on site has been completed. There is therefore a breach of conditions on site.

## 4. FINANCIAL IMPLICATIONS

4.1 Financial costs may be incurred should the Enforcement Notice(s) 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(s). Costs may be incurred in relation to both Place and Governance staff if action is required to secure compliance with the Enforcement Notice(s).

## 6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
<b>Financial</b>	Financial costs may be incurred should the Enforcement Notice(s) 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.
<b>Legal</b>	The applicant may not comply with the Enforcement Notice(s), 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.
<b>Employee</b>	N/A		
<b>Customer</b>	N/A		
<b>Environment</b>	N/A		
<b>Technology</b>	N/A		
<b>Reputational</b>	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

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

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

## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Equality &amp; Human Rights Impact Assessment</b>	Full EHRIA not required.
<b>Data Protection Impact Assessment</b>	Not required

<b>Duty of Due Regard / Fairer Scotland Duty</b>	Not applicable.
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## 9. BACKGROUND PAPERS

*Soju (Now Valentino's) – 70 Carden Place;*

Background papers include written correspondence, emails and the associated planning applications (Ref: 190177/DPP).

Planning Application Details

<https://publicaccess.aberdeencity.gov.uk/online-applications/advancedSearchResults.do?action=firstPage>

*North Linn Farm*

Background papers include written correspondence and emails associated with the Planning Enforcement file (Ref: ENF170017). These documents are not publicly available.

*Queen's Gardens*

Background papers include written correspondence, emails and the associated planning application and listed building consent application (Ref: 180829/DPP and 180845/LBC)

Planning Application Details:

<https://publicaccess.aberdeencity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Listed Building Consent Details:

<https://publicaccess.aberdeencity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

## 10. REPORT AUTHOR CONTACT DETAILS

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