

# 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 23 April 2020

## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE**

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet remotely on **THURSDAY, 30 APRIL 2020 at 10.00 am.**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

In accordance with UK and Scottish Government guidance, meetings of this Committee will be held remotely as required. In these circumstances the meetings will be recorded and thereafter published on the Council's website at the following [link](#).

### **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 March 2020 - for approval (Pages 9 - 20)
- 4.2 Minute of Meeting of the Pre Determination Hearing of 13 January 2020 - for approval (Pages 21 - 40)
- 4.3 Minute of the Meeting of the Pre Determination Hearing of 15 January 2020 - for approval (Pages 41 - 56)

## **COMMITTEE PLANNER**

- 5.1 Committee Planner (Pages 57 - 58)

## **GENERAL BUSINESS**

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

- 6.1 Planning Permission in Principle - erection of residential led, mixed use development of approximately 550 homes, community and sports facilities, retail (Classes 1, 2, 3 and Sui Generis) with associated landscaping, open space and infrastructure - Cloverhill Aberdeen (Pages 59 - 134)

Planning Reference – 191171

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

[Link.](#)

Planning Officer: Gavin Evans

- 6.2 Detailed Planning Permission - major development consisting of demolition and redevelopment of the existing site to form a mixed use office-led development - Aberdeen Market (Pages 135 - 202)

Planning Reference – 190312

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

[Link.](#)

Planning Officer: Matthew Easton

6.3 Detailed Planning Permission - erection of shed - 17 School Avenue Aberdeen (Pages 203 - 218)

Planning Reference – 200344

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

[Link](#)

Planning Officer: Gavin Clark

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

7.1 Detailed Planning Permission - change of use of land for the erection of a chalet/mobile home - Baads Farm Aberdeen (Pages 219 - 244)

Planning Reference – 200040

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

Planning Officer: Gavin Clark

7.2 Planning Permission in Principle - residential led development for the retired/elderly, a 50 bedroom care home and approximately 500sqm of ancillary retail/community use, together with public open space and associated infrastructure including a link road - Inchgarth Aberdeen (Pages 245 - 310)

Planning Reference – 181224

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

[Link](#).

Planning Officer: Lucy Greene

### **OTHER REPORTS**

8.1 Enforcement Annual Report - PLA/20/084 (Pages 311 - 352)

8.2 Pre Determination Hearing report - GOV/20/087 (Pages 353 - 358)

### **DATE OF NEXT MEETING**

9.1 Monday 1 June 2020 at 10am

EHRIAs related to reports on this agenda can be viewed [here](#)

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

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 March 2020. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; and Councillors Cooke, Copland, Cormie, Greig, Houghton (as substitute for the Vice Convener, Councillor Stewart, the Depute Provost, Lumsden (as substitute for Councillor Allan for items 1 to 4), MacKenzie, Malik and Wheeler (as substitute for Councillor Allan for items 5 to 7).

### DECLARATION OF INTEREST

1. Councillor Lumsden declared an interest for item 6.2 May Baird Avenue, by virtue of him being a Council appointed member of NHS Grampian Board. He considered that the nature of his interest required him to leave the meeting and he therefore would take no part in the consideration or deliberation of the item.

### MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 20 FEBRUARY 2020

2. The Committee had before it the minute of the previous meeting of 20 February 2020, 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 Committee business planner.

### 218 AUCHMILL ROAD ABERDEEN - 191460

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

That the application for detailed planning permission for the redevelopment of the site including demolition of the existing unit to form affordable residential development with associated open space, roads, access, landscaping, car parking, engineering and infrastructure works including a combined heat and power facility, at 218 Auchmill Road Aberdeen, 191460, be approved conditionally and subject to a legal agreement.

#### Conditions

##### **Open Space Provision / Play Area**

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No dwellings hereby granted planning permission shall be occupied unless the areas of amenity open space, play areas and private garden ground as identified on Drawing No.19155(PL)002 (dated 21.02.20) of the plans hereby approved have been laid out in accordance with the approved drawing or such other drawing as may be submitted to and approved in writing by the Planning Authority. No development pursuant to this planning permission shall take place unless a scheme detailing the manner in which the play areas and open space is to be laid out and maintained has been submitted to and approved in writing by the planning authority. Such scheme shall include provision for a play area comprising at least five items of play equipment and a safety surface.

Reason - in order to preserve the amenity of the neighbourhood.

**Tree Protection**

No development shall take place pursuant to the planning permission hereby approved unless a further scheme for the protection of all trees to be retained on / adjacent to the site during construction works has been submitted to, and approved in writing by the Planning Authority and any such scheme as may have been approved has been implemented. 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.

**Landscape Scheme**

No development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of soft landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting. For the avoidance of doubt, the scheme should contain no open water features. All planting, seeding and turfing 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 and in the interests of aviation safety.

**External Materials**

No development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been

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submitted to, and approved in writing by, the planning authority. Thereafter the development shall be carried out in accordance with the details so agreed.

Reason - in the interests of visual amenity.

### **Boundary Treatment / Security Measures**

No development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the Planning Authority, a detailed scheme of site, plot and open space boundary enclosures for the entire development hereby granted planning permission. None of the buildings hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety.

Reason - in order to preserve the amenity of the neighbourhood.

### **SUDS**

No development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the planning authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme.

Reason - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

### **Construction Management Scheme**

No development pursuant to this planning permission shall take place unless a detailed site specific construction method statement for the site has been submitted to and approved in writing by the planning authority. The method statement must address the temporary measures proposed to deal with surface water run-off and specify dust abatement measures on site during construction and prior to the operation of the final SUDS / completion of the development. Such statement shall be implemented in full for the duration of works on the site.

Reason - in order to prevent potential water and air pollution.

### **Pedestrian connection to A96 / Path Works**

No development shall take place pursuant to this permission unless there has been submitted to and agreed in writing by the planning authority a scheme for provision of a direct footpath link to the A96 at the northern edge of the site, including details of tree protection measures, the extent of any cut / fill, site sections as existing and proposed, proposed surfacing, handrails and lighting. Thereafter the development shall not be occupied unless the said footpath link and the access paths within the site have been implemented in full.

Reason - In order to provide adequate pedestrian access, in the interests of encouragement of sustainable transport and public safety.

### **Cycle Parking / Storage**

None of the flats hereby granted planning permission shall be occupied unless a scheme detailing secure cycle storage and visitor cycle provision has been submitted

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to, and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme.

Reason - in the interests of encouraging more sustainable modes of travel.

**Car Parking**

The development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. 19155(PL)002 of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of ancillary vehicle parking / provision of access to the development and use hereby granted approval.

Reason - in the interests of public safety and residential amenity.

**Traffic Calming**

No development shall take place unless there has been submitted to and approved in writing by the Planning Authority, a detailed scheme of traffic calming measures for the carriageway within the development hereby granted planning permission.

Reason - in the interests of public safety and the avoidance of conflict with use of the proposed play area adjacent to the car park.

**Off Site Road Measures ( A96 Pedestrian / Cycle Crossing )**

No development shall take place unless there has been submitted to and agreed in writing by the planning authority a scheme for the provision of a Toucan (Pedestrian / Cycle) crossing on the A96 to the north of the site. Thereafter the development shall not be occupied unless the said crossing facility has been implemented in full.

Reason - In the interests of public road safety and the encouragement of sustainable travel.

**External Lighting**

No development shall take place unless a scheme for external lighting within the site, including lighting of the footpath link, has been submitted to and approved in writing by the Planning Authority, and thereafter the development shall not be occupied unless the said scheme has been implemented in full.

Reason - In order to minimise potential light pollution and in the interested of protection of residential amenity and public safety.

**Noise Attenuation**

None of the flats hereby approved shall be occupied unless the relevant mitigation measures identified in the submitted Noise Impact Assessment by KSG Acoustics dated 13/01/2020, or such other assessment as may be approved by the planning authority, have been implemented, as required for each block.

Reason - In order to protect residential amenity.

**Contamination Mitigation**

No development shall take place, other than demolition works, unless it is carried out in full accordance with a scheme to deal with contamination on the site that has been

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approved in writing by the planning authority. The scheme shall follow the procedures outlined in Planning Advice Note 33 Development of Contaminated Land and shall be conducted by a suitably qualified person in accordance with best practice as detailed in BS10175 Investigation of Potentially Contaminated Sites - Code of Practice and other best practice guidance and shall include:

- an investigation to determine the nature and extent of contamination,
- a site-specific risk assessment,
- a remediation plan to address any significant risks and ensure the site is fit for the use proposed.

No buildings on the development site shall be occupied unless:-

- any long-term monitoring and reporting that may be required by the approved scheme of contamination or remediation plan or that otherwise has been required in writing by the planning authority is being undertaken and
- a report specifically relating to the building(s) has been submitted and approved in writing by the planning authority that verifies that remedial works to fully address contamination issues related to the building(s) have been carried out, unless the planning authority has given written consent for a variation.

The final building on the application site shall not be occupied unless a report has been submitted and approved in writing by the planning that verifies that completion of the remedial works for the entire application site, unless the planning authority has given written consent for a variation.

Reason: in order to ensure that the site is fit for human occupation

### **LZCT / Water Efficiency**

The buildings hereby approved shall not be occupied unless a scheme detailing compliance with the Council's "Resources for New Development" supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions and water efficiency have been implemented in full.

Reason - To ensure that this development complies with requirements for reductions in carbon emissions specified in ALDP policy R6 and in the interest of sustainable development.

**Bin Storage** The use hereby granted planning permission shall not take place unless provision has been made within the application site for storage of refuse and recycling bins in accordance with a scheme which shall have been submitted to and approved in writing by the planning authority and which shall confirm the proposed storage capacities and uplift arrangements.

Reason - in order to preserve the amenity of the neighbourhood and in the interests of public health.

The Committee heard from Robert Forbes, Senior Planner, who spoke in furtherance of the application and answered various questions from members.

### **The Committee resolved:-**

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to approve the application conditionally as detailed above with a legal agreement, with an extra condition also to be added to read:-

“No development shall take place pursuant to this planning permission unless a scheme for the provision of electric vehicle charging infrastructure on site has been submitted to and agreed in writing by the planning authority. The flats hereby approved shall not be occupied unless the required infrastructure / charging points have been delivered on site and are available for use by occupants of the development.

Reason – In the interest of compliance with policy T2 (Managing the Transport Impact of Development ) and related Transport Guidance within the adopted Aberdeen City Local Development Plan 2017.

Revised Developer Obligations

Transportation	To be advised direct by the Transportation Team
Core Path Network	Nil
Primary Education	£23,715
Secondary Education	£27,333
Healthcare Facilities	£73,697
Open Space	Nil
Community Facilities	£131,652
Sports & Recreation	£69,408

**In accordance with article 1 of this minute, Councillor Lumsden withdrew from the meeting prior to consideration of the following item of business and was replaced by Councillor Wheeler.**

**FORMER ROSS CLINIC, MAY BAIRD AVENUE, ABERDEEN - 191755**

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

That there be a willingness to approve, subject to conditions and subject to the signing of a legal agreement to secure contributions towards core path network, primary education, healthcare, community facilities, affordable housing and provision of an upgrade to the bus shelter on south side of Westburn Road, the application for detailed planning permission for the erection of 32 apartments over 4 and a half storeys with associated car parking, landscaping and works at former Ross Clinic, May Baird Avenue Aberdeen, 191775.

**Conditions**

1. That the use hereby granted planning permission shall not take place unless provision has been made within the application site for refuse storage and

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disposal in accordance with a scheme which has been submitted to and approved in writing by the planning authority

Reason - in order to preserve the amenity of the neighbourhood and in the interests of public health.

2. That the flats shall not be occupied unless the car park has been laid out, including electric vehicle charging points and bollards installed, path from nursery laid out with access across the car park to green space and cycle parking has been provided close to the building in accordance with a plan submitted to and approved in writing by the planning authority.

Reason – in order to encourage active travel and residential amenity.

3. That no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the planning authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme

Reason - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

4. That no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed.

Reason - in the interests of visual amenity.

5. That all planting, seeding and turfing 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.

6. That no development shall take place unless a scheme for the approved scheme within the Revised Updated Ecology Report for the protection of all trees to be retained on the site during construction works has been implemented.

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

7. That no part of the development hereby approved shall be occupied unless a plan and report illustrating appropriate management proposals for the care and maintenance of all trees to be retained and any new areas of planting (to include timing of works and inspections) has been submitted to and approved in writing by the planning authority. The proposals shall be carried out in complete accordance with such plan and report as may be so approved, 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.

8. That any tree work which appears to become necessary during the implementation of the development shall not be undertaken without the prior

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written consent of the Planning Page 47 Application Reference: 191755/DPP Authority; any damage caused to trees growing on the site shall be remedied in accordance with British Standard 3998: 2010 "Recommendations for Tree Work" before the building hereby approved is first occupied.

Reason - in order to preserve the character and visual amenity of the area.

9. 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.

10. That no development shall take place unless there has been provided a pedestrian facilities between the car park access road within the site and Cornhill Road close to the bend in the road, together with an upgrade of the stretch of existing footway on the north side of Cornhill Road close to the south east corner of the application site, or such other scheme for pedestrian provision as may be agreed. The works shall be fully in accordance with details submitted to and approved in writing by the planning authority, including of the following:

- A tree survey showing root protection areas within the area of the footpath, where appropriate;
- The method of construction of the footpath, taking into account impact on tree roots, where appropriate;
- Details of the opening within the existing granite wall, between Cornhill Road and the site, where appropriate.
- Details of bollard type lighting, or other as so agreed.
- Details of the upgrade works to the footway close to the corner of Cornhill Road.

Reason – in order to provide adequate pedestrian access.

11. That no development shall take place unless there has been provided a revised detailed layout of the junction onto Cornhill Road and internal site junction close to the site entrance, taking into account vehicle movements including of interactions between refuse vehicles and cars.

Reason – in the interests of road safety.

12. That the development shall not be brought into use unless the wall and narrow footway at the site entrance has been rebuilt and re-laid including use of existing materials, including existing footway edging stones, in accordance with elevational and layout drawings and specification that has been submitted to and approved in writing by the planning authority.

Reason – in the interests of preserving the character of the Conservation Area.

13. That all measures within the recommendations of the Revised Updated Ecology Survey shall be implemented, in particular, including:

- Tree branches of tree 1176 shall be cut back to a height of 5m, or as otherwise agreed within the planning authority.

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- No external lighting shall be installed other than accordance with details of type and location, submitted to, and approved in writing by the planning authority;
- Tree work shall be carried out outwith the bird nesting season, other than in accordance with surveys that accord with a methodology to be submitted to and approved in writing by the planning authority.
- That any mesh security fencing shall be covered with fine mesh plastic sheeting, or other as agreed with the planning authority, in order to avoid bat collision.

Reason – in the interests of natural heritage and road safety.

14. That no development shall take place unless there has been submitted to and approved in writing by the planning authority, a construction method statement that shall include the following details: a. Route to be used by construction vehicles b. Location of site huts. Thereafter works shall take place only in accordance with the plans as so approved.

Reason – in the interests of protecting trees.

15. That no development shall take place unless there has been submitted to and approved in writing a detailed Travel Plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets - in order to encourage more sustainable forms of travel to the development.

16. That the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full.

Reason - to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

The Committee heard from Lucy Greene, Senior Planner, who spoke in furtherance of the application and answered various questions from members. Ms Greene advised that conditions 2 and 13c were revised from the delegated report.

The Convener, seconded by Councillor Cooke:-

that the application be approved in line with the recommendation contained in the report.

Councillor Cormie moved as an amendment, seconded by Councillor Greig:-

that the application be refused as it was contrary to Policy NE3, Urban Green Space, and it would result in the loss of valued green space.

On a division, there voted:- for the motion (7) – the Convener, and Councillors Cooke, Copland, Houghton, MacKenzie, Malik and Wheeler; for the amendment (2) – Councillors Cormie and Greig.

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**The Committee resolved:-**

to adopt the motion and therefore approve the application with the recommendation contained above.

**DEVELOPMENT ALONG LANES - TECHNICAL ADVICE NOTE - PLA/20/063**

6. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which sought approval to adopt the new Technical Advice Note (TAN) ‘Development Along Lanes.’

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

**The report recommended:-**

That the Committee –

- (a) note the consultation findings of the Draft “Development Along Lanes” document approved for public consultation by the Planning Development Management Committee on 19 September 2019; and subsequent revisions proposed by Officers to the Draft document; and
- (b) approve the Technical Advice Note “Development Along Lanes” as planning advice in the determination of relevant planning applications.

**The Committee resolved:-**

to approve the recommendations contained in the report and to thank officers for all of their efforts with the report.

**MATERIALS - TECHNICAL ADVICE NOTE - PLA/20/046**

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

**The report recommended:-**

that the Committee –

- (a) note the content of the consultation responses on the Technical Advice Note “Materials: External building materials and their use in Aberdeen” document, approved for public consultation by the Planning Development Management Committee on 19 September 2019; and subsequent revisions proposed by Officers to the draft document; and
- (b) approve the Technical Advice Note “Materials: External building materials and their use in Aberdeen”, as planning advice in the determination of planning applications.

**The Committee resolved:-**

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to approve the recommendations contained in the report and to also thank officers for their continued efforts with the work undertaken in the report.

- **Councillor Marie Boulton, Convener**

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## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION HEARING**

13 January 2020

ABERDEEN, 13 January 2020. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION HEARING. Present:- Councillor Boulton, Convener; Councillor Stewart, Vice Convener, the Depute Provost; and Councillors Allan, Copland, Cormie, Greig and Malik.

Also in attendance: Councillors Delaney, Jackie Dunbar, Henrickson, Hutchison, Macdonald, Mason MSP, McLellan, McRae, Mennie, Alex Nicoll and Wheeler.

### **SITE VISIT**

1. The Committee conducted a site visit prior to the Hearing. The Committee was addressed by Ms Lucy Greene, Senior Planner who summarised the proposal for the overall site.

The Convener explained that the Committee would return to the Town House to commence the Hearing.

### **RESIDENTIAL LED DEVELOPMENT FOR THE RETIRED/ELDERLY (INCLUDING AFFORDABLE HOUSNG), A 50 BEDROOM CARE HOME AND APPROXIMATELY 500 SQM OF ANCILLARY RETAIL/COMMUNITY USE, TOGETHER WITH PUBLIC OPEN SPACE AND ASSOCIATED INFRASTRUCTURE INCLUDING A LINK ROAD, AT LAND AT INCHGARTH ROAD, CULTS ABERDEEN - 181224**

2. The Committee heard from the Convener who opened up the Hearing by welcoming those present and providing information on the running order of the Hearing. She explained that the first person to address the Hearing would be Ms Lucy Greene, and asked that speakers adhere to their allocated time in order for the Hearing to run smoothly and in a timely manner.

The Committee then heard from Lucy Greene Senior Planner, who addressed the Committee in the following terms:-

Ms Greene explained that the site consisted of a number of fields between North Deeside Road and Inchgarth Road, with residential gardens bounding the site to the east and west. The land lay on a south facing slope and was crossed by the Deeside Way, a footpath and part of the National Cycle Network Route. There was also a steep slope with a change in levels of more than 20m across the site. North Deeside Road was supported by a retaining wall on the site.

Ms Greene also advised that the upper field was largely rough grassland with substantial trees along North Deeside Road and the Deeside Way and dense thicket in the upper east side, with trees along the east side. The lower three fields were less steeply sloped

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and contained a large number of self seeded silver birch, as well as trees along the Deeside Way. There were dry stone walls between the three southern fields, and there were stone walls along the street boundaries. There was also overhead power lines across the site, with a pylon just to the south of the Deeside Way.

In regard to the application, the proposal was for a link road between north and south, and 95 dwellings mainly of 2 bed flats. These were described as retirement homes. There was also a 50 bed care home proposed and a row of units to be used as shops and/or community facilities. The application stated that the buildings would be a maximum of 2 and a half storey in height.

Ms Greene explained that the plan was indicative and showed indicative changes in the ground levels that would be needed to create development platforms. The plans also indicated a ramped footpath which would provide access between the Deeside Way and North Deeside Road. Ms Greene advised this would need to be raised by approximately 13m over its length, which necessitated the indicative design shown, with the land raised to achieve a gradual rise. Ms Greene noted that to the west of the road would be proposed areas planted with wildflower grasses and trees, along with the existing woodland that was being retained in these areas.

In regard to representations, Ms Greene noted that there were a large number of representations received, 301 in total. This consisted of 22 letters of objection, 278 letters of support and 1 neutral.

Ms Greene highlighted that the application was accompanied by an EIA Report which covered various matters. The site was zoned within the Green Belt and Green Belt policy NE2 stated there should be no development for purposes other than those essential for agriculture, woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration or landscape renewal. Ms Greene noted that there were exceptions to the policy and this included proposals for development associated with existing activities in the green belt would be permitted but only if certain criteria were met. All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials and all developments in the Green Belt should have regard to other policies of the Local Development Plan in respect of landscape, trees and woodlands, natural heritage and pipelines and control of major accident hazards.

In respect of housing, Ms Greene advised that this would only be acceptable in principle where it involved the conversion of a traditional building or was necessary for agricultural reasons. The application site was not identified in the plan for transport infrastructure and the link road was not identified within the Local Development Plan as a project.

In relation to Green Space Network and Landscape impact, Ms Greene explained that the relevant policies were Policy NE1 and D2, which protected the green links for wildlife,

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access and recreation and considered the impact of development on the landscape setting of the city.

A Landscape Visual Impact Assessment had been prepared that provided analysis as well as photomontage showing the development from the immediate and longer distance views.

The site was covered by a Tree Protection Order and a tree survey accompanied the application. Policy NE5 sought to retain trees and woodland of value and the proposal would result in the loss of trees in particular where the link road crosses the site. The loss of 72 trees for development was identified in the tree survey. However, due to the level changes of 23 metres, level changes to create development platforms would be required. Ms Greene explained that submitted plans indicated level changes within root protection areas in a number of areas, and elsewhere retaining walls were proposed to protect roots.

In regard to ecology, Ms Greene advised that policy NE8 covered natural heritage and sought to protect designated sites and protected species. The Deeside Way was designated as a Local nature Conservation Site and a walkover had looked for signs of various protected species. This was reported in the Environmental Impact Assessment report. The conclusions in broad terms were that for species like badgers and red squirrel, the site was used for foraging, with no evidence of setts.

In accordance with Policy I1, in connection with a planning approval, contributions would be sought towards healthcare, core paths and open space where there was insufficient provision provided on site. Affordable housing would also be sought at 25%. As these are calculated in relation to retirement housing, a means of securing the housing for this use would be sought.

In regard to Policy D1, the policy sought to ensure high standards and create a distinctive sense of place in response to an appraisal of the context of the site. Detailed design would be the subject of further applications should the Planning Permission in Principle be approved, however, this policy would be relevant in considering the level of development indicated in the Planning Permission in Principle.

In terms of Heritage, Policy D4 was relevant and pointed towards national policy in terms of Conservation areas. These policies sought to preserve or enhance the character of conservation areas. Pitfodels Conservation Area Character Appraisal was also referred to in this policy. Aberdeenshire Council who provide advice on Archaeology had recommended the attachment of a condition to any consent granted, requiring a dig to take place before any works commenced.

In relation to noise, a noise impact assessment was carried out, which looked at impacts on existing and future residents. The Environmental Impact Assessment report concluded that there were moderate to large impacts. Mitigation was recommended and

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included sound insulating windows for the new residential units and acoustic barriers along the link road. These would consist of solid fences and would be a couple of metres in height.

The Convener then invited Mr Scott Lynch, Senior Engineer, to address the Committee.

Mr Lynch explained that roads had no major concerns with the proposed application but details would need to be ironed out, once they were submitted.

Mr Lynch advised that the current 40MPH speed limit on Inchgarth Road would need to be reduced to 30MPH. There would also be 184 parking spaces provided in the proposed development which was in line with parking standards, as well as the provision for disabled parking spaces, electric charging points etc, with all of the details to be included in the submitted application. Mr Lynch explained that it would be their preference not to have a mini roundabout, and the proposed link road would help the area in terms of traffic uses. Mr Lynch also indicated that the applicant had undertaken analysis in terms of the amount of traffic and the proposed new road would be robust.

In summary Mr Lynch explained that they did not have any major road concerns at present with the application, however when the full details were submitted, any details or concerns could be looked at and addressed.

Members then asked questions of Ms Greene and Mr Lynch and the following information was noted:

- It would be the intention to adopt the new link road, should the application be approved;
- The wildflower area would be maintained as part of the maintenance of open space, included in the legal agreement;
- The flooding team were content with the proposal and a condition would be included to mitigate flooding;
- There was flexibility in the numbers in relation to the types of property but at the moment 95 units were proposed which would be mainly flats; and
- There were no plans for a playpark in the proposal.

The Convener then invited the applicant to address the Committee, and the speakers consisted of Theresa Hunt, Burness Paull, Mark Peters, Fairhurst and Charlie Ferrari and David Suttie, Cults Property Development.

Mr Charlie Ferrari commenced the presentation for the applicant and noted that the south facing site with North Deeside Road to the north and Inchgarth Road to the south was formed by an area of land to the North of the Deeside Walkway of approximately 8 acres and a further area of land of approximately 16 acres to the south of the walkway.

Mr Ferrari stated that because of the 21metre drop between those two main roads it would be virtually impossible to see the development from North Deeside Road apart

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from the entrance/exit where the intention was to build a new link road to be funded by the development company at a cost in excess of £3 million.

Mr Ferrari advised that the link road would reduce the need to use Pitfodels Station Road, Westerton Road and Deevie Road South where it might be possible to consider closing some or all of those roads to through traffic with significant benefits to the local community. Mr Ferrari indicated that these three roads were extremely dangerous for pedestrians and cyclists and local vehicles and this was evidenced in photographs taken by the Westerton Road local action group which showed vehicles mounting pavements during peak school times.

Mr Ferrari advised that the proposal would encourage traffic to use the new link road linking North Deeside Road and Inchgarth Road so that the existing sub-standard roads could be returned back to simple residential access roads rather than being used as rat-runs.

Mr Ferrari explained that in terms of pedestrian linkage there was a defined disabled-compliant walkway linking Inchgarth Road up to the Deeside Walkway then up to North Deeside Road exiting at the point of the existing field access and existing bus stop. The access had been designed to meander through the proposed Community Retirement Village.

Mr Ferrari also advised that there would be disabled access on to the Deeside Walkway which was now a well-used public walkway and this would materially improve public access to this area with a material benefit to the community. Currently access was via old and dangerous stairways which were not fit for purpose. Mr Ferrari also explained that the world population was growing at the rate of 90 million per year and people were living much longer, and this resulted in an ever increasing demand for developments for the elderly especially those that would give the opportunity to downsize and release their existing properties which could help the housing market. Therefore Mr Ferrari noted that if the proposal was approved the intention would be to construct an all encompassing community retirement village for the elderly and as part of that strategy the development had been designed to emulate individual house plots which were similar to the many existing house plots that existed on North Deeside Road and Inchgarth Road.

Mr Ferrari explained that the homes would be largely south facing dropping down approximately 18m over an area to the east of the new link road and would consist of 2 storey high quality apartments in terms of design and build where there was a clear demand. The development would be set back from North Deeside Road by more than 20 metres.

In regard to the retail units they would consist of a central coffee meeting store/newsagent / hairdresser / chemist and nail/podiatrist unit. They had designed the space above the 5 shops to create areas for a physiotherapist / dentist and doctors' surgery and these would all be accessed by lift. The development would have to satisfy the conditions

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imposed by the Care Inspectorate for the elderly plus the many other departments in respect of this retirement village.

Mr Ferrari further advised that they had paid particular attention to minimise noise in respect of traffic from the new link road where both sides of the road would have fast growing willow hedging with a water supply / drainage system, plus sound insulation panelling behind.

In conclusion, Mr Ferrari explained that if approved this development would provide a substantial number of jobs during the lengthy construction phase as well as jobs in the commercial units, and jobs for the extensive care staff required to satisfy the Care Inspectorate for the Care Home. Mr Ferrari noted that if approved, it was hoped that a start on site would be January 2021 with a completion date of Jan 2025.

The Committee was then addressed by Theresa Hunt, Burness Paull, who was acting as the legal planning adviser to the applicant.

Ms Hunt explained that in determining the application, members would be required to assess whether the development accorded with the relevant provisions of the Local Development Plan, and if not, whether there were material considerations which would justify approval.

Ms Hunt advised that a detailed analysis against the relevant planning policies was set out in the supporting Planning Statement lodged with the application and this was based on the material submitted with the Planning Application, including the Statutory Environmental Report and Design and Access Statement.

Ms Hunt highlighted that there were no specific plan policies for this type of retirement development and noted that it had been demonstrated that the proposal accorded with the technical policies on design, cultural and natural heritage, open space, flooding and drainage, transport and affordable housing.

Ms Hunt explained that there was a need for housing specifically designed for the elderly and retired community, and the benefits this would deliver to the wider housing market were summarised in the Report undertaken jointly by Legal & General and The Centre for Economics and Business Research, April 2018.

Ms Hunt also highlighted that the proposed link road was identified in the Council's Strategic Infrastructure Plan as a measure that would help improve access from the south of the City and a public consultation undertaken both for this proposal and in other studies concluded that there was strong public support for the provision of the link road, and this was seen as an important piece of transport infrastructure.

Ms Hunt went on to advise that the site was currently located in an area designated as greenbelt and greenspace network. The provision of transport infrastructure in the

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greenbelt was supported by Policy NE2, where there was no alternative to provide that infrastructure development outside the greenbelt. In this case, to perform its function, the proposed link road would need to be located on land within the greenbelt. To this extent, the proposed development accorded with greenbelt policy NE2. Ms Hunt highlighted that whilst the site was within the greenbelt, it did not perform the functions of greenbelt land. The Site was also within the greenspace network, and was a recognised linkage but currently provided very limited recreational opportunities and there was no access to the Deeside Way. The proposed development would provide pedestrian and cycle provision and a new access to the Deeside Way to the wider core path and national cycle network. This would provide a benefit not only to residents of the new development, but the wider community.

Ms Hunt also noted that the proposed application was also supported by a number of relevant material planning considerations. The proposed development also accorded with national guidance on planning and sustainable urban drainage systems, planning for transport, planning and archaeology and planning and noise.

The representations submitted in response to the application also constituted a material consideration, and although it was accepted that the application had generated a number of objections, Ms Hunt highlighted that there were far more letters of representation in support of the development than against it.

Ms Hunt concluded that the site had been promoted through the emerging Local Development Plan review. Out of a total of 633 responses to the Council's Main Issues Report for the whole city, 320 responses expressed support for the Inchgarth site. Just over half of all of the responses for the whole city were in favour of the site coming forward for the development proposed. Ms Hunt highlighted that this was a substantial body of support which should be taken into account in determining this application.

Mr Peters, Fairhurst, then highlighted photographs of the current inadequate standard rat runs on Pitfodels Station Road and Westerton Road. He advised that the photographs showed the narrow road width, lack of footway provision and poor visibility at the junctions with North Deeside Road and Inchgarth Road. He noted that Pitfodels Station Road was narrow, had poor visibility and had sections where no footways were provided, which included across the bridge and increasing safety concerns for all road users. The gradient of the road onto North Deeside Road was such that cars often rolled back at the top waiting to exit Pitfodels Station Road.

Mr Peters explained that Westerton Road was similarly narrow and there was limited junction visibility when coming up onto North Deeside Road given the gradient. He advised that a Transport Assessment had been prepared in support of the development proposals and submitted as part of the planning application. Initial scoping was submitted to the Roads Development Management Service to agree the methodology and key parameters to be included within the assessment. Several meetings had taken place

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with Council officers to discuss the proposals, including the proposed link road alignment and form of junctions with both the A93 North Deeside Road and Inchgarth Road.

The Transport Assessment had assessed the traffic impact of the development proposals on the wider road network that surrounded the site, and specifically on the A93 North Deeside Road, Inchgarth Road, Westerton Road and Pitfodells Station Road.

The assessment of the link road had considered the effects of the traffic generated by the development proposals as well as transferring all existing traffic that used both Westerton Road and Pitfodells Station Road to use the proposed link road instead.

The new link road would provide potential for public transport links to form between Inchgarth Road and North Deeside Road, extending to the AWPR and also allow new bus route opportunities to be explored. The Transport Assessment had considered all possible junction types with the junction analysis results confirming that the Link Road junction with Inchgarth Road could be a roundabout, simple priority junction or priority junction with right turn Ghost Island, with all modelled junction scenarios shown to be operating within capacity with minimal levels of queuing and delay. Mr Peters noted that it was ACC officers' preference for the junction to be a priority junction with / without a right turn ghost island, which was therefore what was shown on the Masterplan.

It was considered that the site was highly accessible by walking, cycling and public transport, as well as for vehicles to/from the adjacent local road network. Measures within the proposed development would effectively promote sustainable travel by residents, staff, customers and visitors.

It was concluded that the site's location and characteristics met with local, regional and national policies on sustainable development, and no specific traffic or transport impacts would arise from the development.

Mr David Suttie then concluded the presentation and advised that they had come up with an innovative and unique development to match the needs of the community for the retired and elderly. He explained that the land was currently an eyesore and made no meaningful contribution to the greenbelt or greenspace network and was not available for public or leisure use. He advised that the proposal created a fabulous opportunity to deal with the sub-standard conditions on Pitfodells Station Road and the dangerous rat-running in the area to the west. He explained that the proposed link road would alleviate pressure on the existing sub-standard local road network, and promoted sustainable travel through dedicated cycle and pedestrian links to the Deeside Way, as well as providing the opportunity for public transport links where none currently existed.

Members then asked questions of the applicant and the presenters and the following information was noted:-

- It was a demand led development and the developer already had a list of elderly people who would be interested in buying a new property in the retirement village;

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- In regards to the shop units and who would occupy these, this had not currently been investigated;
- Discussions were ongoing with relevant bus companies;
- There was a demand for care homes and suitable accommodation for elderly people and they had received a lot of interest from care home operators;
- The type of housing was still to be determined but they were aiming to have varied accommodation;
- The houses would be privately owned with 25% affordable housing; and
- The legal agreement would include details on retirement age of residents.

The Committee then heard from **Mr Colin Morsley**, Cults, Milltimber and Bieldside Community Council, who advised that in the Spring of 2018, they issued their first draft Community Plan for public comment. Responses came in very slowly until this planning application was submitted, at which point they received more than 150 letters and emails overwhelmingly in support of the proposal and emphasising two issues:

- a. Firstly, the potential to provide a new properly-engineered link road between North Deeside Road and Inchgarth Road.
  - b. Secondly, the opportunity to provide high-quality retirement-friendly housing with easy access to the village centre in Cults and to the City Centre.
2. They also noted that when Aberdeen City Council consulted in 2016 on a possible new Dee Crossing, they surveyed the community themselves and received more than 200 notes of support for options which included the link road.
  3. The Community Council submitted a detailed response to the planning application on 29 August 2018 offering conditional support for the proposal based on the provision of the link road and retirement-friendly housing. They concluded that there was a strong community support for this proposal and assessed that many of the people who had responded, had also submitted their support through the Council's planning system.
  4. They contended that Westerton Road, Pitfodels Station Road and Deevie Road South were simply not fit for purpose for the traffic which they currently carried which had not noticeably reduced following the opening of the AWPR. Mr Morsley explained that most of it originated locally heading for Altens, Tullos, Robert Gordon's University and the Garthdee shopping area so was unlikely to divert to the AWPR. He indicated that this development would create the opportunity for the Council to significantly improve traffic flows around Cults to the benefit of the wider community and could allow the introduction of a regular bus service between Lower Deeside and the Garthdee shops.
  5. The proposal would also significantly improve safe access to the Deeside Way for walkers, cyclists and wheelchair users. The present access at Pitfodels Station Road was by steep steps and required walking on the road to reach them.
  6. They fully appreciated that the site was currently graded as Green Belt and Green Space Network. However the land was of poor visual quality and populated by some spindly self-seeded trees. It was also not readily accessible for any recreational purpose. Mr Morsley advised that they would prefer to see some

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appropriate management of the land to the West of the proposed link road with extensive new planting of trees and think that this could improve the bio-diversity of the area and compensate for any tree loss caused by the development.

7. Finally, Mr Morsley noted that they recognised that the proposal was contrary to the 2017 Aberdeen Local Development Plan. He concluded that they would welcome a departure from the current Local Development Plan but would definitely support its inclusion in the Aberdeen Local Development Plan 2022.

Members then asked Mr Morsley a number of questions.

The Committee was then addressed by **Mrs Louise Harnett**, a local resident who was in support of the application and spoke in regard to health and safety issues in the local area regarding traffic. Mrs Harnett explained that Pitfodels Station Road was used basically as a rat run between North Deeside Road and Inchgarth Road and advised that Council officers had acknowledged many years ago that the road was not fit for the volume of traffic using it.

Mrs Harnett explained that almost everyone who used Pitfodels Station Road could tell a story about an accident or a near miss and noted that navigating the road to get to the railway line with grandchildren, a dog, a buggy, scooter or bikes, residents had to rely on traffic stopping on the middle of the bridge, which often caused havoc with the changing lights.

Mrs Harnett also explained that the piece of land in regards to the application had been an eyesore for many years and so overgrown in the summer that it was not suitable for any leisure use by the public and noted from her experience these fields were used by a very few local people as a dog toilet. However, Mrs Harnett advised that the new development could be enjoyed by many people and the area at present could make some feel vulnerable when walking on the railway line or along the main road in the evening in the winter.

Mrs Harnett explained that the development would enhance the green space in the area through the wildlife park which could then be used by the public as well as the residents.

In conclusion, Mrs Harnett advised that she recognised the need amongst friends and neighbours for this type of development with retail and other facilities, and highlighted there were many older people living in large houses in the area who would eventually like to downsize but who wanted to stay within their own, known and familiar community. Mrs Harnett advised there was a clear, identified need in the local area for smaller houses to accommodate the elderly and for smaller affordable homes and felt that the development of a new relief road would negate the use of the smaller roads and provide a much safer route for drivers and cyclists between the North Deeside Road and Inchgarth Road and for pedestrians on the minor roads. It would also provide easier access to the Railway Line for the elderly, families and cyclists.

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The Committee was then addressed by **Mr Neil Middleton**, who advised that he was against the application for the following reasons. Firstly he felt that the application contravened the following policies as stated in the Aberdeen Local Development Plan. Policy NE1 Greenspace Network, NE2 Greenbelt, Policy T5 Noise, NE 8 Natural Heritage and also the Pitfodels Conservation area. Mr Middleton explained that the financial viability of the application had to be questioned. He advised that the income generated from 65 flats, 16 semi detached houses, 14 amenity houses and a 50 bed nursing home in the present poor market, did not come near to covering the cost of ground acquisition, a multi million pound link road, construction of the dwellings and care home, services such as drainage and hydroelectric, developers contributions, professional fees, road bonds, doctors surgery bank interest and profit. Mr Middleton questioned why the applicants were proceeding with the application and felt there must be another agenda. He advised that the applicant could get planning permission, then explain that the proposal did not work, abandon the retirement village and apply for a supermarket with 150 parking spaces.

Thirdly Mr Middleton indicated that Aberdeen city and shire along with The Scottish Government had just spent in excess of £1billion on the Aberdeen Western Peripheral road and this had resulted in a 34% or thereby reduction of traffic in the city and an improvement in air quality which was terrific. He noted that the proposed new link road would be a huge cost to the fragile environment with the result of more traffic, and poorer air quality. He advised that there would be a huge carbon footprint during construction with thousands of tonnes of infill which would have to be trucked in, and also the removal of twenty broad leaf trees on North Deeside Road for sight lines.

Mr Middleton also indicated the devastation for the wildlife, the protected bats, badgers, owls, and red squirrels, the deer, fox and birds if the development was to go ahead and also noted the removal of even more trees on the Deeside Way.

In conclusion, Mr Middleton asked Councillors to look to the future and not reverse the positive impact of the Aberdeen Western Peripheral Route. He explained that residents had entrusted Councillors to adhere to the Aberdeen Local Development Plan where there was no mention of a need for a link road or a retirement village. He urged Councillors to look after the green belt and Pitfodels Conservation Area and urged Councillors to refuse the application.

The Committee was then addressed by **Ms Lorna Lorimer**, who advised that she objected to the application on the following grounds.

Firstly, it was contrary to the Local Development Plan of 2017 which stated that the plan was to “safeguard natural and open spaces, also improve air and water quality and help to mitigate and adapt to the effects of climate change”. It was contrary to the policy for Green Belt and also for Green Space Network.

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Secondly, Ms Lorimer advised that she understood that more facilities were needed for the elderly but questioned whether this was the right place of the right format. She explained that the area already had several homes for the elderly, which put a great deal of stress on the present local medical facilities and caused an imbalance in the local community. Ms Lorimer also advised that the plan suggested easy access to bus routes and noted this might be fine for the more able but noted on the north side there was an incline, however gentle, to reach North Deeside Road.

Thirdly Ms Lorimer questioned the need for a new road in the area and noted there were access roads from North Deeside Road to Inchgarth Road, which had to be negotiated carefully but she felt that was not a bad thing as it slowed traffic down. She also highlighted that a consequence of developing a new road would be a large unsightly concrete tunnel over the old railway line which would greatly detract from the green space.

Fourthly, Ms Lorimer questioned the provision of local facilities and noted there was a shortage of doctors and care workers, and wondered the likelihood of finding staff for the proposed facilities and noted that without these, many of the elderly would be stranded.

In conclusion, Ms Lorimer highlighted that most of the letters of support wanted the development because of the proposed road but with little regard for other considerations or possible consequences. Ms Lorimer noted that the area was one of the last green spaces on the edge of the city and it complemented the old railway line and could be incorporated by creating a community wild area, which would save the present Green Belt with its wildlife. The proposed new development would cause the loss of something special which could never be replaced and she hoped that officers and Councillors abided by the Local Development Plan and continued as the development plan stated, “to protect and enhance the green infrastructure networks” around the city.

The Committee was then addressed by **Mrs Clare Harris**, who advised that she was a local resident and had lived on Westerton Road, in between the bridge over the old railway line and North Deeside Road for 30 years and was supporting the proposed application for the following reasons.

Firstly, in regard to safety, Mrs Harris explained that the proposed link road would provide a much needed fit for purpose route for both traffic and pedestrians travelling between North Deeside Road and Garthdee and beyond, which would relieve Westerton Road and the other minor roads of the volume of traffic for which they were never designed and make them safer places for residents and other pedestrians to use.

Secondly, Mrs Harris felt that there was a need for more age appropriate accommodation in the area with easy links to shops and amenities. The proposed development would provide a great opportunity, with amenities on site, and easy access to walking routes and also to bus stops with transport into Aberdeen, out along Deeside and down to

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Garthdee. Mrs Harris explained that amenities such as a café would also encourage people to use the old railway line for recreation.

In conclusion, Mrs Harris advised that she was hopeful that in an area that continued to see major housing developments, with all the increased traffic that brought, Councillors would take the opportunity to put the last remaining piece of open land between Cults and the city to good use and approve the proposed development.

Mrs Harris also spoke on behalf of **Mr Mark Sawdon**, who had indicated he wished to speak at the hearing but was unable to attend at the last minute. Mrs Harris read Mr Sawdon's speech and it stated the following.

Mr Sawdon was in support of the application, on the grounds of safety. He regularly had to push his very elderly and frail mother in a wheelchair from their house, round the corner to Ashfield Road, where they had a disabled parking space. This was not located outside their house because of the narrowness of Westerton Road and pavements. Mr Sawdon's mother found it a daunting experience and felt they were running the gauntlet of traffic passing unnervingly close to her. Mr Sawdon was in support of the application.

The Committee was then addressed by **Mr Jeff Smith**, who was in support of the application. Mr Smith explained that after studying the information submitted to the Council by the applicant, and assessing the proposal on its merits, a clear benefit was the proposed new link road. Mr Smith advised he was a frequent user of Pitfodels Station Road, and he believed that the proposed new road meant linking the North Deeside Road with Inchgarth Road would be of great benefit to the local area and beyond. He explained that residents of Pitfodels Station Road, and Westerton Road in particular, would benefit from the reduction in through traffic and increased safety as these roads no longer met the necessary standards for the volume of traffic using them. He highlighted that both junctions with the North Deeside Road were narrow and hazardous and the visibility at the foot of Pitfodels Station Road was poor and being opposite the entrance to Norwood Hall Hotel made the junction potentially dangerous. Mr Smith also explained that another benefit was the range of residential accommodation and associated facilities that were to be provided. Mr Smith noted that the Local Development Plan stated the need for more housing with particular focus on retirement housing and he believed the range of accommodation to be provided, which included some affordable homes, along with care home provision and community and retail facilities, met all of the needs of the local area and should be welcomed.

Mr Smith also explained that he was a frequent user of the Deeside Way both as a walker and a cyclist and considered it to be a valuable asset within the community. He advised that the proposals would not impair his enjoyment of using the route. The existing open space to the west of the new link road would remain but with enhanced planting and public accessibility for recreational use.

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Mr Smith also highlighted his delight that the mature trees within the site along the North Deeside Road were to be retained, should the application be approved.

In conclusion Mr Smith stated that the proposal would benefit the local community by solving the long-established problem of excessive traffic on the currently substandard link roads; there would be the provision of much sought-after properties suitable for 'last time buyers', thus freeing up larger family homes elsewhere; and by maintaining the asset that was the Deeside Way but with enhanced accessibility to public open space for all sections of the community.

The Committee was then addressed by **Mr Dave Thompson** who explained that he had been a resident on Westerton Road for approximately 16 years and the amount of traffic on the road had been a concern throughout that time and he had been actively working and engaging with other neighbours to try and make the road safer for the last four years. He explained that although there was a 20mph speed limit in place it was obvious that this was ignored by many drivers and it was a definite risk to pedestrian safety on the road.

Mr Thompson advised that any improvement that could be made to reduce the high volume of traffic on Westerton Road and increase pedestrian safety would be greatly appreciated and he supported the new link road and development as a result.

The Committee was then addressed by **Mr Sam Murray** who advised that he was in support of the application for a number of reasons.

Mr Murray advised that the inclusion of a new link road between North Deeside Road and Inchgarth Road was most welcome, as the existing options of Westerton Road and Pitfodels Station Road left a lot to be desired. He noted that the junctions of both of the roads with North Deeside Road were narrow, with poor visibility, making them difficult for vehicles to negotiate and in both cases the footpaths were non-existent or inadequate, making them dangerous for pedestrians. As a cyclist, he explained that he found these routes to be somewhat treacherous and was pleased to see the plans would include a new cycle path. Similarly the much improved access to the Deeside Way, which would be created by this development, was a real advantage to the community.

Mr Murray advised that the plot proposed for development was, in fact, a really unkempt piece of ground and an eyesore. The area would be transformed into a great community asset and the layout of the proposed development was sympathetic to the surroundings and the inclusion of a public space was most welcome.

Mr Murray indicated that there were a large number of people who would want to downsize to a modern home which suited their needs in their retirement without having to leave their existing locality and he felt that the community this development would create could only bring financial benefits to the local businesses serving the local area.

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Mr Murray also highlighted that all three local hotels namely, the Cults Hotel, The Marcliffe at Pitfodels and the Norwood Hall Hotel supported the proposal.

In conclusion, Mr Murray asked that the proposed development be approved.

The Committee was then addressed by **Mrs Anne Milne** who explained that she had been a local resident for 40 years and lived close to the proposed development. She advised that people her age welcomed the proposals with new retail facilities an added bonus. Mrs Milne felt that the area at present was an eyesore and the new road would make the area safer with a better route and would also tidy up the whole area.

The Committee was then addressed by **Mr William Morrison** who explained that he had lived in the area for 40 years and supported the application for similar reasons to other speakers.

Mr Morrison outlined his reasons as follows.

He felt that it would reduce traffic through Deeview Rd South, the lower part of Inchgarth Road, Westerton Road, Ashfield Road and Station Road Pitfodels and would reduce congestion at the present junctions. Mr Morrison felt that the AWPR had not noticeably reduced traffic in the area and that it appeared to have increased with student and staff from North Aberdeenshire using the AWPR and consequently the local roads to access Robert Gordon University. He added that there was a need for a decent link road between the North Deeside Road and Inchgarth Road which was identified a number of years ago. With respect to area of ground itself, the proposed area for development had changed from farm land to wilderness with small thickets of self seeded trees. He noted that it was frequently used for fly tipping with fridges, washing machine, tumble dryers and the obligatory mattress dumped within the grounds. The wall and fence on the Inchgarth side of the property was in a very distressed condition and did nothing to protect or enhance the area. He frequently walked the area, and noted there was a variety of wildlife mainly birds and deer, however had never seen squirrels or any of the usual signs of badgers. The development would provide a realistic balance between rural and developed space similar to that already approved in other developments, albeit in a smaller scale. Mr Morrison added that there was a need for good after care facilities for the elderly and this was an ongoing issue with life expectancy for both males and females set to increase over the coming decades. He also indicated that a small retail unit would not go amiss to serve the community and visitors to the development.

The Committee was then addressed by **Mr Alastair Walker** who explained he was in support of the application for a number of reasons.

Firstly, the levels on the site fell considerably from the North Deeside Road to Inchgarth Road and there would be no negative impact from the development and indeed there would be a very positive improvement in the scenic appeal of the area. The area was south facing and the views from the homes to be built there would be fabulous.

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Secondly, there was a need for a good connecting road between Inchgarth Road and North Deeside Road as the existing roads were inadequate and had a negative affect on the residential property owners living on Westerton Road and Station Road.

Thirdly, the area of land in question was of no great merit for anything other than for development. He felt it was a great idea to put this land to good use instead of it lying overgrown and in a sorry state of repair due to neglect over a period of many years.

Fourthly, with an ageing population, the area needed another care home and housing suitable for the elderly and would be of interest to him.

In conclusion, Mr Walker felt that the proposal had been well thought through, would improve access to the disused Deeside railway line, did not conflict with other developments in the area, would not put excessive strain on the existing road network and the new link road was vitally important to the local community.

The Committee was then addressed by **Mr Keith Morrice** who explained that he knew the area well and was often in the area. He felt that the roads were poor and urgently needed improvement. Mr Morrice noted that combined with the retirement village, the proposed development would be a positive addition and was a very good idea.

The Committee was then addressed by **Ms Dawn Barrack** who explained she lived at 229 North Deeside Road in Cults, adjacent to the proposed development. Ms Barrack advised that she felt very strongly about the development and was against development on this site as it was classed as Green Belt in the Pitfodels Conservation Area.

Ms Barrack indicated her shock that it was suggested that the proposed development would take an estimated 6 years to develop. 6 years of total disruption to her life and also her neighbours' life. Ms Barrack noted that the height of the road was so close to her home it was horrifying.

Ms Barrack advised that Policy NE2 Green Belt, meant that there was general prohibition to develop, subject to exceptions. Ms Barrack highlighted that this development was not essential and would just create another rat run, encouraging large vehicles and buses on to Inchgarth road, which was not suitable.

Ms Barrack concluded that the noise levels for her home, regardless of the proposed planting, would not be sufficient.

The Committee was then addressed by **Mrs Janet Jackson**, who explained that she had lived on North Deeside Road since the early 1980's and the driveway at the back of her house exited onto Westerton Road, which used to be a country road. The volume of traffic had significantly increased over the years and the residents actively campaigned to get speed bumps installed. However Mrs Jackson felt that the road was still too narrow

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to cope with the amount of traffic and large vehicles still used the road, even though they were prohibited. Mrs Jackson indicated that there had not been an improvement in the traffic levels since the opening of the AWPR and a new road such as the proposal, was now essential to link the areas of Garthdee and Cults.

Mrs Jackson also indicated that in regards to the area of the development, for many years things had fallen more and more into disrepair and it was not a particularly nice place to walk. The area had been left to run wild and was not much of a "conservation area". Rubbish had been dumped there and was just an eyesore and was certainly not an area of outstanding natural beauty. Mrs Jackson noted that deer and bird did visit the area, and commended the developers for including the wildlife corridor in the plans.

In conclusion Mrs Jackson felt that the proposed development should be approved.

The Committee was then addressed by **Dr Francis Philip** who had been a resident on Westerton Road for many years. Dr Philip was in support of the application for the following reasons.

Firstly, there was a demand in the area for the provision of suitable accommodation for the elderly and he noted there was a large number of people who would be keen to downsize and remain in the area. The inclusion of a care home and affordable housing would also be a great benefit to the community.

Dr Philip also advised that at present, the site was a wilderness and not open to the public so the proposal would materially enhance the area and provide access and associated enjoyment to all. He also indicated that the link road was a huge bonus and noted the present situation with traffic on Westerton Road was heavy at times which provided difficulty for both drivers and pedestrians and the blind summit at the bridge was dangerous when vehicles were parked nearby. Dr Philip encouraged Councillors to approve the application.

Dr Philip also read out the statement from **Mr Ritchie Manson** who could not be at the hearing, but was also a local resident. Mr Manson was in support of the application and noted how extremely dangerous the local roads were and that he had witnessed many accidents and something had to be done to improve safety. Mr Manson also highlighted the ageing population and had full confidence that the development would have a positive addition to the local community.

The Committee was then addressed by **Anna Jackson**, on behalf of **Steve McKnight** who could not be in attendance at the hearing. Ms Jackson read out Mr McKnight's statement and the following was noted.

Mr McKnight's property was located on the corner of Inchgarth Road and Pitfodels Station Road and his entrance sat on the corner at an angle, diagonally opposite the entrance to Norwood Hall hotel. Mr McKnight advised that the junction had very poor sight-lines and

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visibility and was extremely dangerous. The new road would remove traffic from Pitfodels Station Road, Westerton Road and St Devenick's Place to the benefit of those living on these roads. It would also remove traffic from Deevie Road South and Ashfield Road to the benefit of the residents. It would also make the roads safer for pedestrians and cyclists.

Mr McKnight noted that the site was currently unkempt and he looked forward to seeing a significant improvement with public access. He noted that the proposed development was innovative in terms of its concept and design and the provision in the area for housing for the elderly which included affordable housing should be welcomed by all. He advised that the layout fitted into the landscape and with the extensive open space included within the development, it maintained the separation between Cults and Pitfodels/Garthdee. The proposed building would not be seen from long range views.

Finally, Mr McKnight indicated that the proposed planting and wildlife area, the green space/green network in the area would be retained and enhanced and that he was fully in support of the development.

The Committee was then addressed by **Mr Gavin McDonald**, who explained that he was not a local resident, but travelled through Cults regularly. He advised that the junctions were very dangerous at both ends and the development would see improved access to the Deeside Way. Mr McDonald also indicated that the type of elderly housing included in the proposed development, would be something he would be very interested in.

The Committee was then addressed by **Mr Philip Anderson**, who explained that he had stayed in the area and would like to return to the community in retirement and was in full support of the application. He explained how many people were ready to downsize and felt the development fitted well. He also highlighted how the new link road was badly needed in the local area and would provide a safe route between North Deeside Road and Inchgarth Road. Mr Anderson also explained how the proposed planting would enhance the local environment and the green space would be strengthened.

The Committee was then addressed by **Mr Scott Findlay**, who was also in support of the application and felt that the current road structure was no longer fit for use and very dangerous. He explained that the proposed new road should be given full backing, as it would improve safety access for all road users. Mr Findlay also highlighted how there were no retirement villages in the area and he felt that this was a welcomed proposed development.

The Committee was then addressed by **Mr Peter Littlefield** who explained that he lived on Westerton Road and was in full support of the proposed development. Mr Littlefield explained that the housing development would be most welcomed as it would provide much needed accommodation for elderly people but also new facilities such as a pharmacy, café and doctor's surgery. He also noted that the development would not only

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provide a unique combination of appropriate accommodation and support facilities for its residents but would also be available to existing residents in Pitfodels and Inchgarth.

Mr Littlefield highlighted that the proposed development made good use of the abandoned and unkept area of land and by retaining a wildlife corridor and the management of green areas, would be a positive impact on wildlife. Also, the improvements to access to the existing Deeside Way and creation of additional walking/cycling routes within the overall development would provide considerable benefits for residents and visitors alike.

Mr Littlefield advised that residents had suffered for many years with the danger, noise and inconvenience of heavy traffic using the road as a rat run and noted that the construction of the proposed link road, would be specifically designed and constructed to modern-day standards thereby meeting the current and future vehicular and pedestrian requirements.

In conclusion Mr Littlefield asked that Councillors support the application.

The Committee was then addressed by **Mrs Lesley Little**, who explained that she was against the proposed development. Mrs Little advised that traffic had decreased since the opening of the AWPR and felt that the new proposed road would then become a rat run. She also felt that it was a poor site for a development for elderly people. She also highlighted that greenbelt land should be protected and thought it was unthinkable to move the wildlife access. Finally Mrs Little questioned the financial viability of the proposed development.

The Convener thanked all those who attended the hearing, specifically those who had presented their case, submitted representations and provided information. She advised that the Chief Officer – Strategic Place Planning would prepare a report for submission to a special meeting of Full Council for subsequent consideration and determination.

**COUNCILLOR MARIE BOULTON, Convener**

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## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE-DETERMINATION HEARING**

ABERDEEN, 15 January 2020. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION HEARING. Present:- Councillor Boulton, Convener; and Councillors Allan, Copland, Cormie, Greig and MacKenzie.

Also in attendance: Councillors Alphonse, Bell, Delaney, Jackie Dunbar, Grant, Henrickson, Hutchison, Macdonald, MacGregor, McLellan, McRae, Mennie, Alex Nicoll and Wheeler.

### **SITE VISIT**

1. The Committee conducted a site visit prior to the Hearing. The Committee was addressed by Mr Gavin Evans, Senior Planner and summarised the proposal for the overall site.

The Convener explained that the Committee would return to the Town House to commence the Hearing.

**ERECTION OF RESIDENTIAL LED, MIXED USE DEVELOPMENT OF APPROXIMATELY 550 HOMES, COMMUNITY AND SPORTS FACILITIES, RETAIL (CLASSES 1, 2, 3 AND SUI GENERIS), WITH ASSOCIATED LANDSCAPING, OPEN SPACE AND INFRASTRUCTURE AT LAND EAST OF A92 ELLON ROAD AT CLOVERHILL, MURCAR BRIDGE OF DON ABERDEEN, 191171.**

2. The Committee heard from the Convener who opened up the hearing by welcoming those present and providing information on the running order of the hearing. She explained that the first person to address the hearing would be Mr Gavin Evans, and asked that speakers adhere to their allocated time in order for the hearing to run smoothly and in a timely manner.

The Committee then heard from **Mr Gavin Evans**, Senior Planner, who addressed the Committee in the following terms:-

Mr Evans explained that members should note that the report prepared for today's meeting contained full details relating to this case, and that his presentation was a very brief overview of the report.

Mr Evans explained that the site extended to 22.5 hectares and was located at Cloverhill, Bridge of Don, on the east side of the A92 / Ellon Road dual carriageway (formerly the A90 Trunk Road until its de-trunking last year) on the section between the Murcar Roundabout (to the north) and the AECC Roundabout (to the south).

Mr Evans advised that the Silver Burn crossed under the A92 and entered the western edge of the site, before heading south towards the southern tip of the site. He explained that an existing property, Ironfield House, was located just outwith the eastern boundary of the site but was presently accessed via a rutted track which ran

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east-west across the site and connected with the A92. An existing culvert ran from east to west across the site, roughly following the route of the track, before discharging to an open channel beyond the eastern boundary.

Mr Evans advised that the interior of the site comprised of open agricultural fields, subdivided by existing dry stone walls, fences and hedgerows. There were few existing trees to the interior of the site, with the exception of a small cluster where field boundaries met in the southern portion of the site. Mr Evans noted that for the most part, any mature trees were located along the boundaries of the site, which included at its northern edge and north-eastern corner, as well as along the northern portion of the Silver Burn. He had also highlighted that dense belts of planting, which enclosed existing residential properties at Ironfield House and in localised pockets along the eastern boundary, were also evident.

Mr Evans indicated that the site was zoned as Business and Industrial land in the Local Development Plan.

In terms of the surrounding land use context, Mr Evans explained that the site sat to the north of the Aberdeen Energy Park, with the former Aberdeen Exhibition and Conference Centre site further south, on the other side of the Parkway East/Exploration Drive. To the east of the site was land identified in the Aberdeen Local Development Plan for business and industrial development, but as yet undeveloped. Beyond this, approximately 600m east, lay the Royal Aberdeen golf course, with Murcar Golf Course immediately to the north of that.

Mr Evans also highlighted that on the opposite side of the A92, to the west, was the Bridge of Don Retail Park and further office and industrial development contained within the Denmore, Murcar and Bridge of Don Industrial Estates. Further to the east was the established residential areas within Bridge of Don. Development on this site would be within the catchments for Scotstown Primary School and Bridge of Don Academy, both of which lie on the western side of the A92.

Mr Evans explained that in regards to the Local Development Plan:

- The application site formed some part of OP2, an opportunity site for development of office, business and industrial uses, compatible with its Business and Industrial Zoning and the associated B1 policy. The remainder of OP2 lay to the east and north east;
- Land to the south-east was OP3, earmarked for the expansion of the Aberdeen Energy Park, with policy B2 (Specialist Employment) seeking to promote class development in classes 4, 5 and 6, allowing for office, industrial and storage/distribution/warehouse use; and
- To the north, the OP1 Murcar site provided employment land for future needs, and was safeguarded for that purpose rather than meeting current need.

Mr Evans advised that as the application sought permission in principle, the layout plans provided should be treated as an indicative representation of how any final scheme could look, rather than a settled proposal. Full details of design, architectural treatment and

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various other matters would be established through the planning authority's consideration of future applications for the 'approval of matters specified in conditions', which would be subject to the relevant neighbour notification, consultation, and reporting processes at that time, which would provide further opportunity for members of the public to make representation.

A Design and Access Statement had been provided in support of the proposal, which sought to present a contextual analysis of the site and establish key design principles against which subsequent applications would be considered. Mr Evans highlighted that this document referred to a mix of houses and flats, which included detached, semi-detached, terraced, bungalow and assisted living units. Mr Evans also indicated that other potential uses noted included nursery, community or event space, care home/sheltered accommodation and retail/commercial space, along with a new all-weather sports pitch to the southern end of the site.

The indicative layout showed the site being accessed from two key points on the A92. A main central access, which would be controlled by a new signalised junction, and a secondary access further south, which would operate on a 'left-in, left-out' basis. This junction would incorporate a pedestrian crossing point on the A92, facilitating access to the shops and amenities to the west.

The indicative Masterplan also showed potential for existing houses, which were currently accessed directly from the A92, to gain access to the internal street layout, as well as potential future access points for the internal street layout to connect to land to the north and east.

Mr Evans also explained that the sports pitch shown towards the southern end of the site would be served by the secondary access from the A92, with potential for a clubhouse/pavilion and associated car parking adjacent.

Mr Evans also indicated that the higher density flatted block(s) were indicatively shown to the north of the main access, along with a main square, intended to act as a central focal point for the development and offering a potential location for retail or community uses.

Mr Evans also gave details on the indicative building types and noted the proposal included, a mix of detached, semi-detached, terraced and 'cottage flat' units, bungalow locations not shown on this indicative layout, but intention to include and community/mixed use/retail elements of the proposal located at central access point, focused around 'main square' and the linear park.

Mr Evans also advised that the supporting Design and Access Statement highlighted that the proposal included the Aberdeen Hydrogen First initiative, which proposed to integrate micro-CHP (Combined Heat and Power) fuel cell technology into 30 homes within the first phase of development as a pilot scheme. The applicants had also indicated that 'up to' 30% of the total units would be delivered as affordable housing, with the aim of delivering around 145 affordable units within the first phase of development.

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Mr Evans also provided details on relevant planning policies. He explained that as this site was not allocated or zoned in the Development Plan for housing development, the starting point was to highlight that this proposal represents a significant departure from the approved Development Plan, which had necessitated this hearing.

Scottish Planning Policy was of relevance in setting out national planning policy, including the overarching aims and desired outcomes for the planning system in Scotland.

Local Development Plan policies which related to various matters such as developer obligations, transport impact, housing mix and open space provision were all of relevance, however these matters were largely secondary to establishing whether the principle of residential development in this location was acceptable. The development plan does not currently allow for it, and Scotland operates a plan-led system, where decision making should first and foremost establish whether a proposal accords with the Development Plan, and thereafter consider whether there were any particular considerations that are of such significance they warrant setting aside the Development Plan in this instance.

Mr Evans also indicated that the 2019 Housing Land Audit would be of relevance in offering the most recent picture of the available supply of housing land across the city.

In regard to representations, Mr Evans noted that a total of 128 valid and timeously made representations were received in relation to this application. Of these representations, 123 were in support of the proposal, 3 stated objection, and 2 were neutral in content.

The Convener then invited **Mr Scott Lynch**, Senior Engineer, to address the Committee.

Mr Lynch explained that they had assessed the principles of the development at this point and not the specifics. He advised that a range of facilities were in walking distance to the development and also how the Council promoted new cycling facilities. Mr Lynch highlighted that there were bus stops along the A92 and the nearest bus stops to the site were 120m to the north of the site, and the Bridge of Don park and ride was 850m to the south of the site.

Mr Lynch also explained that the applicant had intimated that full details of the parking provision would be submitted for the detailed planning applications for each development phase in accordance with the Councils standards and this was acceptable. Mr Lynch also noted that the applicant had stated that, in-keeping with the policies outlined in designing streets, they had aimed to consider place before movement, with the needs of pedestrians, cyclists, and public transport users considered ahead of motor vehicles and this was a requirement of Council policy.

Mr Lynch also advised that access to all schools would require the crossing of the A92 dual carriageway via the proposed Toucan crossing at the site access junction. In order to facilitate this, the applicant proposed a temporary 20mph speed limit during school

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travel-times. He noted that all safe routes to schools proposed were adequate and safe, and comprised of signalised crossings / zebra crossings / well-lit sections of footway, etc. Mr Lynch also noted that the applicant was correct in asserting that if the aspirational core path between the A92 and Denmore Road was implemented, this would significantly reduce pedestrian journey times between the site and Greenbrae Primary School.

Members then asked questions of Mr Evans and Mr Lynch and the following information was noted:

- The adoption of roads would be addressed at a later stage;
- Developer obligations would be required for both primary and secondary education;
- Greenbrae Primary was the nearest primary school however the development was zoned as Scotstown Primary due to the core path route to school and safety matters. It was confirmed that Scotstown Primary was within the 2 mile walking distance limit before the Council would be required to provide transport to school;
- Contributions would be sought towards Scotstown Medical Practice;
- There would be a condition in regards to the crossing of the A92, which would include a toucan crossing and signalised lighting;
- There would be a shared path for pedestrian and cycle usage and this would be 3m in width; and
- The location of the affordable housing was still to be determined;

The Convener then invited the applicant to address the Committee, and the speakers consisted of Richard Campbell, Cognito Oak and Elaine Farquharson-Black, Brodies.

Mr Campbell commenced the presentation for the applicant and explained their vision for Cloverhill was to create a new sustainable community, which would sit between Bridge of Don and Aberdeen beach, and would provide a high quality, sustainable and healthy lifestyle for its residents, businesses and the wider community. Mr Campbell indicated that they had included a number of suggestions from early meetings with the Community Council, which included bungalows, local shops, a community hall and play areas, as well as a sports pitch.

Mr Campbell highlighted that the proposals helped address a need and demand for new affordable, Council and accessible housing and community facilities in the Bridge of Don area, which was evidenced by over 120 expressions of support from third parties. He explained that a significant element of the support came from people who wished to live in Bridge of Don but could not get suitable housing. In addition, Mr Campbell highlighted the Aberdeen Hydrogen First Initiative had attracted national interest and noted that they would be taking a bold step towards addressing climate change with the Hydrogen Initiative, which would be a first in the UK.

The Committee was then addressed by Elaine Farquharson-Black, who explained that at a local level, 165 affordable homes would be delivered in partnership with the

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Council as part of the first phase of the development, together with 100 market houses. There would be a mix of size and type of units, which would include bungalows and accessible housing as requested in the public consultation. Alongside these homes, the applicants would deliver a 3G sports pitch which would become the home of Bridge of Don Thistle Football Club, but would be managed by a local community trust and available for wider community use. Also within the first phase, Ms Farquharson-Black indicated there would be a central linear park, two new junctions and a new pedestrian crossing on the A92, which would connect the existing Bridge of Don community with the coast and would provide a key part of the Council's aspirational Core Path Number 1.

Ms Farquharson-Black advised that the second phase of the development would include in the region of 255 dwellings, of different sizes, the neighbourhood centre with shops and community facilities, such as a Men's Shed, and additional open space. The third phase would complete the housing. All of the community facilities were being provided in the first two phases and the timing of their provision would be secured through a legal agreement. Ms Farquharson-Black indicated that the Community Council's concern that there would be housing without facilities had therefore been addressed.

Ms Farquharson-Black also highlighted that the applicants were investing £500,000 to fit 30 homes with energy efficient micro-CHP fuel cells which convert natural gas to hydrogen. This would be the first project in Scotland to evaluate the technology in practice and at scale and they would work in partnership with Panasonic, who were market leaders in this area, and the project had the support of InvestAberdeen and the Chamber of Commerce.

Ms Farquharson-Black explained that the Development Plan position was a little different and they were in an unusual position, one that she believed supported the grant of consent for this development. She highlighted that the Aberdeen and Aberdeenshire Strategic Development Plan 2014 was now almost 6 years old. Scottish Government planning policy dictated that where a development plan was more than 5 years old, it must be considered to be out of date and the presumption in favour of development which contributes to sustainable development would be a significant material consideration in the determination of any planning application. Case law from the Supreme Court had established that this means that the balance was tilted in favour of the grant of permission, except where the benefits were "*significantly and demonstrably*" outweighed by any adverse effects.

Ms Farquharson-Black indicated there were no adverse effects which significantly and demonstrably outweigh the considerable benefits which would arise from approving this development.

Ms Farquharson-Black advised that the application was classed as a significant departure from the current Development Plan and she noted that in correspondence, officers had suggested that building homes on the application site would be contrary to

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the Vision and Spatial strategy of the 2017 Local Development Plan. They had also suggested that approving this application might prejudice the delivery of development on sites which had been allocated for residential development elsewhere in the city. However Ms Farquharson-Black advised she found these statements both surprising and unfounded. She highlighted that this was a development which would provide a high quality of life while leading the way in sustainable development and piloting a solution which dealt with climate change. It was therefore consistent with the Council's Vision.

The spatial strategy promoted the city centre as the commercial, economic, social, civic and cultural heart of Aberdeen. This development would not compete with the city centre. The spatial strategy proposed planned expansion on brown and green field sites around existing suburban communities, to deliver opportunities for people to enjoy a high quality of life within an attractive and safe environment which encompasses natural open landscapes. She indicated that 40% of this site would become parkland and open space, which would include a 3G sports pitch for community use. This was in line with the Council's spatial strategy and Green Space Network.

The spatial strategy also identified 6 directions for growth, one of which was Bridge of Don where the AWPR, Third Don Crossing and Haudagain roundabout upgrades were highlighted as improvements which would benefit the area. This was linked to the identification of the Energetica Corridor which ran from Aberdeen to Peterhead and which looked to transform the area into a high quality lifestyle, leisure a global business location showcasing the latest energy and low carbon technology.

MS Farquharson-Black explained that Opportunity North East was leading the drive towards energy transition and the creation of a globally active energy supply chain and regional energy cluster. She believed this development provided a great opportunity for Aberdeen to take the lead in the decarbonisation of domestic heating, supported by Panasonic, a multi-national company with a track record in hydrogen fuel cells.

Ms Farquharson-Black indicated that the only policy with which this development conflicted with was Policy B1, Business and Industrial Land, as the land had been allocated for employment uses, however she felt that the current employment allocation shouldn't be seen as a barrier to residential led development at Cloverhill and to look at the development plan as a whole. Furthermore, she highlighted how the Council was reviewing the 2017 Local Development Plan allocations, which were based on the out of date 2014 strategic plan. The application site had been allocated for employment uses in successive plans for more than a decade without any interest being shown in its development for employment purposes. The Development Plan required 60 hectares of employment land to be available at all times and there were currently 223 hectares of effective employment land available in the city and another 60 or so hectares in the established supply. Ms Farquharson-Black intimated that the 10 year average annual take up of employment land in the city had been around 8 hectares, which meant that we currently had a 28 year supply of employment land in the city.

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Ms Farquharson-Black explained that in monetary terms, this was a £100M development, which would create 115 construction jobs and 175 supply chain jobs per annum and would add £12.8M GVA per annum during construction.

Once completed, it was anticipated that there would be 35 direct jobs and 15 supply chain jobs within the neighbourhood centre and 175 supported jobs from increased expenditure in the area. There would be £2.4M additional GVA per annum.

Given the current economic climate, Ms Farquharson-Black advised that none of these benefits, physical or monetary, would materialise if the site remained zoned and undeveloped for business use for the next decade.

In regard to the proposed new junction, Ms Farquharson-Black explained that the attributes which led the Council to consider the site suitable for employment uses, made it suitable for housing. It was close to the strategic road network, which had been improved to allow more development to take place in the corridor.

Further improvements would be brought forward to relevant junctions and the speed limit on the Ellon Road would be lowered to 40 miles per hour. A new pedestrian crossing would be installed at the entrance to the site. The site was well served by public transport into the city centre, there would be new stops on the Ellon Road at the access. Connections could be made via the railway and bus station to locations further afield.

Ms Farquharson-Black also explained that children from the development could be accommodated within the nearby schools, and there were safe walking routes available via the existing and proposed crossings. The entire site was within acceptable walking distance. During school crossing times, the speed limit would be further reduced to 20 mph, consistent with what happened near schools across the city.

In conclusion, Ms Farquharson-Black highlighted that this development accorded with the sustainable principles in Scottish Planning Policy in that it showed good design and the 6 qualities of successful places. It would deliver accessible housing, retail and leisure, which would include community and sports facilities which provide opportunities for health and wellbeing, social interaction, physical activity and access to the environment. There was also the necessary supporting infrastructure. It had considerable economic benefits and it supported climate change mitigation. Ms Farquharson-Black noted that she could think of no adverse effects which significantly and demonstrably outweigh the benefits of this development. The legal position was therefore that the balance was tilted in favour of departing from the current employment allocation and granting consent for this sustainable community of new homes, retail, sports and community facilities. It would be a development which fits with the Vision and Strategy of this Council, it fitted with the aims and objectives of Energetica, the Regional Economic Strategy and Opportunity North East. Finally it would position the city at the forefront of innovation in domestic energy supply, consistent with the region's diversification strategy and transition from oil and gas.

Members then asked questions of the applicant and the presenters and the following information was noted:-

- There had been tentative interest in the retail units;

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- Electric vehicle charging point would be included in the site;
- There had been positive dialogues with First Bus in regards to buses going through the site;
- 5% of the housing would now be bungalow style following consultation comments; and
- A package of roads measures were proposed, with new bus stops on the A92 as part of the initial improvement.

The Committee was then addressed by **Mr Nick Glover**, Principal Environmental Health Officer, Aberdeeny City Council, who provided details on various aspects of the proposal and the noise impact. In relation to the wind turbines, Mr Glover advised that for the Vattenfall offshore wind development consent, an interim report had been received and suggested no negative noise impact was likely and therefore no noise impact assessment would be required for these wind turbines.

Mr Glover also explained that it was noted that in order to mitigate noise from the road traffic noise on the A92 to acceptable levels it was proposed that an acoustic barrier be installed.

The Committee was then addressed by **Mr Andrew Win**, Invest Aberdeen, who explained that Invest Aberdeen was the inward investment hub for Aberdeen City and Shire and it provided business support and guidance and was the point of contact for businesses, investors and developers seeking to invest in the North East of Scotland.

He advised that its key role was to support the delivery of the Regional Economic Strategy and Invest Aberdeen focuses on several key sectors, which include oil and gas, technology, digital, life sciences, food and drink and renewable and alternative energy.

Mr Win indicated that 51,000 of Scotland's energy jobs were based in Aberdeen city region and many of these were highly skilled jobs that formed part of global supply chains with the energy sector a major contributor to Scotland's and the UK economy.

Mr Win explained that in May 2019, the Committee on Climate Change recommended that the UK should aim to achieve net-zero greenhouse gas emissions by 2050, and 2045 in Scotland. The energy industry could play a major role in delivering the UK's net-zero future, given the recognition by the Committee on Climate Change of the importance of oil and gas as part of a diverse energy mix in 2050 and beyond.

Mr Win also highlighted that in 2015, the Regional Economic Strategy was published and it provided a vision and strategy for the future of the North East of Scotland's economy. It acted jointly as an economic strategy for the region and to ensure a long-term commitment to a range of priorities and objectives across partner organisations to maintain and grow the economy. He also indicated that in 2019, the Aberdeen Economic Policy Panel Report recognised the emerging opportunity and threat that net

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zero transition presented to the city region and recommended that the city developed a strategy that distinguished itself from other cities.

Mr Win also highlighted that as a City, Aberdeen had been investing in and delivering on diversification and energy transition for many years. The European Offshore Windfarm Demonstration Project was a joint venture between Aberdeen City Council and Vattenfall that generated enough power for 80,000 homes. The City also had its own hydrogen fuelled waste trucks, road sweepers, additional cars and vans which complement an existing fleet of 65 vehicles and supported refuelling infrastructure.

In relation to the Cloverhill application, Mr Win noted that the development sought to incorporate a new energy efficient, low carbon heating solution into a residential development through the Aberdeen Hydrogen First initiative. Invest Aberdeen was therefore supportive of this application, as the proposals sought to make investments in line with the Regional Economic Strategy which sought to grow and diversify the key energy sector, particularly the use of hydrogen for residential heating.

Mr Win advised that it was acknowledged that the micro-CHP fuel cell technology would utilise natural gas from the grid but would do so in a more energy efficient way than a conventional boiler and would introduce a new technology solution to Aberdeen and Scotland. This was seen as a step towards a full hydrogen fuel cell residential heating scheme and the pilot in Aberdeen would provide valuable data of how this technology works in the Scottish climate and what the “real world” energy efficiencies were and how they could be improved upon.

Mr Win concluded that it was anticipated that the project would also demonstrate opportunity for retrofitting to existing building stock and how it could also grow new training and apprenticeship opportunities for the installation, operation, monitoring and maintenance of the technology. He also noted it was particularly positive to see the integration of fuel cell technology into the first phase homes rather than this being later and demonstrated a willingness of the developer to deliver the pilot project, contributing to the wider objectives by supporting and delivering local solutions to meet local needs, linking local generation and use.

The Committee was then addressed from **Mr Laith Samarai**, Bridge of Don Community Council who explained that the Local Development Plan, approved by Council in 2017, was the result of consultation with a wide spectrum of stake holders, organisations and communities who all invested in this substantial process. The LDP already had allocated large areas for housing development, for example, the 7000 homes at Grandhome, the 400 homes at Woodside, 500 homes still to be constructed at Mugiemoos and in addition there were possibly up to another 810 at other locations in the Bridge of Don area. He also explained that there were plans in neighbouring Aberdeenshire for up an additional 500 at Blackdog/ Balmedie. He noted that it was their view that these developments and ongoing building programmes would see more than enough homes being built in or adjacent to the Bridge of Don area. Mr Samarai highlighted that the approved 2017 Local Development Plan would likely provide an adequate if not surplus of housing in the Bridge of Don area.

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Mr Samarai went on to advise that in addition, the Community Council had a number of substantial reasons as to why the proposed development should be rejected and the concerns included, schools and safe routes to and from schools, public transport, provision of health facilities and services, roads and congestion and community facilities.

Mr Samarai highlighted that the Community Council did not feel reassured, that any of the Community facilities proposed as part of the development would actually be delivered.

In conclusion Mr Samarai indicated that the Community strongly objected to this application and believed that the existing use in terms of the approved Local Development Plan should remain, that being Business and Industrial Use.

The Committee then heard from **Mr David Windmill**, a local resident, who explained he and his wife along with their close neighbours, were likely to be the most directly affected by the proposed development as it surrounded their properties. He explained that they felt this development was a fantastic opportunity not just for them but for all of the Bridge of Don. He noted that currently the area lacked a lot of facilities, which had improved recently with the redevelopment of the local Murcar estate to add local shopping, however the lack of facilities ran far beyond a few shops.

Mr Windmill noted that their properties were on the boundary between town and country and their buildings, dated back a century. He advised that while this brought a sense of cultural heritage it also meant that they were cut off from many amenities. The developer, sought to not only update the area but to maintain the cultural identity and heritage of the existing area.

Mr Windmill explained that the addition of not only green spaces but community accessible sports facilities such as a playing pitch would give local children and groups places where they could exercise safely and improve their health. He also indicated that a community hall was needed to give the local community a place where they could come together and bond. The additional people along with the proposed shops would give a chance for small independent businesses to set up and to synergistically benefit from the larger chains nearby. The mixture of residential and local shopping was more in keeping with the tone of the area than the creation of further industrial units.

Mr Windmill also highlighted that the dual carriageway was being moved from Bear to Aberdeen Council jurisdiction and as part of that it would be getting a speed restriction. He advised that for the people who use the walking and cycling paths next to it this would be a great safety benefit and also meant that a development adjacent to it would not be affecting the traffic unduly.

He also indicated that the development proposed to create easier access not just for the development but also for the larger community area. Mr Windmill also advised that through local media they heard that the Bridge of Don community Council was opposed

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to the development however they had not consulted him, however the developer had been extremely responsive and proactive in involving them to ensure that their views were heard, represented and that they felt included and part of the community opportunity.

In conclusion, Mr Windmill advised that overall they felt this project would connect the community, bring green space, physical and mental health opportunities, bring more amenities and ensure that Bridge of Don continues to be a great place to live for the future.

The Committee was then addressed by **Mr Barry Park**, President of Bridge of Don Thistle Junior Football Club who explained that he was in full support of the application.

Mr Park advised that Bridge of Don Thistle Junior FC had never had a permanent home in its long history and in the last year they had doubled the number of young adults they worked with and could do so much more with their own bespoke facilities.

Mr Park explained how he attended a public consultation event and was pleasantly surprised and incredibly pleased by the reception they got from the developers, who he said could not have been more accommodating. The developers agreed to change their plans to include a proposed UEFA standard pitch and ancillary facilities within their development.

Mr Park advised that the proposed developer contributions of £660,000 would enable the club to build the pitches and further develop their grassroots approach to sport, help prosper and grow and widen their reach. He intimated that this money would allow them to apply for matched funding in the form of grants and sponsorships to develop a sports pavilion and other related features.

Mr Park also explained that the pitch would be available around 94% of the time, for the wider public to use, which would help to boost individual's activity levels, fitness and well-being.

Mr Park advises that the facilities would be a turning point for the club, which would help them to work with an even greater number of young people and engage with the wider community.

In conclusion Mr Park urged members to approve the application so that the club could get its long-awaited home and continue to grow and prosper, which would attract more young people to the club and provide local sports facilities which were sadly lacking the Bridge of Don area.

The Committee was then addressed by **Mr John Smith**, Chairman of the Bridge of Don and District Men's Shed. Mr Smith explained that research had shown the negative impact of loneliness and isolation on a person's health and wellbeing and research showed that men typically found it more difficult to build social connections than women.

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Mr Smith advised that the shed was about meeting like-minded people and having someone to share your worries with. They were about having fun, sharing skills and knowledge with like-minded people and gaining a renewed sense of purpose and belonging.

Mr Smith gave examples of the good work they had undertaken, however noted that they were without a permanent home since its incorporation in 2017 and through early discussions with the developer, they had been offered the chance of a permanent base at Cloverhill. Mr Smith highlighted this as a fantastic opportunity for the Men's Shed.

Mr Smith also noted that through discussions with Bridge of Don Thistle Junior Football Club, he believed there were significant opportunities to expand the Shed's impact through joint endeavours with the club, which would give them the chance to involve younger people in shed activities and really enhance both organisations' positive impact on the local community.

In conclusion, Mr Smith highlighted they had searched for more than 2 years for a suitable permanent home and whilst he was not in a position to comment on the rights and wrongs of the planning application, he wanted to stress that the opportunity of a permanent home at Cloverhill would be massively beneficial and would really help them to be an asset to the Bridge of Don.

The Committee was then addressed by **Mr Rhys Gilson**, Panasonic, who explained that Panasonic not only manufactured day to day electrical items but also produced a hydrogen fuel cell which was the key component in micro CHP technology that could be used to power and heat homes. Mr Gilson advised that the product could lower household CO2 emissions by up to 30%, lower fossil fuel consumption by up to 40% and could save an average household up to £378 per year. The product was used extensively in Japan, with over 160,000 units installed and there were over 2,700 units in use across Europe with the major markets being Germany and Holland.

Mr Gilson advised that they saw the UK as a key market for this product and they had been actively promoting it in Aberdeen, which they saw as the ideal city to pilot this technology at scale, given its historic role as the Oil and Gas capital of Europe and its aspirations to be considered a centre of excellence in the Energy renewables field.

In addition, Mr Gilson also indicated that Aberdeen's early uptake of hydrogen technology, in terms of its hydrogen bus fleet and the combined heat and power plant at TECA, showed a willingness to adapt to the challenges of a changing energy market and to embrace the opportunities that brings.

Mr Gilson indicated that the developers of Cloverhill were very enthusiastic about their product and once they explained their site's location in the Energetica corridor, he advised that it was clear that Cloverhill was the ideal location to run a pilot scheme to prove the technology in the UK.

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In addition, Mr Gilson indicated that the developers of Cloverhill had offered business space to Panasonic, on a no-cost basis, to locate a fuel cell service centre at Cloverhill, and he confirmed that this opportunity had been discussed at board-level at Panasonic in Japan, with discussions on-going in that respect.

Mr Gilson advised that given Aberdeen's impressive track record in the energy industry, they saw it as the perfect city to introduce the product, at scale, to the UK. As a business, he highlighted they were looking for opportunities to sell their product, but they genuinely believed that there were many great benefits to be gained by Aberdeen, from being a trailblazer in the renewables market and further demonstrating its commitment to combat climate change and play a key role in the energy transition.

In conclusion Mr Gilson indicated that they would love to see Aberdeen grasp the opportunity to enhance its place in the renewables sector and be the first city in the UK to adopt this technology and he hoped that members would support the Cloverhill application.

The Committee then heard from **Mr Hamish Peterson**, who explained that he was the owner of Ironfield which was in the middle of the development area and he wished to confirm his support for the proposed development. He advised that when he purchased his property 40 years ago it was in a quiet rural setting and he considered then that as it was close to Aberdeen one day the city would expand and encroach the house with the loss of the rural setting.

Mr Peterson explained that he was very disappointed when the rezoning classified the area for commercial use meaning the house would be in an industrial estate. This event occurred at the same time as he was planning a major upgrade to the house and as a result he cancelled the upgrade and waited to see what would happen. Mr Peterson also indicated that the banking crises and other events had delayed any development and now post oil boom, he could not see the need for more industrial facilities and did not feel they would be required as the existing commercial properties throughout the city lay vacant or were being demolished.

Mr Peterson indicated that when he learned of the current proposal to develop the area for housing, he was excited and saw a better future for the area. Also, he explained that it addressed the demand for housing in the Bridge of Don area, which he felt outstripped the demand for commercial development. The proposed development was very well considered and had many very positive features, which included community facilities, affordable housing and open spaces. He advised that he felt it would be a very desirable place to live and this development would add to the quality of life in the area.

Finally Mr Peterson indicated that he heard of objections on the grounds of increased traffic on the A92, however he found this notion fanciful as the A92 was probably the least congested of any of the Aberdeen access routes and the Cloverhill development would not in his view have a significant impact.

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The Committee then heard from **Mr Lewis Kidd** who explained that until recently he had lived all of his life in Bridge of Don, however was unable to find a suitable property in the area and had been forced to move into the city centre. He advised that this was not ideal for him as he had to commute to work and to meet up with friends and family, as well as take part in sport in Bridge of Don.

Mr Kidd intimated that many of his friends, who also wished to live in Bridge of Don were being forced to look elsewhere for suitable homes. Mr Kidd was unsure why the local community council was against this development as he felt it was clear that there was a distinct lack of available and affordable homes in the area.

Mr Kidd outlined that Cloverhill presented an opportunity to add a range of house types and prices that would meet local demand, as well as offering new and much-needed community facilities. He noted that at present, the site was for business use but, with the many businesses already sited around the industrial parts of the Bridge of Don, it would make more sense to have this scenic, coastal pocket of land for new homes so that people who want to remain in the Bridge of Don could do so. Mr Kidd urged Councillors to consider what was best for residents and the overall community at the Bridge of Don and approve the application.

The Convener thanked all those who attended the hearing, specifically those who had presented their case, submitted representations and provided information. She advised that the Chief Officer – Strategic Place Planning would prepare a report for submission to a special meeting of Full Council for subsequent consideration and determination.

**COUNCILLOR MARIE BOULTON, Convener**

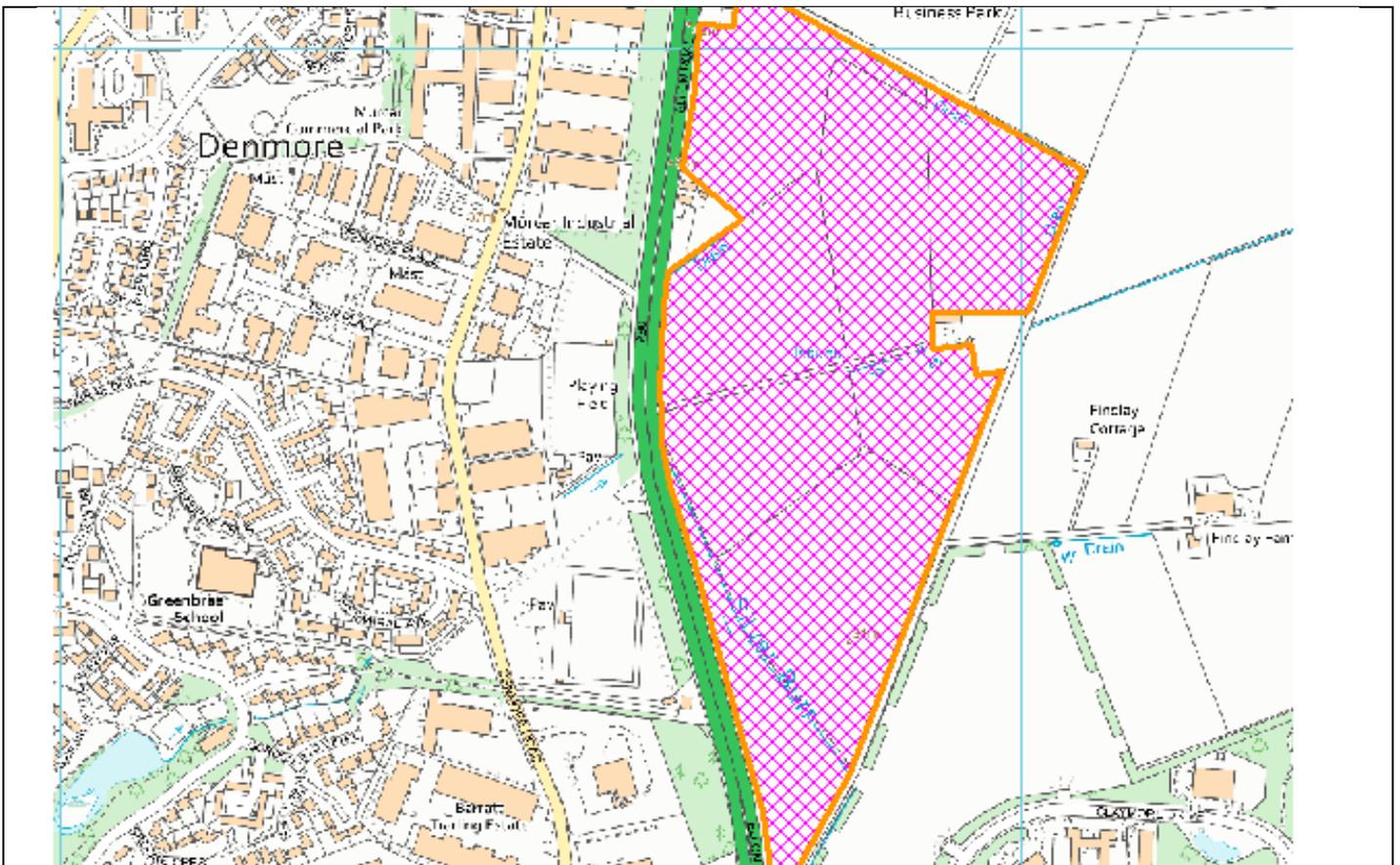
**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE**  
18 January 2017

	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	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			<b>30-Apr-20</b>						
4	Cloverhill	To approve or refuse the application		Gavin Evans	Strategic Place Planning		1		
5	Inchgarth	To approve or refuse the application		Lucy Greene	Strategic Place Planning		1		
6	Aberdeen Market	To approve or refuse the application		Matthew Easton	Strategic Place Planning		1		
7	17 School Avenue	To approve or refuse the application		Alex Ferguson	Strategic Place Planning		1		
8	Baads Farm	To approve or refuse the application		Jane Forbes	Strategic Place Planning		1		
9	Enforcement Report	To note the annual enforcement report		Gavin Clark	Strategic Place Planning		GD 8.5		
10	Pre Determination Hearing Report	To note the content of the report.		Alan Thomson	Governance		6 and 7		
11			<b>01 June 2020</b>						
12	Tillydrone Coningham Gardens	To approve or refuse the application.		Aoife Murphy	Strategic Place Planning		1		
13	Ferryhill Tarvern	To approve or refuse the application		Dineke Brasier	Strategic Place Planning		1		
14	Hill of Rubislaw	To approve or refuse the application		Matthew Easton	Strategic Place Planning		1		
15	City Centre Conservation Area Appraisal	To present the City Centre Conservation Area Appraisal		Claire McArthur	Strategic Place Planning		4		
16	Committee Annual Effectiveness Report	To present the annual effectiveness report for the Committee		Fraser Bell	Governance	Governance	GD7.5		
17			<b>02 July 2020</b>						
18			<b>20 August 2020</b>						
19			<b>24 September 2020</b>						
20			<b>05 November 2020</b>						
21			<b>10 December 2020</b>						
22									
23									
24	<b>AD HOC REPORTS (CYCLE DEPENDENT ON REQUIREMENT TO REPORT)</b>								
25									
26									
27									

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 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2>Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p><b>Committee Date: 30<sup>th</sup> April 2020</b></p>

<b>Site Address:</b>	Land At East Of A92 Ellon Road At Cloverhill, Murcar, Bridge Of Don, Aberdeen
<b>Application Description:</b>	Erection of residential led, mixed use development of approximately 550 homes, community and sports facilities, retail (Classes 1, 2, 3 and Sui Generis) with associated landscaping, open space and infrastructure
<b>Application Ref:</b>	191171/PPP
<b>Application Type</b>	Planning Permission in Principle
<b>Application Date:</b>	23 July 2019
<b>Applicant:</b>	Cognito Oak LLP
<b>Ward:</b>	Bridge of Don
<b>Community Council:</b>	Bridge of Don
<b>Case Officer:</b>	Gavin Evans



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## RECOMMENDATION

**Approve Conditionally & Legal Agreement**

## APPLICATION BACKGROUND

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### Site Description

The site extends to 22.5ha and forms part of a large Business and Industrial land allocation in the adopted Aberdeen Local Development Plan (ALDP), further identified as an opportunity site (OP2 Berryhill, Murcar), with a flood risk being noted in the allocation text. A Green Space Network (GSN) designation covers a large swathe of land running from east to west through the central part of the site.

Immediately to the west are the four lanes of the now de-trunked A92 Ellon Road, with the exception of a small number of dwellings in two pockets of development which lie between this site and the road. Beyond the A92 is the Denmore industrial area.

To the north and east is land presently in agricultural use, although this is allocated for business/industrial development in the ALDP. Indeed, the area to the north-east has seen various planning permissions granted for such development, with a number of plots further to the north-east and north already developed along with various elements of related infrastructure, collectively known as 'The Core' business park. The northern allocation is also an opportunity site (OP1 Murcar) and has a flooding potential. The associated policy (LR1 Land Release Policy) indicates that this area is not likely to see development until post 2027.

To the south and east is again agricultural land allocated for business and industrial use, with a residential property towards the northern end, access to which is taken from Ellon Road. The southern portion of the eastern boundary is adjoined by land which is subject to an extant planning permission in principle (PPiP - P160107) for an extension (Class 4, 5 and 6 use) to the Aberdeen Energy Park, the existing developed extent of which is a short distance further south-east.

Further east is the coastline of the North Sea, towards which the land generally falls. The existing landscape comprises open agricultural fields enclosed by fences/ dry stone walls/ hedgerows and a number of trees at various points along these divisions. The Silver Burn passes through the southern extent of the application site.

### Relevant Planning History

Application Number	Proposal	Decision Date
190136/PAN	Proposal of Application Notice	18.02.2019
190162/ESC	Request for an Environmental Impact Assessment (EIA) Screening Opinion	20.02.2019

## APPLICATION DESCRIPTION

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### Description of Proposal

This application seeks Planning Permission in Principle (PPiP) for a major residential-led development comprising circa 500 homes, community facilities and retail with associated landscaping, open space and infrastructure.

As the application seeks permission in principle, the layout plans provided should be treated as an indicative representation of how any final scheme may look, rather than a settled proposal. Full details of design, architectural treatment and various other matters would be established through the planning authority's consideration of future applications for the 'approval of matters specified in conditions', which would be subject to the relevant neighbour notification, consultation, and

reporting processes at that time, providing further opportunity for members of the public to make representation.

A Design and Access Statement has been provided in support of the proposal, which seeks to present a contextual analysis of the site and establish key components and design principles against which subsequent applications may be considered. This document refers to a mix of houses and flats, including detached, semi-detached, terraced, bungalow and assisted living units. An indicative Masterplan layout has been provided which sets out how the site could accommodate the proposals and the different character areas envisaged. Other potential uses noted include nursery, community or event space, care home/sheltered accommodation and retail/commercial space, along with a new all-weather sports pitch to the southern end of the site.

The indicative layout shows the site being accessed from two key points on the A92: a main central access, which would be controlled by a new signalised junction, and a secondary access further south, which would operate on a 'left-in, left-out' basis. The sports pitch shown towards the southern end of the site would be served by the secondary access from the A92, with potential for a clubhouse/pavilion and associated car parking adjacent.

The site is bisected from east to west by an 'Aspirational Core Path' route, which sits immediately to the south of the main access, and the proposal seeks to incorporate a new route in this location as part of a central swathe of landscaped open space. Higher density flatted block(s) are indicatively shown to the north of the main access, along with a 'main square', intended to act as a central focal point for the development and offering a potential location for retail or community uses.

The supporting Design and Access Statement highlights that the proposal includes the Aberdeen Hydrogen First initiative, which proposes to integrate micro-CHP (Combined Heat and Power) fuel cell technology into 30 homes within the first phase of development as a pilot scheme.

## 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=PV33LQBZ10N00>.

These include:

- Pre-Application Consultation (PAC) Report
- Topographical Survey Plan
- Site Masterplan
- Review of Housing Land and Employment Land Supply
- Design & Access Statement
- Transport Assessment Report and Appendices (A-G)
- Flood Risk Assessment Report
- Drainage Assessment Report
- Landscape and Visual Impact Assessment (Report, Photographs and Illustrated Viewpoints)
- Tree Survey Schedule
- Arboricultural Impact Assessment
- Tree Protection and Management Plan
- Ecological Impact Assessment Report
- Sustainability Statement Report

- Site Investigation – Desk Study Report
- Archaeology Report – Written Scheme of Investigation
- Noise Impact Assessment Report
- Road Traffic Noise Impact Assessment Report
- Sports Pitch Noise Impact Assessment Report
- Socioeconomic Study Report

### **Pre-Application Consultation**

The applicants held two pre-application consultation events, in the form of drop-in exhibition/discussion forums, manned by members of the design team to deal with any queries. These consultation events were as follows:

- St Columba's Church, Braehead Way, Bridge of Don: Tues 26th February 2019 from 1pm to 8pm
- St Columba's Church, Braehead Way, Bridge of Don: Tues 26th March 2019 between 2pm and 8pm

In addition to being staffed by members of the design team, these events included display boards to illustrate the proposed development, the site context and the indicative masterplan vision. Comments forms were available at the events, either to be filled out at the time or taken home and returned to the appointed agents by email/post.

The local Bridge of Don Community Council were notified in advance of the PAC event, along with Bridge of Don ward members, and the event was publicised 7 days in advance in the Evening Express. In addition, notifications were issued to addresses specified by the planning authority in its Proposal of Application Notice (PoAN) response and notices were also displayed in advance of the event at venues specified by the planning authority (Bridge of Don Library, Balgownie Community Centre, Alex Collie Sports Centre, etc.)

The submitted Pre-Application Consultation (PAC) Report states that 48 people signed in to the first event (60 total attendees estimated) and 12 people signed in to the second public event.

The PAC report includes details of the comments received at these events, both verbally and via comment forms, and also of those comments subsequently received via post and email. The PAC report identifies the main themes as relating to: sports facilities/football pitch; affordable housing; traffic, pedestrian infrastructure and speed limits on Ellon Road; green space; and the principle of residential use being favourable to the allocated business use. The inclusion of a football pitch, available for community use, was seen as being preferable to an initially proposed recycling centre.

A detailed summary of the matters raised in feedback to these PAC events is contained in section 12 of the PAC report. Section 13 highlights changes made to the proposal in response to the concerns raised/views expressed in the PAC process, which included the inclusion of sports facilities, removal of the previously proposed recycling centre, and increase in the proportion of affordable housing.

### **Requirement for a Pre-Determination Hearing**

The proposed development is classed a 'major development' in terms of The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The proposal is considered to be a significant departure from the extant Development Plan by virtue of it being a major residential-led development located on a site which forms part of a wider area identified for principally business and industrial development along with associated supporting uses, wherein

Policy B1 'Business and Industrial Land' of the Aberdeen Local Development Plan applies, but does not allow for development of the type proposed.

Section 38A of the Town and Country Planning (Scotland) Act and Regulation 27 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 require the planning authority to give those who make representations to such applications an opportunity to appear before and be heard by a committee of the authority at a Pre-Determination Hearing.

The purpose of such hearings is to afford both the applicant and those who have made written representation on the proposed development the opportunity to present their views directly to the members of the Council.

The Planning (Scotland) Act 2019 (Commencement No. 1) Regulations 2019 specify that from 1<sup>st</sup> March 2020 any planning application which has been made the subject of a pre-determination hearing under S38A of the Town and Country Planning (Scotland) Act no longer requires to be determined by Full Council.

## **CONSULTATIONS**

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**Aberdeenshire Council** – No objection. Highlight the following based on the applicants' submissions:

- Invest Aberdeen and Aberdeenshire Council welcome the introduction and principle of piloting hydrogen technology (fuel cells) as part of the proposal;
- Note that the retail component appears to be at a local scale, commensurate with the development. In the event that gross retail floorspace were to exceed 2500sqm, Aberdeenshire Council would expect a Retail Impact Assessment (RIA) to be provided, and reserves the right to comment on any such RIA based on its potential impact on other local retail service centres;
- Notes that the applicants' Employment Land Analysis refers to a lack of completions on City sites in 2017/18, but fails to recognise the time lag between commercial decisions on property requirements and subsequent delivery/completions (gives example of delayed effect following drop in oil price, as some property deals would be committed, and notes that a similar delay would follow improvement in the oil and gas industry);
- Highlights the importance of land remaining available to meet future demand. Notes that agent reports suggest much of the second-hand commercial property is now regarded as obsolete and is less attractive to oil industry companies who would favour new/'Grade A' space;
- The applicants describe the site as having been allocated for 10 years without development. Highlights that this applies to many Aberdeenshire allocations also, and allowing residential development on that basis may set a precedent for interest in other employment sites from housing developers;
- Notes that Aberdeenshire employment allocations at Blackdog (4ha) and Balmedie (5ha) were constrained/partially constrained in the 2017/18 Employment Land Audit (ELA) because of the AWPR, but now that has been completed these sites may move to the marketable supply. Further north, there is marketable land at Ellon (12ha), Foveran (3.5ha) and Newburgh (2.7ha).
- Highlights that Housing Land Audits (HLAs) represent a snapshot of expectation at a particular moment in time, based on build rates supplied by developers and subject to a wide consultation process with housebuilders and Homes for Scotland – change in response to circumstances is inevitable, however the 7.2 years supply identified in the 2019

HLA indicates agreement within the development industry that there is not a problem with land supply in the Aberdeen Housing Market Area.

- Whilst there are a number of sites in Aberdeenshire that have not been delivered at the rate predicted, the Aberdeen Housing Market Area (AHMA) land supply has remained in excess of 7 years during the period 2015-2019 without being reliant on predictions for those delayed sites to achieve the minimum 5 year supply in the AHMA.

**ACC - Developer Obligations** – Identifies requirements for the following obligations:

#### Core Paths

Aspirational core path 1 runs through the development site. This section of the aspirational route should be delivered as an integral part of the development. This is shown in the indicative layout, within the proposed linear park.

In addition, a financial contribution will be required towards connecting the site to the wider core path network and enhancing the network in the vicinity of the site to accommodate additional users generated by the development. On the basis that the aspirational route noted above is to be delivered as part of the development, a reduced contribution of £61,380 is sought, which represents a proportion of the contribution that would otherwise be required for a development of this scale (£204,600). In the event that aspirational core path is not delivered to an appropriate standard as part of the development, then a full contribution of £204,600 will be required.

#### Primary Education

Site is within the catchment area for Scotstown Primary School. Factoring the development into 2018 school roll forecasts results in the school going over its capacity. A contribution is therefore required towards the provision of additional capacity through extension of the school building. The scale of the contribution (£683,325) is based on the maximum additional over capacity level of 75 pupils.

#### Secondary Education

The application site is within the catchment area for Bridge of Don Academy. Factoring the development into the 2018 school roll forecasts will not result in the school going over capacity and will therefore not require mitigation.

#### Healthcare Facilities

Infrastructure requirements calculated with NHS Grampian on the basis of national health standards and by estimating the likely number of new patients generated by the proposed development. Contributions calculated using nationally recognised space standards and build costs.

In this instance, contributions of £562,964 will be directed towards the provision of additional capacity at the Scotstown Medical Practice or other such facilities serving the development.

#### Open Space

The submitted masterplan/site layout indicates that the development will incorporate a range of open space provision in order to comply with the requirements of the Development Plan. Conditions and/or other measures will be required in order to ensure that this provision is realised at the detailed design stage. As long as such provision is included as part of subsequent applications for the approval of matters specified in conditions (AMSC) then there will be no requirement for financial contributions. In the event that insufficient high quality open space is provided on site in subsequent detailed proposals/AMSC applications, then an appropriate financial contribution towards the enhancement of existing open spaces would be required.

#### Community Facilities

In this instance, it is understood that a community meeting space is proposed to be delivered as an integral part of the development. As long as such provision is made on site, no further contribution will be required. In the event that an appropriate community meeting space is not delivered as an integral part of the development financial contribution of £1,005,675 would be required towards the enhancement of existing community facilities

The applicant should also be aware that Aberdeen City Council would not be able to take ownership and/or liability for any new community facility delivered as part of the development. Alternative ownership and management arrangements will therefore require to be identified for any such facility. This should be provided at any approval of matters specified in conditions stage.

### Sports and Recreation

A development of this scale will impact significantly on the capacity of nearby sports facilities, and that impact will require mitigation. It is understood that a full-sized football pitch, associated facilities and parking are proposed to be delivered as an integral part of the development. Provided that such provision is made on site, and that appropriate measures are in place to ensure public access in perpetuity, no further contribution will be required. In the event that the proposed pitch and associated facilities are not delivered as an integral part of the development, then a financial contribution of £667,700 will be required.

### Affordable Housing

Policy H5 seeks a minimum of 25% of total units to be delivered as affordable housing. In this instance, the affordable housing requirement equates to 137.5 units, and the relevant SG sets out an expectation that delivery will be made on-site in accordance with the preferred hierarchy of affordable housing types contained in that SG.

**ACC - Waste Strategy Team** – Recommend that conditions are attached if the application is to be approved. Request further information detailing specific waste and recycling provision for houses and flats as part of future planning application(s). Details of swept-path analysis for waste collection vehicles will be required, to ensure that vehicles can safely manoeuvre through the site in a forward gear.

**ACC - Housing** – As per ACC's Affordable Housing Supplementary Guidance, an affordable housing contribution of 25% is required. ACC Housing Strategy would want to enter into early discussions with the developer to discuss house size and type as we would not want to see large numbers of flats delivered as affordable housing.

**ACC – City Growth Team** – Notes that this development proposes 550 new homes, and that economic benefits have been estimated by the applicants as a result of new housing and new commercial floorspace. The assumptions and methodology used have been reviewed and are consistent with economic appraisal practice.

The appraisal states that £11m of 'resident expenditure' per year could be generated as a result of the scheme, based on expenditure from those moving to the new development and from others moving into properties vacated by those moving to Cloverhill. The estimated 'resident expenditure' is based on assumptions that: (i) 25% of all new residents at Cloverhill are people moving into the city; (ii) of the remaining 75% of new Cloverhill residents moving from elsewhere in the city, approximately 25% of the vacated properties would then be occupied by new residents moving to Aberdeen. The English housing research that these assumptions are based upon indicates that this typically occurs four times. The estimated £11m therefore includes four house moves, including Cloverhill.

It is noted that the ability to realise these occupancy assumptions in Aberdeen may not reflect recent population changes and the short run effect on some types of properties in the city. In that

context, the estimated £11m may be high/optimistic. There is evidence of some over-supply of certain property types in the city centre.

**Invest Aberdeen** – Invest Aberdeen had requested that the applicant provide further information with regard to how Aberdeen Hydrogen First (AHF) initiative would support the vision and aims of the Regional Economic Strategy (RES) and Energetica through demonstrating an innovative low carbon investment opportunity for the region.

A Policy Analysis Paper (Oct 2019) was prepared by Aberdeen & Grampian Chamber of Commerce (AGCC) and submitted for consideration.

In summary, Invest Aberdeen is supportive of proposals that seek to make investments in line with both the Regional Economic Strategy and Energetica programme which seeks to grow and diversify our key sectors. Invest Aberdeen has not commented in relation to the principle of development on this site in planning terms and acknowledges this will be for others to comment on. It is however worth noting that experience of seeking to encourage and leverage private sector, low carbon and additional energy efficiency measures beyond the minimum statutory requirements in large scale residential proposals has not been easy. Notwithstanding the principle of planning it is positive to see innovative proposals being led and funded commercially by a private sector investor and we would encourage this approach across more residential developments.

Invest Aberdeen's comments are made without prejudice to any recommendation or decision that the planning authority may make at a future date.

Energetica Strategic Objectives:

- i. To consolidate and grow the Region's position as one of the world's major energy
- ii. centres and the energy capital of Europe;
- iii. To attract new high value investment and people to the region;
- iv. To grow the international trade of indigenous business; and
- v. To create a location that seeks to maximise both quality of design/development and
- vi. quality of life

The development at Cloverhill seeks to incorporate a new energy efficient, low carbon heating solution into a residential development, which aligns with Objectives i, ii, and iv, above. Invest Aberdeen's response recognises the value of reducing the carbon footprint of buildings in contributing to reduction in overall carbon emissions, but also in reducing fuel poverty and generating investment in innovative pilot projects.

Notes that the development of a residential hydrogen heating pilot project in Aberdeen would support Aberdeen City Region's Hydrogen Strategy initiatives, and would provide valuable data on how this technology works in the Scottish climate and its 'real world' energy efficiencies. It is particularly positive to see the integration of fuel cell technology in the first phase homes, rather than in later stages of development.

**Archaeology Service (Aberdeenshire Council)** – No objection. Notes that the site is located immediately adjacent to a landscape of previously excavated archaeological features dating from prehistoric, early medieval and medieval periods and therefore, if the application is to be approved, it is recommended that a condition is attached in relation to archaeological matters. This should require submission and agreement of an archaeological written scheme of investigation (WSI) prior to commencement, with all works to subsequently be carried out in accordance with the approved WSI (which should include details of how recording and recovery of archaeological resources found shall be undertaken). Should archaeological works reveal the need for post-

excavation analysis, no part of the development may be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority, with the PERD carried out thereafter in complete accordance with the approved details.

**ACC - Contaminated Land Team** – Expresses general agreement with the conclusions and recommendations of the Desk Study Report (Fairhurst, July 2019) submitted in support of this application, including its proposals for future ground investigations. In recognition of the potential for contamination (from both on-site and off-site sources), it is recommended that the conditions are attached in order to address the following:

- Requiring submission and agreement of a scheme to address risks from contamination prior to development taking place (specification set out in full response);
- Prohibiting occupation of buildings on site unless any long-term monitoring required by the above scheme has been undertaken;
- Prohibiting occupation of buildings on site unless a report verifying completion of remedial works to fully address contamination issues relating to the buildings has been submitted and agreed by the planning authority.

**ACC - Education** – Highlights that this site is zoned to Scotstown School and Bridge of Don Academy. The most recently available school roll forecasts suggest that contributions are likely to be required from the developer to create additional capacity at Scotstown School in order to accommodate the numbers of pupils likely to be generated by the development. It is expected that the Developer Obligations Team will calculate the required level of contributions and advise accordingly (*see Developer Obligations response, above*). Sufficient capacity exists at Bridge of Don Academy to accommodate additional pupils likely to be generated by the development, so no contribution would be required to create additional capacity at that school.

### **ACC - Environmental Health**

#### Road traffic noise

It is noted that in order to mitigate noise from the road traffic noise on the A92 to acceptable levels it is proposed that an acoustic barrier is proposed. This barrier is estimated to attenuate the noise by 10 dB LAeq. This means that the gardens at properties within 15m and 20m of the road will be subjected to noise levels at the upper requirement stated within the BS8233 requirements (55 DB LAeq) and may not even achieve this level as there is no certainty that the acoustic barrier will achieve the proposed 10 dB LAeq attenuation.

Similarly, the same houses will require to have acoustic ventilators installed rather than open window ventilation in order to achieve the BS8233 requirements. Specific glazing recommendations have been listed in order to achieve these requirements. It is noted that the proposed acoustic bund is unlikely to protect the first floor of the properties adjacent to the A92. For these reasons, verifying the effectiveness of the proposed mitigation measures is essential. Further noise reduction is anticipated from the proposed reduction in the speed limit on this section of road.

#### Noise from Commercial/Industrial Uses

Further analysis of the relationship with existing and committed business and industrial development at the Core Business Park and Aberdeen Energy Park has been undertaken by the applicants. The proposed noise mitigation measures detailed will be sufficient to protect the amenity of existing and proposed residential properties to an acceptable level.

Note low noise impact from commercial units during the day with the proposed mitigation measures in place. There would be potential for significant noise impact to proposed residential properties from class 5 and 6 units during the night, however it is recognised that these consented units have not yet been built, and individual noise impact assessments would be required for those as part of the approvals process. Noise mitigation measures would be required to be put in place before industrial units were occupied, therefore protecting the amenity of the existing and new residential properties.

Details of indicative mitigation measures have been provided, detailing the potential for a combination of an earth bund and timber fence, totalling 3.5 metres along sections of the northern and eastern boundaries to mitigate the impact of commercial noise to a level appropriate for residential use. It will be necessary for planning conditions to secure verification of the effectiveness of these measures, as well as those proposed in mitigation of road traffic noise, noted above.

#### Wind turbines

With regards to the Vattenfall offshore wind development consent, an interim report has been received and suggests no negative noise impact is likely. Therefore, no noise impact assessment will be required for these wind turbines. It is recommended that a noise impact assessment be undertaken for the Rubber Atkins onshore wind turbine. This assessment should be in line with the IOA Good Practice on wind turbine noise 2013 (ETSU-R-97) and BS4142 (2014).

#### Sports Pitch

It is noted that within the NIA for the proposed Sports Pitch that the houses adjacent to the pitch along the Southern boundary, the difference between the background noise levels and the noise source will be in excess of +13 dB LAeq. This indicates that there will be a significant adverse impact from the football pitch noise. The proposed incorporation of a barrier is likely to be limited to approximately -10dB LAeq. The NIA recommends that there should be no open window ventilation along the facades facing the pitch and should have acoustic ventilators installed instead. It is also noted that within 5.5 of the report that the NIA has been conservative in the application of penalties for noise characteristics such as ball strikes against the fence and shouting. The Acoustic Consultant has confirmed that the term "conservative" used within the NIA was in regard to a worst-case scenario in relation to noise from football games. The NIA does not take into consideration noise from repetitive ball strikes such as when a few people are practicing by hitting the ball directly off the fence.

As there is the likelihood of a significant adverse impact from the noise from the sports pitch, it is suggested that this issue is revisited and that the developer seeks additional guidance by adhering to guidance which has been produced by Sportscotland entitled 'Sportscotland Outdoor Sports Facilities - Planning Guidance/1002 - Siting of Synthetic Grass Pitches - Guidance on Noise and Floodlighting', which includes practical noise mitigation measures to be applied at such facilities. To further help protect amenity from potential noise emissions associated with the proposal including for example, ball strikes against fencing panels and increased crowd noise, this Service would therefore advise strict adherence to this relevant guidance. This can be controlled as the details of the sports pitch come forward as part of an application for the approval of matters specified in conditions.

Notwithstanding the above, a condition will be required regarding the operating hours of the proposed sports pitch and seating area. I would recommend that this area is not to be operational between the hours of 22:00 hrs and 09:00 hrs. This is in order to protect the amenity of nearest noise sensitive receptors.

#### Odour control considerations for proposed restaurants

Due to the location of the premises and nature of neighbouring properties, the proposed development has potential for a significant adverse impact on the amenity of the occupants of neighbouring local residences from potential odour and equipment noise associated with the proposal.

As the end user has not yet been determined, it is recommended that as a condition of planning permission that any tenant will be responsible for the provision of assessments which will demonstrate both adequate odour control provisions and a suitable demonstration of noise control effectiveness are in place prior to the occupation of the premises.

**ACC - Flooding and Coastal Protection** – The Flood Risk Statement (FRS) submitted on 23/07/2019 has been reviewed. The Aberdeen Integrated Catchment Model (ICM) and SEPA flood risk maps show significant flooding extents within the proposed plot. Whilst further supporting submissions have been scrutinised by officers, the Flooding Team's position remains that a Flood Risk Assessment (FRA) Level 3 is required before the application may be approved. Further submissions relating to flood risk have since been made, and it has been agreed that this established the acceptability of development in principle, with further assessment to be undertaken based on the final designed layout as part of future applications for the approval of matters specified in conditions.

**Police Scotland** – No objection to the development, but make the following points for consideration in detailed design:

- Site is in a currently low crime area.
- Recommend the use of varied surface treatments to act as traffic calming measures and signify a transition from 'public' to 'private' spaces.
- Vehicular and pedestrian routes should be visually open and direct.
- Dwellings should be positioned to face each other to provide for passive surveillance
- Footpaths should be straight, wide, well-lit and free from potential hiding places
- Narrow footpaths between buildings should be avoided
- Car parking areas should be within view of active rooms (e.g. kitchens, living rooms)
- Communal areas should be designed to allow natural surveillance from nearby buildings, and boundaries between public and private spaces should be well defined.
- Good quality white lighting of uniform coverage should be utilised.
- Recommends that the developer liaise with Police Scotland Designing Out Crime service at each stage for more detailed advice.
- Encourage the applicant to attain the 'Secured By Design' award.

**ACC - Roads Development Management Team** – No objection to the proposal, provided that appropriate conditions are attached to any approval securing the submissions/improvements set out below.

Note that the site is in the 'outer city' parking zone and lies outwith any controlled parking zone.

Local amenities and services identified in the submitted Transport Assessment (TA) are reachable via existing pedestrian and cycle infrastructure, with shared paths on sections of the A956 Ellon Road facilitating travel to facilities in the city centre and on Beach Esplanade.

Committed infrastructure improvements associated with the neighbouring business park to the north (The Core) include provision of a toucan crossing on the A92 Ellon Road, located to the south of the Murcar roundabout. This will further enhance the site's accessibility for pedestrians and cyclists and ensure safe means of crossing. New cycling infrastructure is also being promoted by ACC in the local area, including: Murcar Industrial Estate cycle/shared use path; Murcar North

to Blackdog cycleway; and aspirational core path route connections to the east and west of the site, to allow connection to core path 107 and Greenbrae Primary School beyond (west) and Murcar Links Golf club and the beach (east).

### Public Transport

The A92, to the west of the site, is served by regular bus services, with existing stops circa 120m to the north and the Bridge of Don P&R site circa 850m to the south. There is potential for new bus stops to be provided along the A92, supported by the reduced speed limit proposed by ACC roads officials. Furthermore, the proposed junctions would allow for bus penetration into and through the site. Additional bus stops proposed adjacent to the proposed site access junction will ensure that the entire site is located within 400m walking distance of bus stops. Whilst buses would not require to be diverted into the site, the vehicle access strategy and internal street network will be designed to ensure that busses would be able to enter and exit via the proposed access junctions. It has been agreed with the applicant that bus stops are to be provided on the dual carriageway, as per the adjacent stretch of Ellon Road beside McDonalds, rather than in physical laybys. These bus stops are to be delivered as part of works to deliver the new junctions, irrespective of operator demand.

### Parking

The applicant has intimated that full details of the parking provision would be submitted in support of the detailed planning applications for each development phase in accordance with ACC's current standards. This is acceptable. In the Design and Access statement, the applicant states that "electric vehicle charging infrastructure will be provided in relevant locations within the site". This is accepted. This is a requirement and further information should be provided in support of the detailed planning applications for each phase.

### Development Vehicle Access

New vehicle junctions will provide access to the site along the A92 Ellon Road. The primary access is proposed to be a centrally located signalised junction incorporating toucan crossing facilities at a key core path / pedestrian crossing point of the A92 Ellon Road. Drawing 123823/sk 1012B shows an indicative junction layout.

A secondary access is proposed to the South of the site via a left-in / left-out arrangement. This is shown in drawing 123723/sk 1013A. The geometry of these accesses will not be considered at this PPiP stage.

### Internal Road Layout

It has been agreed with the applicant that a secondary access onto the A92 will be constructed prior to 150 units being occupied with a statement required from the Fire Service that this will be acceptable. Appropriate conditions will be required to secure the above and design of that first access.

As this is a PPiP, no detailed plans of the internal road layout have been provided at this stage, and subsequent applications will be required to provide further information relating to road/footway gradients, geometry, dimensions, materials, visibility splays, etc. It is noted that the indicative layout shows several long, straight sections of road in excess of 60m. These areas will require some form of appropriate traffic calming in the finalised roads layout.

### Local Road Network

The site abuts the A92, which is currently a 70mph dual carriageway that provides links to the B999 Pitmedden Road at the Murcar Roundabout, and the A90 trunk Road / AWPR to the North, via the Blackdog interchange. To the South, it connects with the A956 Ellon Road, and the A92 Parkway at the Aberdeen Energy park roundabout. The A956 is a dual carriageway with a 40mph

speed limit, which reduces to 30mph 70m North of the A956 Ellon Road / North Donside Road roundabout.

The applicant proposes to reduce the speed limit on the A92 to 40mph, to replicate the character of the existing 40mph section on the A956, south of the site. A TRO would be required for this change in speed limit. It is understood that the development of adjacent land at Berryhill has been consented subject to a similar requirement to reduce the speed limit on this section of road, and whichever development comes forward first will be required to deliver that TRO. In addition, if the Cloverhill development comes forward first, there will be a requirement for a Toucan crossing to the north of the site. The timing of delivery for this crossing will be tied to the site layout drawing 11085-SK-020Y, which shows an East-West line. No houses are to be built North of this line prior to this Toucan being installed by the applicant or otherwise. North of this line is to serve as the construction site for the site, and will prevent people travelling this way to cross the A90, meaning that the crossing at the site access will suffice for all residents until such a time as this Northern Toucan is installed.

Further to the reduction to 40mph, the applicant is proposing a temporary 20mph speed limit on the A92 as part of their safe routes to schools plan, via the provision of 20mph flashing signs, during the times when children are travelling to and from school. This is acceptable but would be subject to a TRO.

Six junctions were assessed to determine what effect the proposed Cloverhill development would have on their functionality. This was done by scaling up current traffic flows to establish a base level for the opening year, and then assessing what the combined development + future year traffic would look like. The applicants' findings on each junction are summarised below. It should be noted that junctions generally function without issue as long as their ratio of flow to capacity (RFC) and degree of saturation (DoS) are less than 85%:

- Pitmedden Road / Shielhill Road Junction – The largest impact in the opening year is a 41% RFC. With the development included this increases to 43%;
- Pitmedden Road / Denmore Road Junction – This junction is currently over capacity (107% in the worst case). In the opening year scenario, without Cloverhill, this reduces to 87% due to a predicted reduction in traffic using this route. Then, when Cloverhill is reintroduced this increases again to 100%. As a result of this, the agent acting on behalf of Cloverhill has tested a theoretical mitigation (widening the Denmore Road approach to provide an extended flare). This theoretical mitigation provides a no net detriment solution for the Cloverhill development. The applicant is proposing that this scheme can be costed to provide the basis for a monetary contribution that the Cloverhill development can make toward a scheme which can be developed at a later date. This is appropriate, and the costing exercise should be done in conjunction with ACC in line with the submission of a detailed application;
- Murcar Roundabout – The roundabout is currently over capacity, the most onerous RFC is seen in the AM peak heading out of the city towards the AWPR at 104%. The applicant has intimated that the Berryhill application has devised an indicative scheme for improvements at the junction, which should be incorporated before 25% occupation (in terms of traffic generation). Similarly, the Aberdeen Energy Park Extension has a scheme for roundabout improvements (or a contribution in lieu). Fairhurst have assessed the future year scenario, assuming that the Berryhill junction improvement will be in place. This shows that the junction will still operate over capacity (101% in the worst case), and the proposed development will marginally increase this. However, it is rightfully acknowledged that when junctions are over capacity it is difficult to accurately establish the precise impact of

increased traffic. The applicant summarises by saying that it is considered appropriate for the Cloverhill development to pay a proportionate contribution towards the cost of the future improvements at the junction commensurate with the level of development impact. This is appropriate. The costing exercise should be done in conjunction with ACC in line with the submission of a detailed application;

- Aberdeen Energy Park Roundabout – The applicant highlights that the roundabout is currently over capacity in the am peak and is predicted to be over capacity in both AM and PM peak hours under the opening year base traffic (not including Cloverhill itself). The applicant highlights ACC's aspiration to upgrade the roundabout to traffic signals as highlighted in the planning conditions attached to several committed sites – Berryhill, Aberdeen Energy Park extension, redevelopment of the AECC, etc. As the development will obviously increase pressures on this junction, the applicant has stated that it may be appropriate for the Cloverhill development to pay a proportionate contribution towards the cost of future traffic signals, commensurate with the level of development impact. This is appropriate and would be required. The costing exercise should be done in conjunction with ACC in line with the submission of a detailed application;
- Ellon Road / North Donside Road / King Robert's Way Junction – The analysis undertaken shows that this junction is predicted to operate within capacity during the Weekday AM and PM peak hours. The maximum DoS experienced is ~71%. As such, no improvements are required to accommodate the development traffic;
- Site Access Junction – As the site is not yet in place this junction does not currently exist. The modelling shown for the year of opening indicates a DoS of ~90%. Given that this is a greenfield site, it is expected that the junction is designed such that it is not over capacity from the start. The applicant has stated that, to ensure a robust analysis, they've assumed that the pedestrian stage of the signals will be called every cycle, which is unlikely. Regardless, at the time of a detailed submission, this would be reviewed further, with an expectation that the junction be built to operate under capacity.

Of the junctions that require intervention, several are conditioned to be undertaken by developers of other schemes at given thresholds in their development. Consideration should be given to the situation where any of these developments stall or do not go ahead, and how that may affect the contribution due by the applicant. It has been agreed that the following will be paid as a s75 contribution, payable at the point of work starting on site:

- £41,879.14 will be paid representing theoretical works to Denmore junction, Murcar Junction, the AECC junction. The S75 should be caveated to allow use for works / roads safety upgrades as deemed fit by ACC, within the surrounding road network.
- £15,000 as a S75 contribution at the point of starting on site. This represents an allowance of £5,000 towards the value of land, and £10,000 towards CPO costs, with the S75 caveated to allow use for roads safety upgrades as ACC deem fit, within the surrounding road network.

#### Safe Routes to School

The catchment schools for the site are Scotstown Primary and Bridge of Don Academy. Greenbrae Primary and Braehead Primary are also located nearby and have also been included by the applicant within the safe routes to schools assessment. Access to all schools will require the crossing of the A92 dual carriageway via the proposed Toucan crossing at the site access

junction. In order to facilitate this, the applicant is proposing a temporary 20mph speed limit during school travel-times.

All safe routes to schools proposed are adequate and safe, comprising of signalised crossings / zebra crossings / well-lit sections of footway, etc. The applicant is correct in asserting that if the aspirational core path between the A92 and Denmore Road is implemented, this will significantly reduce (by ~75%) pedestrian journey times between the site and Greenbrae Primary School. For this reason, it is important that this future link is given due consideration in the network of paths and pedestrian routes.

#### Travel Plan Framework – Residential Travel Pack

A successful Travel Plan should have an overarching aim, realistic modal share targets and a series of measures to obtain these targets set out in an Action Plan. The aims, objectives, and content proposed to be included in the Residential Travel Pack (RTP) are acceptable. The completed RTP should be submitted to ACC for approval in line with the detailed application.

#### Drainage Impact Assessment

Surface run-off from roads will shed to gullies / permeable paving, which will drain to the surface-water sewers, then onto a new detention basin, which will discharge to a grass swale and outfall sewer, before joining the existing watercourse. As such, the requires 2 levels of treatment are being achieved. It is noted that all driveways or parking areas “will be constructed incorporating porous paving and stone-filled filter trenches.” From experience porous paving alone is not sufficient as a drainage feature alone. Driveways that slope towards an adopted surface should have channel drains at the interface, and parking spaces which slope away from the road should have gulleys to the rear. The drainage proposed is sufficient at this stage, however this will be reviewed in detail when a more detailed application is submitted.

#### Construction Consent

The access junction layout, local road improvements and internal road layout are all to be designed to ACC standards, and the developer will be required to adhere to a section 21 Roads Construction Consent procedure.

#### **Aberdeen City Shire Strategic Development Planning Authority (SDPA)**

The SDPA response, which it should be noted was provided prior to publication of the Proposed SDP Examination Report and its requirement for the Proposed LDP to accommodate a further 939 housing units, concluded that it had not been demonstrated that there is justification for the subject site to be developed for housing land. There is a robust and generous housing land supply across the Aberdeen Housing Market Area which has come through the full assessment of the development plan process which has capacity to meet current and increased demand.

The SDPA response notes that a bid was submitted in relation to this site at the time of the ‘call for sites’ for inclusion in the next Aberdeen Local Development Plan. The planning authority’s assessment concluded that this site was ‘undesirable’ for the proposed residential development, and therefore it was not included as a preferred site in the Main Issues Report 2019.

In terms of housing land supply, the SDPA response notes that the current ALDP allocated land for housing to meet targets set by the Strategic Development Plan 2014, and that sufficient ‘desirable’ bids have been identified via the call for sites process to ensure that the next ALDP will meet the housing allowances set out in the Proposed Strategic Development Plan 2018. It is noted that there has been a robust effective housing land supply, with the 2019 HLA identifying a five-year effective land supply of 6,242 homes for Aberdeen City, along with a post five-year effective supply of 10,076 homes. This equates to a 7.2 year supply in the Aberdeen Housing Market Area, which indicates that there is capacity in land supply terms to build well above the housing requirement if demand exists.

The applicants' supporting information on Housing Land and Employment Land Supply points to a shortfall in housing completions as evidence of a requirement for the release of more housing land. That position is not accepted, and is contradicted by the available evidence in the Housing Land Audit 2019 and earlier audits from recent years, which point to a steady effective land supply of at least 5 years being maintained. Table 2 in the SDPA response presents information taken from HLAs between 2011 and 2019, which indicate a steady increase in housing completions across that period, aided by a robust and generous land supply.

The SDPA note that planning authorities and their development plans can have a significant influence on the amount of land available for development, but much less influence upon the delivery of development upon that land, which is largely dependent on the activities of the development industry and the landowners themselves and is of course subject to market conditions. In that context, Housing Land Audits strive to make realistic assessments of anticipated completions, which has led to the programming of sites being reassessed in light of the regional economic downturn, but nevertheless a healthy effective land supply has been maintained.

**Scottish Environment Protection Agency** – Following submission of further information on potential flood risk, SEPA has removed its initial objection on flood risk grounds provided that, should the planning authority be minded to approve the application, conditions relating to de-culverting of the watercourse and provision of adequate buffer strips around it are attached to any consent. If the planning authority proposes to grant planning permission contrary to SEPA's advice on flood risk, then referral to Scottish Ministers may be necessary under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009. Notwithstanding SEPA's removal of their objection, they expect that ACC will undertake its responsibilities as the Flood Risk Management Authority.

In addition to the conditions requested above, SEPA recommends that further conditions are attached to any grant of planning permission to ensure that finished floor levels are raised above external ground floor levels in order to further mitigate potential surface water risk.

At section 2.5, SEPA also request that a condition be applied to require that the developer investigates alternative layouts to demonstrate whether the layout and design of the proposal can avoid impacting on an existing spring. If it is demonstrated that this cannot be avoided, then further information demonstrating the continuing hydraulic functioning of the spring and details of compensatory measures on the wider site will be required. It is recommended that this be secured by a condition which also secures placemaking measures such as use of wild, native, species rich flower planting in green corridors, use of green roofs for community buildings and use of renewable energy sources etc, as detailed in paras 3.3-3.4 of SEPA's initial response.

In section 5.3 of SEPA's initial response, a condition relating to the avoidance of existing wells either within or in close proximity to the site (or demonstration that alternate provision will be made for the owners of private water supplies to be connected to the public supply) is also recommended.

At section 6 of SEPA's first response, it is noted that the management of surface water during construction will be controlled under SEPA's regulatory regime, and therefore there is no requirement for this to be covered by a planning condition. SEPA welcome the applicants' commitment to produce a Site Waste Management Plan.

**Scottish Water** –No objection. Note that there is currently sufficient capacity in the Invercarnie Water Treatment Works and in the Nigg Waste Water Treatment Works, however a formal application to Scottish Water will be required and further assessment may be required.

Highlights that Scottish Water (SW) is unable to reserve capacity, and a further review of capacity will be undertaken once a formal connection application is submitted to Scottish Water after planning permission has been granted.

Highlights that a SW runs through the site, and the applicant is urged to contact SW's Asset Impact Team directly in order to identify any potential conflicts.

Advise that SW will not accept any surface water connections into its combined sewer system on greenfield sites, and limited exceptions will be made for brownfield sites where significant justification is provided.

**Bridge Of Don Community Council (BoDCC)** – States 'strong objection' to the proposal, contending that the site should be retained for business and industrial use, as identified by the ALDP. Main points are summarised as follows:

- Highlights that the proposal does not accord with the Aberdeen Local Development Plan, which identifies this land for business and industrial use. BoDCC's view is that ACC should not permit a departure from the plan, which was prepared following extensive consultation with community councils and other stakeholders.
- Notes that there are numerous major allocated housing development sites in the city, including in the Bridge of Don area. There are also plans for up to 500 more at Blackdog/Balmedie in Aberdeenshire. Contends that the allocations made on the 2017 ALDO provide an adequate supply of housing land, if not a surplus.
- Notes that a Development Bid for this site was submitted for the next LDP, however the Main Issues Report (MIR) concluded that the development of residential and community use on this site would be undesirable due to the consequent loss of employment land, and would also likely be contrary to the Proposed Strategic Development Plan.
- Access to schools is of concern, with pupils required to cross some of the busiest roads in the city.
- Current bus services are limited and include express services with limited stops that would not adequately serve travel to the nearest schools. Impact on local schools is also of significant concern, and it is anticipated that the proposed development would result in local schools operating over capacity. This situation is unlikely to help address current problems recruiting teaching staff.
- Public transport in the local area has been subject to considerable reductions in recent times, and existing services are not considered to be adequate to serve the existing community. The proposed development would exacerbate that situation. The site is not well served by existing routes.
- Existing medical facilities are at capacity, with lengthy waiting times for appointments. Additional housing will increase pressure on already stretched resources.
- Restrictions on vehicular access to existing development at Donmouth are highlighted, and it is contended that there would be inconsistency in allowing over 500 homes to be accessed off Ellon Road. This level of traffic will add considerably to traffic congestion and

have an adverse impact on air quality, whilst also hindering the flow of traffic on Ellon Road/A92.

- The Community Council has previously suggested that the developer consider an overpass/underpass to facilitate access. Implementation of a 20mph temporary speed limit is considered to be wholly impractical.
- The impact of this proposal, along with other consented developments in the City and Shire, will lead to considerable increase in traffic flows when existing infrastructure is already struggling to cope.
- It appears that potential flood risk has not been properly assessed.
- BoD CC queries whether the any, or all, of the proposed community facilities will be delivered, and notes that with other previous developments the planning gain/developer contribution has been either reduced, delivered late or not delivered at all.

## **REPRESENTATIONS**

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A total of 128 valid and timeously made representations have been received in relation to this application. Of these representations, 123 are in support of the proposal, 3 state objection, and 2 are neutral in content.

Members will note that some 37 of those representations which state support for the proposal are otherwise blank, offering no reasons for that support. Whilst any member of the public may make representation on a planning application, it is notable also that a number of the submitted representations come from sources far removed from the application site and the likely impacts of the proposal, including: Peterhead, Fraserburgh, Portsoy, Banff, Edinburgh, Dunfermline, Stonehaven, Inverurie, Banchory, Peterculter, Arbroath and Inverbervie.

The matters raised in representations can be categorised into a series of general topics and summarised as follows:

### Principle of development, housing/employment land supply and emerging Development Plan

- Proposal is contrary to the 2017 ALDP, which reserves Opportunity Site OP2, Berryhill, for business and industrial use.
- The 2017 ALDP makes a very generous supply of land available for housing across the city. Particular attention is drawn to the Grandhome site, which has an approved masterplan and is identified for up to 7000 homes, including 25% as affordable housing. There are further major housing sites being brought forward at: OP25, Woodside (400 houses); OP16, Davidson's Paper Mill (circa 500 houses yet to be developed); OP10, Dubford (circa 140 yet to be developed); OP7, Aberdeen College (170); OP13, AECC (up to 500 units). There is also a major development of 550 units being brought forward at Blackdog, to the north of the Cloverhill site, in Aberdeenshire. In this context, housing land supply can be considered to be very healthy in the Aberdeen Housing Market Area and in the Bridge of Don area specifically, and the situation does not warrant the release of further land for housing on the scale proposed.

- It is noted that a review of the ALDP is ongoing, and that a development bid submission, seeking to have the Cloverhill site allocated for housing development. The LDP Main Issues Report concluded that this site was undesirable for the proposed residential development on the basis that it would result in the loss of allocated employment land, and noted also that allocation of this site for housing is likely to be contrary to the Proposed Strategic Development Plan. The MIR seeks to prioritise brownfield sites, and any greenfield housing allocations should be small-scale, with limited impacts on the environment and infrastructure, and should not be extensions to existing sites identified in the 2017 ALDP. This suggests that there is no support from the emerging LDP and SDP for removing the current business and industrial zoning at Cloverhill and re-allocating the land for residential use.
- ACC's focus in the new LDP should be on delivering the major housing allocations already made and ensuring that there are services in place to support those allocations, rather than supporting new speculative proposals that have not come through the LDP process and are not supported by the Development Plan.
- Permitting residential development on the Cloverhill site would undermine the plan-led system and the plan preparation process and would set an undesirable precedent for further speculative housing proposals to come forward, to the detriment of sound planning principles.
- No need for further housing in Bridge of Don in addition to those under construction and identified at AECC
- Supports new residential development on this site, as it would allow people to live closer to their place of work.
- The land is better used for housing, which there is a need for, rather than as business land, which in huge oversupply.
- Notes that housing on this site would complement the housing development planned for the former AECC site.

#### Transport/Accessibility

- The proposed residential development would be isolated from existing amenities and services in Bridge of Don by the A92 Ellon Road dual carriageway, which acts as a strong physical barrier between the site and Bridge of Don. The road is also a source of noise nuisance from road traffic, which the applicants intend to address through provision of an acoustic barrier along the site's western boundary.
- The de-trunking of the former A90 Ellon Road trunk road and opening of the AWPR offers greater scope for access to this business/employment land from the re-designated A92, increasing the viability of the site and its attractiveness to prospective business and industrial occupiers.
- Introduction of additional pedestrian crossing(s) on Ellon Road will disrupt traffic flow. No right turns into the development should be permitted, for the same reason. Pedestrian access over Ellon Road should be via a bridge/underpass (as at Parkway).
- Reduction in Ellon Road speed limit would impede commuter travel.

- Schools are on the other side of a busy main road, and there is no public transport between the site and local schools. Dangerous for children to travel on foot and may encourage additional car journeys.
- Reduced speed limits on A92 Ellon Road are unlikely to be adhered to.
- If well served by buses, this can only serve to reduce car travel, in line with ACC aims.
- New core path improves access to the beach.
- New road junction, new pedestrian crossing and reduced speed limit on Ellon Road will improve road safety and increase accessibility across the dual carriageway
- Right turn lanes and traffic light controls should be implemented on the northbound section of Ellon Road in order to provide access to the site without unduly affecting traffic flows. Restrictions on right turns into the development would be frustrating for residents and require longer journeys by car.

#### Commentary on layout and respective components of the proposed development

- Support provision of an all-weather football pitch in the Bridge of Don area, which offers young people more choice, supports grass-roots football, reduces the likelihood of anti-social behaviour and supports active lifestyles.
- Support for proposal on the basis of its benefits to local residents (both existing and new)
- Support for affordable housing in the area, which will be beneficial for young families.
- Supports pioneering use of fuel cell technology through Aberdeen Hydrogen First initiative, which is consistent with Aberdeen's earlier steps towards a hydrogen-focused economy and contributes to the UK's commitment to net zero carbon emissions by 2050
- Provides greater choice in the type and location of new-build housing in Bridge of Don, and increases opportunity for those growing up in the area to remain there with family/partners in the long-term
- Allows for existing individual houses to be better integrated with the wider Bridge of Don community
- Improved shops and community facilities in Bridge of Don would make the area more attractive as a place to live
- Bridge of Don is currently woefully under-provided for in terms of community/sports facilities
- The proposed development will create jobs in the local community / provide opportunities for small business to base premises in Bridge of Don.
- Provides community meeting space and parks, play areas and open space

#### Noise, relationship with neighbouring land uses and amenity issues

- Existing business/industrial uses also pose a potential noise nuisance to new residential development. Conversely, the introduction of residential use may pose a threat to the

viability of businesses operating from land allocated specifically for business and industrial use. This may be to the detriment of the developers and owners of allocated employment sites seeking to attract new occupiers and retain existing occupiers.

- Notes the submitted Noise Impact Assessment's recommendation for a 3.5m high acoustic barrier along the northern and part of eastern boundaries in order to mitigate noise from employment areas, however even with this mitigation the report concludes that significant impact to residential properties would be anticipated from class 5 and 6 premises at night.

#### Environmental / Landscape issues

- Encroachment on/loss of green space
- Development would place pressure on local schools.

#### Other issues

- Bridge of Don and District Men's Shed have been active over last 2 years in trying to identify available, suitable & affordable properties to establish for the benefit of the local community, without success thus far. Very grateful for the opportunity to be involved in the proposals for Cloverhill, which may lead to a permanent premises for the group – do not either object to or support the application.

#### **Pre-Determination Site Visit and Hearing**

Under Regulation 27 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 there was a requirement to hold a Pre-determination Hearing.

A Hearing site visit was held on Wednesday 15th January 2020 to familiarise members with geographical context of the site and the positioning, appearance and scale of, and means of access to, the proposed development (based on an indicative layout provided in support of this application for Planning Permission in Principle).

A Pre-Determination Hearing took place on the same day, following the site visit. The Hearing afforded the applicant and those people who submitted written representations on the proposed development the opportunity to present verbally their arguments/case directly to the Planning Development Management Committee, which on this occasion, was open to all Members of the Council. The minute from that hearing can be found on the Council website along with the agenda pack –

<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MIId=7308&Ver=4>

The hearing was addressed:

- by officers from the City Council on the planning and roads considerations pertinent to deciding the planning application;
- by the applicants and applicants' representatives in terms of the merits of the proposed development;
- By representatives from ACC Environmental Health team and Invest Aberdeen, in their capacity as consultees;
- by organisations and individuals speaking for and against the proposal including the local Bridge of Don Community Council, Bridge of Don Thistle Junior Football Club, the Bridge of Don and District Men's Shed organisation and the Panasonic corporation, the latter as manufacturers of hydrogen fuel cell technology.

Members asked questions of many of the speakers.

The minute of the hearing has been scrutinised to make sure that any material planning issues and points raised in the hearing have been addressed in the evaluation of the application.

## **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**

#### National Planning Framework 3 (NPF3) 2014

NPF3 is a long-term strategy for Scotland - the spatial expression of the Government's Economic Strategy, and of plans for infrastructure investment. Sets out a vision for Scotland to be:

1. A successful, sustainable place.
2. A low carbon place
3. A natural, resilient place
4. A connected place

Para 2.18 notes that some cities have greater pressure for additional housing development, whilst regeneration remains a priority in others. States that, in all cases, there will be a need to ensure a generous supply of housing land in sustainable places where people want to live, providing enough homes and supporting economic growth. The section on Aberdeen and the North East states that the city centre will be a focus for regeneration efforts. Para 2.19 notes that housing requirements will continue to be at their most acute around Edinburgh, Perth and Aberdeen – requiring targeted action to better match demand for land with infrastructure capacity.

#### Scottish Planning Policy (SPP), 2014

Scottish Ministers, through the 'core values' expressed at paragraph 4 of SPP, expect the planning system, amongst other things, to; focus on outcomes, maximising benefits and balancing competing interests; play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities; and be plan-led, with plans being up-to-date and relevant.

SPP's identified outcomes include achieving 1. 'A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places' ; 2. 'A low carbon place – reducing our carbon emissions and adapting to climate change'; and 3. 'A natural, resilient place – helping to protect and enhance our natural and cultural assets, and facilitating their sustainable use.' Para. 15 highlights the role of SPP to set out how these outcomes should be delivered on the ground. By locating the right development in the right place planning can provide opportunities for people to make sustainable choices and improve their quality of life.

Paras 17-19 highlight policy support for the transition to a low carbon economy, particularly by supporting diversification of the energy sector, with the overall aim to reduce greenhouse gas

emissions and facilitate adaptation to climate change. The role of the planning system in seizing opportunities to encourage mitigation and adaptation measures is underlined.

Para 23 highlights the role of the planning system in aligning development more closely with transport and digital infrastructure to improve sustainability and connectivity, contributing to economic growth and an inclusive society.

Para. 28 states that the planning system should 'support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost'.

Paragraph 32 (in relation to Development Management) notes that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making, and indicates that proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

Planning should take every opportunity to create high quality places by taking a design-led approach, taking a holistic approach that responds to and enhances the existing place while balancing the costs and benefits of potential opportunities over the long term.

Planning should direct the right development to the right place. To do this, decisions should be guided by the following policy principles –

- optimising the use of existing resource capacities, particularly by co-ordinating housing and business development with infrastructure investment including transport, education facilities, water and drainage, energy, heat networks and digital infrastructure;
- using land within or adjacent to settlements for a mix of uses. This will also support the creation of more compact, higher density, accessible and more vibrant cores;
- considering the re-use or re-development of brownfield land before new development takes place on greenfield sites;
- considering whether the permanent, temporary or advanced greening of all or some of a site could make a valuable contribution to green and open space networks, particularly where it is unlikely to be developed for some time, or is unsuitable for development due to its location or viability issues; and
- locating development where investment in growth or improvement would have most benefit for the amenity of local people and the vitality of the local economy.

Planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place (distinctive, safe and pleasant, welcoming, adaptable and resource efficient, easy to move around and beyond)

SPP highlights that Design is a material consideration in determining planning applications. Planning permission may be refused and the refusal defended at appeal or local review solely on design grounds.

In its section on 'Supporting Business and Employment', SPP identifies policy principles to:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- locate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- give due weight to net economic benefit of proposed development.

In its section on 'Enabling Delivery of New Homes, SPP identifies policy principles to:

- identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5-year supply of effective housing land at all times;
- enable provision of a range of attractive, well-designed, energy efficient, good quality housing, contributing to the creation of successful and sustainable places; and
- have a sharp focus on the delivery of allocated sites embedded in action programmes, informed by strong engagement with stakeholders.

Paras 113-122 set out the role of the Development Plan process in providing for identified housing needs, based on robust housing need and demand assessment (HNDA). Once a housing supply target has been identified for each functional housing market area, based on evidence from the HNDA, this is then increased by a margin of 10-20% in order to ensure that a generous supply of land for housing is provided. Local Development Plans in city regions should then allocate a range of sites which are effective or expected to become effective in the plan period to meet the housing land requirement of the SDP up to year 10 from the expected year of adoption. They should provide for a minimum of 5 years effective land supply at all times. Paragraphs 123-125 highlight the role of annual housing land audits as a tool to critically review and monitor the availability of effective housing land, the progress of sites through the planning process, and housing completions, to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least 5 years. A site is only considered effective where it can be demonstrated that within 5 years it will be free of constraints and can be developed for housing. Para 125 states that, where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date, and paragraphs 32-35 will be relevant.

Paragraphs 126-134 address Affordable Housing and other specialist housing provision types, noting the role of Housing Need and Demand Assessments in establishing whether there is a shortage of affordable housing, and the roles of strategic development plans in stating how much of the total housing land requirement this represents and local development plans in clearly setting out the scale and distribution of the affordable housing requirement for their area. Plans should also identify and expected developer contributions towards delivery of affordable housing, with supplementary guidance setting out further detail.

Paras 152-192 are concerned with delivering heat and electricity, reiterating that NPF3's statement that planning must facilitate the transition to a low carbon economy. Para 154 in particular sets out that the planning system should:

- support the transformational change to a low carbon economy, consistent with national

objectives and targets, including deriving specified amounts of overall energy, heat demand and electricity demand by 2020.

Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks;

- Guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed;
- Help to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to:
  - Energy efficiency;
  - Heat recovery;
  - Efficient energy supply and storage;
  - Electricity and heat from renewable sources; and
  - Electricity and heat from non-renewable sources where greenhouse gas emissions can be significantly reduced.

Para 171 states that proposals for energy generation from non-renewable sources may be acceptable where carbon capture and storage or other emissions reduction infrastructure is either already in place or committed within the development's lifetime and proposals must ensure protection of good environmental standards.

Paras 193 & 202-204 are of particular relevance in terms of 'Valuing the Natural Environment'. These sections underline the importance of planning in 'protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use'. It is noted that 'the siting and design of development should take account of local landscape character', also that 'developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement'. Para. 203 states that 'planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment'. In terms of promoting sustainable transport and active travel, paragraph 287 of SPP states in relation to Development Management functions that 'planning permission should not be granted for significant travel generating uses at locations which would increase reliance on the car and where:

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

#### Creating Places (architecture and place policy statement)

Scotland's policy statement on architecture and place sets out the comprehensive value good design can deliver. Successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy. The document contains an action plan that sets out the work that will be taken forward to achieve positive change. The statement is in four parts:

1. The value of architecture and place,

2. Consolidation and ambition,
3. A strategy for architecture and place,
4. Resources, communications and monitoring.

### Designing Streets (2010)

Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside Designing Places, which sets out government aspirations for design and the role of the planning system in delivering these.

### **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 LR1 – Land Release Policy  
 Policy LR2 – Delivery of Mixed Use Communities  
 Policy D1 – Quality Placemaking by Design  
 Policy D2 – Landscape  
 Policy NC4 – Sequential Approach and Impact  
 Policy NC5 – Out of Centre Proposals  
 Policy NC8 – Retail Development Serving New Development Areas  
 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 B1 – Business and Industrial Land  
 Policy B4 – Aberdeen Airport  
 Policy H3 – Density  
 Policy H4 – Housing Mix  
 Policy H5 – Affordable Housing  
 Policy CF2 – New Community Facilities  
 Policy NE1 – Green Space Network  
 Policy NE4 – Open Space Provision in New Development  
 Policy NE5 – Trees and Woodlands  
 Policy NE6 – Flooding, Drainage and Water Quality  
 Policy NE8 – Natural Heritage

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 CI1 – Digital Infrastructure

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

- Master Plans;
- Energetica;
- Transport and Accessibility;
- Noise;
- Planning Obligations;
- Affordable Housing;
- Landscape;
- Children’s Nurseries;
- Natural Heritage;
- Open Space;
- Trees and Woodland;
- Flooding and Drainage.

### **Other Material Considerations**

#### Proposed Aberdeen Local Development Plan 2020

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 02 March 2020. The Proposed ALDP constitutes the Council’s settled view as to what the final content of the next adopted ALDP should be, and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

#### Housing Land Audit 2019 – Aberdeen City & Aberdeenshire Councils, July 2019

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

#### Employment Land Audit 2017/18 – Aberdeen City & Aberdeenshire Councils, Dec 2018

The Aberdeen City and Shire Employment Land Audit (ELA) provides information on the supply and availability of employment land in the North-East of Scotland.

#### Strategic Infrastructure Plan

Aberdeen City Council’s Strategic Infrastructure Plan (SIP) focuses on the delivery of Strategic and Local Development Plans and also identifies five key infrastructure goals, as follows:

1. A step change in the supply of housing;

2. High quality digital connectivity at home and at work;
3. Better local transport;
4. The skills and labour that Aberdeen needs to thrive;
5. A better image for Aberdeen.

#### Local Transport Strategy (2016-2021)

The vision for the Local Transport Strategy is to develop “A sustainable transport system that is fit for the 21st Century, accessible to all, supports a vibrant economy, facilitates healthy living and minimises the impact on our environment”. Its five associated high-level aims are:

1. A transport system that enables the efficient movement of people and goods.
2. A safe and more secure transport system.
3. A cleaner, greener transport system.
4. An integrated, accessible and socially inclusive transport system.
5. A transport system that facilitates healthy and sustainable living.

These are underpinned by five identified outcomes. By 2021 Aberdeen’s transport system should have:

- A. Increased modal share for public transport and active travel;
- B. Reduced the need to travel and reduced dependence on the private car;
- C. Improved journey time reliability for all modes;
- D. Improved road safety within the City;
- E. Improved air quality and the environment; and,
- F. Improved accessibility to transport for all.

#### Regional Economic Strategy – Aberdeen City & Aberdeenshire Councils with Opportunity North East (ONE), December 2015

Sets out the following four key programmes which will contribute to achieving the strategy’s vision:

- A. Investment in Infrastructure
- B. Innovation
- C. Inclusive Economic Growth
- D. Internationalisation

## **EVALUATION**

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### **Principle of Development**

The planning authority is required to determine this application in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan presently comprises the Aberdeen and Aberdeenshire Strategic Development Plan (2014) and the Aberdeen Local Development Plan (2017). The emerging policy context, as set out in both the Proposed Strategic Development Plan (currently under consideration by Scottish Ministers following publication of the appointed Reporter’s report) and the Proposed Aberdeen Local Development Plan (approved by Council on 2<sup>nd</sup> March 2020 and representing the ‘settled view’ of the Council) are also relevant material considerations.

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

- the zoning of the land in the proposed Aberdeen Local Development Plan and the relevant policy B1 – Business and Industrial Land
- the adequacy of the existing employment land supply and the implications of developing this site for an alternative use;
- the adequacy of the housing land supply;
- the extent to which existing and future planned business and industrial uses might be prejudiced by noise-sensitive residential development in this location;
- whether the development would provide a quality residential environment that is suitably accessible
- whether the development would contribute to sustainable development.

Notable material considerations include Scottish Planning Policy (SPP) and the emerging policy context presented by the Proposed Strategic Development Plan (SDP) following publication of the Report of Examination in January 2020 and the Proposed Local Development Plan following its approval by Council in early March 2020.

### **Zoning**

The application site lies within an area zoned as B1 – Business and Industrial Land in the Aberdeen Local Development Plan 2017 (ALDP). The corresponding policy B1 states that the business and industrial allocations set out in the plan will be supported in principle in such locations, and “safeguarded from other conflicting development types”. In this regard, policy B1 does not provide for residential use in this location and recognises that permitting other use types in areas zoned for business and industrial use may result in conflict between the respective uses. In the context of this proposal for residential development, a portion of the allocated employment land (22.5ha in the south western portion of the larger 68.4ha OP2 allocation – approximately 33%) would be lost to accommodate the residential development, meaning that the full allocation would not be realised. The implications of this will be discussed separately, below. Furthermore, there is scope for the proposed new residential use to preclude or restrict the effective operation of business/industrial uses on the remaining business/employment land and/or for the amenity afforded to residents of any new homes to be adversely affected by operations associated with existing/future business and employment uses. The relationship between the proposed residential development and neighbouring uses, both existing and planned/consented, is therefore important and will be explored in more detail later in this report.

### **Environmental Impacts**

The applicants made a formal request for an Environmental Impact Assessment (EIA) ‘screening opinion’ from the planning authority in January 2019 (application ref 190162/ESC), with background information provided in support. The planning authority concluded that statutory Environmental Impact Assessment would not be required, as the proposed development was not anticipated to result in significant effects on the environment.

Whilst the statutory EIA process was not considered to be warranted in this instance, there are still environmental matters to be considered by the planning authority in making its decision. There are no site-specific environmental designations applicable to the site, however it is noted that it includes habitats potentially suitable for bats and reptiles, therefore further surveys will be required in support of subsequent detailed proposals. This will allow for an informed assessment of any impact on habitat and species to be taken based on the finalised development layout, and for mitigation to be incorporated where necessary. By securing further survey work and identifying areas for potential ecological enhancements, such as the de-culverting of the existing watercourse and establishment of appropriately planted buffer strips incorporating a variety of native species, the proposal can ensure compliance with policy NE8 (Natural Heritage).

Existing trees are generally arranged around the periphery of the site, such that the vast majority may be retained. Supporting documents identify six individual trees to be removed to directly

facilitate the development, with a further five removed on the basis of their condition. In addition, a group of hawthorn forming a hedge along a field boundary appear to conflict with the indicative layout, which may necessitate some removals. It is considered that the indicative proposals give comfort that the majority of existing trees can be retained within the new development, and any losses may be offset through tree planting and landscaping within newly formed open spaces. Whilst tree losses are not significant, it will also be necessary to consider the relationship between retained trees and new buildings, to ensure that trees have sufficient space to grow and thrive. On that basis, further consideration of that relationship will be required in terms of finalised proposals for the development layout, via the approval of matters specified in conditions application process. Subject to that further assessment, it is considered that the proposal demonstrates due regard for the retention of existing trees and for new tree planting, consistent with policy NE5 (Trees and Woodlands) of the Aberdeen Local Development Plan.

A Landscape Appraisal, undertaken by chartered landscape architects on behalf of the applicants, forms part of the supporting documentation. This assesses the likely landscape and visual impacts of the development, with a focus on views from public viewpoints. In terms of the surrounding context, the appraisal notes past commercial and industrial development as a defining characteristic of the coastal landscape to the east of the A92, along with the coastal views to the east. The LVIA identifies that the proposals would represent a significant change to the local landscape, however the surrounding topography and context is such that these landscape impacts are relatively localised, principally due to the landscape capacity of the wider coastal area. Significant visual effects are generally restricted to a small number of existing properties close to the site boundaries. These impacts are not considered to result in any significant harm to the character or amenity of the local area, and are acceptable in the context of the site's allocation for development in the Local Development Plan. The development is relatively low-rise and its visual impacts can be further mitigated as necessary through a robust landscape framework which seeks to soften the appearance of new buildings through tree planting and establishment of high-quality landscaped open spaces. In this regard, the proposal is considered to accord with the aims of policy D2 (Landscape) of the ALDP.

There are areas to the central and southern portions of the site which form part of the Council's designated Green Space Network (GSN), and therefore require consideration against policy NE1 (Green Space Network) of the ALDP. These areas of the site reflect the location of the east/west AP1 Aspirational Core Path route and the path of the Silver Burn through the southern portion of the site. The indicative green space strategy outlined in the applicants' Design and Access Statement indicates that the central swathe of the GSN designation will be incorporated within a gateway 'linear park', which offers a sense of arrival to the site but also maintains that green corridor through the site from east to west for wildlife habitat connection purposes. The route of the Silver Burn is also identified as being maintained as a green space, which ties in with the requirements of ACC's 'Natural Heritage' Supplementary Guidance and advice offered by SEPA during consultation, both of which advocate green buffers being maintained around watercourses as a means of protecting them from pollution and also offering habitat and recreational opportunities. In this regard, it is clear that the overall vision set out by the Design and Access Statement recognises the location of these GSN designations and seeks to retain functional green space in these locations as part of the development scheme. On that basis, and given the expectation that further development of the scheme will reflect the principles set out in this statement, it is considered that the proposal demonstrates accordance with policy NE1 (Green Space Network), in that it would not destroy or erode the character or function of the Green Space Network, and will in fact offer potential for the enhancement of the habitat around the existing Silver Burn.

Matters relating to any historic site contamination can be overcome through the use of conditions requiring site investigations and mitigation as necessary.

## **Accessibility and Transport Impact of Development**

The application site lies immediately to the west of the main A92 Ellon Road dual carriageway, which is presently a 70mph road and carries large volumes of traffic into Aberdeen and also affords connection to the AWPR to the north via the Blackdog interchange. The A92 slows to 40mph on approach to the Aberdeen Energy Park roundabout junction, with the A956 Ellon Road A92 Parkway continuing south and west respectively.

### **Site accesses**

It is proposed to form two vehicular access points off the A92. A main access junction would be formed mid-way along the western site frontage and would be controlled by traffic signals including provision for a toucan crossing over the A92. A secondary access, to the south, would be a priority junction operating on a left-in, left-out basis. Indicative drawings are included in the applicants' Transport Assessment, at appendix D, however conditions will be required to secure approval of details and implementation. Roads colleagues are satisfied that up to 150 units may be occupied prior to delivery of the secondary access, subject to agreement from the Fire Service being obtained.

### **Speed Limits**

A 70mph speed limit currently applies to the section of the A92 immediately to the west of the site, with a 40mph limit applying on approach to the roundabout junction at Aberdeen Energy Park and the A956 Ellon Road south of that point. The speed limit further reduces to 30mph on approach to the Ellon Road / North Donside Road roundabout. It is proposed that the speed limit on the A92 adjacent to the site be reduced to 40mph, with a Traffic Regulation Order required to achieve this. The earlier approval of business/industrial development at Berryhill / The Core was subject to a similar requirement, and responsibility for implementation would rest with whichever development comes forward first. On that basis, the speed reduction on this section has been previously established, and the proposed 40mph limit is appropriate in the context of the proposed residential development and the increased pedestrian traffic over the A92 towards the local shops and services in the surrounding area. The applicants also propose a temporary 20mph speed limit in order to facilitate safe routes to schools, with flashing 20mph signs during times when pupils would be travelling to and from school. This has been accepted by the Roads Development Management Team, who note that this would also be subject to a Traffic Regulation Order.

### **Internal roads layout**

Roads colleagues have not undertaken a detailed assessment of the internal roads layout, on the basis that this will be a matter for subsequent applications relating to the approval of matters specified in conditions, if permission in principle is granted. Such applications would be required to include a greater level of detail in relation to road dimensions, gradients, materials etc., as well as visibility splays for junctions. Traffic calming measures will also be required for any longer sections of straight road, exceeding 60m in length.

### **Junction Impacts**

In terms of traffic impacts arising from the development, the submitted Transport Assessment and supplemental information have demonstrated that junctions at (i) Pitmedden Road / Shielhill Road, (ii) Ellon Road / North Donside Road / King Robert's Way and (iii) the proposed new Cloverhill site access will all operate within capacity when development traffic is factored in. On that basis, no works to improve junction capacity in these locations will be required.

As detailed in the Roads Development Management Team's response, the junctions at (i) Pitmedden Road / Denmore Road, (ii) Murcar Roundabout and (iii) Aberdeen Energy Park Roundabout are either predicted to operate over capacity as a result of the development, or the development is predicted to exacerbate an existing over-capacity situation. In recognition of those impacts, Roads colleagues have agreed necessary mitigations to offset the development impact

and established financial contributions totalling £41,879.14 to be paid to ACC and secured via a section 75 obligation .

### **Public Transport**

Existing bus services operate along the A92, immediately to the west of the site, and further services running on Denmore Road and Greenbrae Drive lie within 400m of the western edge of the site. The Bridge of Don Park and Ride site is located approximately 850m to the south. The Council's Roads Development Management Team has noted the potential for new bus stops to be provided along the A92, in conjunction with a reduced speed limit. If these additional stops are added near to the main site access, then the entire development will be within the recommended 400m walking distance. There is no requirement for buses to be diverted into the site to achieve this, however it is expected that the internal road network will be designed to allow potential for buses to be routed through the site.

Roads DM colleagues also note the submission of a Travel Plan Framework as part of the applicants' supporting documentation. This sets out the broad principles for the production of a Residential Travel Pack to promote awareness of the sustainable travel options available in the local area. Roads colleagues have accepted the framework put forward and will provide further comment on submission of a detailed Residential Travel Pack as part of a later application for the approval of matters specified in conditions. On that basis, a condition will be required to secure such submissions and ensure compliance with policy T2 and the associated 'Transport and Accessibility' SG.

### **Car Parking**

A detailed assessment of car parking provision has not been undertaken at this stage, as the layout shown is merely indicative of how development might be accommodated on the site. Subsequent AMSC applications would be required to demonstrate that development is accompanied by appropriate on-site parking for residential and commercial/community uses, with regard for the parking standards set out in the Council's 'Transport and Accessibility' Supplementary Guidance. The site lies within the 'outer city' parking zone, where parking standards are higher to reflect the suburban location, and there is not presently any controlled parking zone (CPZ) in operation. The applicants' Design and Access Statement makes reference to the inclusion of infrastructure for electric vehicle charging, which is a further requirement of the Council's supplementary guidance. The exact nature, extent and location of that provision will be established through subsequent applications.

### **Pedestrian Infrastructure**

As noted previously, a toucan crossing would form part of the main site access junction, with an indicative junction design provided. In addition, a second toucan crossing would be required to the north of the site, just south of the Murcar Roundabout, aiding pedestrian movement across the A92. Indicative phasing plans show the northern portion of the Cloverhill site in the second phase of works, and it is considered that the initial phase can be adequately accommodated by the crossing at the main access junction. Delivery of this second (Murcar) crossing can be secured by use of a planning condition, however it is noted that a similar requirement for a crossing in this location is attached to the planning permission for the Core Business Park, such that it may be delivered sooner by others. Nevertheless, a condition is required to secure the fall-back position and ensure that the required crossing is in place at the appropriate time. A plan has been submitted by the applicants, indicating the area of the site where works will be prohibited unless the northern crossing is in place (the northern portion of the site, corresponding with the second phase, as shown in indicative phasing).

The main site access is located close to the aspirational core path route that runs east-to-west across the site. The delivery of this route as part of the development will improve public access, permeability through the site and access to green spaces beyond, consistent with the aims of

policy NE9 (Access and Informal Recreation) of the ALDP. As the developer would be providing this route within the application site, a reduced financial contribution to offset impacts on the wider core path network is required, however any legal agreement will include a fall-back position in order that a full contribution is payable in the event that the path within the site boundary is not delivered as anticipated. Footways and pedestrian infrastructure within the site will be subject to further assessment on submission of detailed layouts as part of the approval of matters specified in conditions process.

### **Safe Routes to School**

The application site is zoned to Scotstown Primary and Bridge of Don Academy, however the applicant and the Council's Roads Development Management Team have highlighted that Greenbrae Primary would become much more conveniently accessible if a further section of the aspirational core path route between the A92 and Denmore Road is delivered in future, therefore this has been taken into account in identifying safe routes to schools. Roads officers note that all schools, whether currently zoned or not, require pupils to cross the A92, which would be provided for by the new crossing at the main site access. It is also proposed that a temporary 20mph speed limit be in effect during school travel times. The routes identified by the applicant have been accepted by Roads DM colleagues, who note that they would utilise appropriate means of crossing and well-lit sections of footway.

### **Design, Layout & Density**

As this application seeks Planning Permission in Principle, the layout that is before the planning authority is indicative and is intended to demonstrate how residential led development at this scale might be accommodated within the site, rather than representing a finalised proposal. If PPIP is granted, it will be for subsequent AMSC applications to set out the finer details of the proposal and establish a finalised design.

The ALDP, through policies D1 (Quality Placemaking by Design) and H4 (Housing Mix) and the associated Aberdeen Masterplanning Process TAN, requires that larger developments of more than 50 units be subject to a masterplan, setting out key design principles for that development. The applicants have prepared a supporting document, referred to as a Design and Access Statement, that is considered to include the necessary content equivalent to a masterplan e.g. on design principles, landscape strategy, density, open space, phasing etc.. In the event that PPIP is granted, this document would be a material consideration in the planning authority's determination of subsequent AMSC applications, acting as a point of reference for detailed assessment based on the design principles it establishes.

The submitted Design and Access Statement provides an analysis of the local context and sets out how the proposal will respond to the relationships with the A92 and the surrounding industrial/commercial uses. The western edge of the site would incorporate significant new tree planting as a means of ensuring privacy and also offering further noise attenuation to residential properties, as well as offering an attractive face to this main road. The main site access is at a central point in that western frontage, and a 'linear park' running west to east will offer a pleasant arrival into the site whilst also allowing for the realisation of an aspirational core path route across to the eastern boundary. Commercial uses would be centred around a 'main square' which is positioned on the main internal access route, directly opposite the linear park. The document refers to the potential for retail and community hub-type uses within this main square, though the exact nature of those uses will be determined via the MSC process.

The Local Development Plan, via policy NC8: Retail Development Serving New Development Areas, sets out an expectation that retail and related uses will be at an appropriate scale to serve the convenience shopping needs of the expanded local community. Policy NC8, though primarily aimed at sites allocated for residential development, is arguably equally relevant to any large-scale residential Departure from the Plan. This policy requires proposals to identify the intended location

of retail uses serving new communities, along with an appropriate delivery mechanism and timescale for delivery. There may, depending on the scale of any retail component, be a need for retail impact assessment or sequential testing in accordance with policy NC4 (Sequential Approach and Impact), and larger convenience shops may require to be subject to planning conditions restricting the proportion of non-convenience floorspace. At this PPIP stage, appropriately framed conditions will be required to secure the necessary details of any retail uses, along with details of delivery mechanism and timescale for delivery, such that they can be subject to further assessment and restriction where appropriate.

The proposal does not yet contain sufficient detail to allow for assessment of development density, however consideration of future applications for the approval of matters specified in conditions will allow for further scrutiny against policy H3 (Density), which presently requires developments to achieve a net density of 30 dwellings/hectare, but to balance this alongside ensuring that development is appropriate to its context. In this instance, the nearest residential areas of Bridge of Don are generally relatively suburban in their density, however the scale and location of the site is such that higher density could be accommodated without appearing incongruous. The submitted Design and Access Statement identifies opportunities for higher density flatted accommodation adjacent to the access junctions and around the main square, which would be an appropriate means of denoting the core of the development. 550 units on this 22.5ha equates to a gross density of 24.4 dwellings per hectare, and the net figure would generally exclude non-developable areas such as significant landscape buffers, so is likely to be materially higher. The indicative layout provided offers comfort that the requirements of policy H3 (Density) can be achieved in the final layout.

Indicative phasing proposals are also contained within the Design and Access Statement, with the initial focus on the central portion of the site and the proposed sports facilities, along with affordable housing and establishment of the central linear parkland. This would be accessed from the main access junction, up until 150 units, after which the second junction to the south would be required. The second phase of work would then extend northwards, incorporating approximately 250 dwellings and flats along with the local retail and community uses arranged around the 'main square' area. The last phase of works would be in the southern portion of the site, with approximately 30 dwellings south of the Silver Burn, as well as the pavilion/changing facilities to accompany the sports pitch. This is an indicative programme, and a detailed scheme of phasing would be required by condition.

### **Residential Amenity and Noise**

Whilst recognising that the present zoning of this site does not allow for residential development, it is nevertheless necessary to consider whether, as a departure from the plan's land use zoning, the proposal is capable of offering adequate amenity for residents. The site is of a considerable size and does not contain steep slopes that would present an obstacle to residential street layouts. The main factors that might present a threat to residential amenity are the proximity to the busy A92 to the west and the existing and consented/allocated employment land uses to the north, west and south. The inclusion of an all-weather sports pitch also presents a potential source of noise, however it is considered that the findings of the submitted noise assessments give comfort that a combination of restrictions on hours of use and appropriate noise mitigation/attenuation with verification following installation can successfully address any potential noise impacts such that they do not present an obstacle to the granting of permission.

Whilst an earlier Environmental Health response had suggested a requirement for further assessment of noise arising from the existing onshore wind turbine at the RubberAtkins premises in the Aberdeen Energy Park, this lies some 650m away from the eastern boundary of the site and it is notable that there are residential properties in closer proximity to that turbine, with no history of noise complaints relating to its operation. Taking these factors into account, it is considered that further noise assessment relating to the turbine is not necessary.

As far as noise relating to road traffic on the A92 is concerned, Environmental Health colleagues note that the submitted noise assessment proposes the formation of an acoustic barrier in attenuate noise levels. A small number of gardens of those properties closest to the road would naturally be most affected, however noise levels would still be within the levels required by the relevant British Standard, subject to the acoustic barrier providing the predicted attenuation. As the success of these mitigation measures is essential to ensuring an adequate standard of amenity, it is recommended that conditions are attached to any consent to verify the predicted noise attenuation following installation of acoustic barriers. These properties closest to the A92 will also require to be served by acoustic ventilators in order to avoid adverse noise impact, and this too can be ensured through use of conditions.

Recent addendums to the original Noise Impact Assessments have provided further evidence that daytime noise impact from commercial units that may be developed in the future on land to the east would be low with the proposed mitigation measures in place. There is potential for significant noise impact from future class 5 and 6 units during the night, however suitable noise mitigation measures are proposed along the site boundary shared with the allocated and consented employment land in the form of a landscaped bund and acoustic timber fencing. It is also acknowledged that the relevant planning permission for the neighbouring Core Business Park was granted subject to conditions which require further assessment of noise impact on existing residential uses and would oblige mitigation measures as necessary prior to occupation of those commercial units. The combination of these measures is sufficient to provide comfort that industrial noise is not an impediment to achieving satisfactory residential amenity within this development, but equally that the introduction of residential use in this location will not unduly preclude delivery of consented commercial development on the neighbouring land allocated for this purpose. Again, given the central importance of successful noise mitigation measures, it would be appropriate that conditions secure further information post-construction to verify that the proposed mitigation measures have proven effective. Subject to these safeguards, it is considered that impacts arising from local noise sources can be satisfactorily mitigated to provide an appropriate standard of amenity, whilst not undermining the delivery of consented and allocated business development on neighbouring land. Taking these factors into account, it is considered that the proposal demonstrates due regard for the provisions of policy T5 (Noise) and the associated Supplementary Guidance.

### **Flooding and Drainage**

Policy NE6 (Flooding, Drainage and Water Quality) sets out requirements on flood risk and drainage and the OP2 Opportunity Site designation of which this site forms a part highlights a requirement for Flood Risk Assessment to accompany future development proposals. SEPA had initially objected to the application on the basis of a lack of information on the potential for flooding. A Flood Risk Assessment has since been provided in support of the application, and SEPA has, in its most recent response, removed that objection, subject to the use of conditions to secure further details of appropriate buffer strips along the route of the Silver Burn and details of the extent of any de-culverting and naturalisation of the watercourse.

These submissions provide comfort that a development of proposed scale is achievable, however further detailed assessment will be required on the basis of the finalised development, and planning conditions can be used to secure this for further scrutiny by the Council's Flooding and Coastal Protection Team.

ACC's Roads Development Management Team has highlighted that surface water must be subject to two levels of treatment before it may enter the existing watercourse, in order to safeguard water quality. The submitted Drainage Impact Assessment is considered acceptable at this stage, however further the specifics of a detailed drainage scheme, based on the final site

layout, will be required. This can be secured using suitable planning condition(s), allowing for further review to ensure compliance with the requirements of the development plan.

On that basis, it is considered that the proposal adequately addresses matters of flood risk and site drainage at this PPIP stage, consistent with policy NE6 (Flooding, Drainage and Water Quality) of the ALDP.

### **Affordable Housing and Developer Obligations**

Policy H5 (Affordable Housing) of the ALDP requires that housing developments of five or more units contribute no less than 25% of the total number of units as affordable housing. A Developer Obligations assessment has been undertaken on the basis of that 25% requirement, which for a proposal of 550 units would equate to 137.5 affordable units. The Council's relevant 'Affordable Housing' Supplementary Guidance sets out that there are a number of ways in which this can be delivered but states an expectation that the affordable component arising from developments of 20 or more units will be delivered on-site. A section 75 planning obligation is the usual means of securing affordable housing obligations, and this can be framed in such a way that the obligations reflect any change to the ultimate number of units consented via the AMSC process and delivered on site. ACC Housing Strategy colleagues recommend that the developer engages with them on the size, type and location of any affordable units, stating a particular desire to avoid large numbers of flats, which is consistent with Affordable Housing SG's aim to ensure that the affordable units within a development reflect the wider mix of unit types and sizes.

Policy I1 (Infrastructure Delivery and Planning Obligations) of the ALDP sets out that development must be accompanied by the necessary infrastructure, services and facilities required to support expanded communities. ACC's 'Planning Obligations' SG sets out the methodology for calculating developer contributions and the mechanism by which they will be secured. The Council's Developer Obligations team has assessed this proposal on the basis of up to 550 units, and the detail of the relevant obligations is summarised in the 'consultations' section of this report. Financial contributions are identified towards increasing capacity at Scotstown Primary School and Scotstown Medical Practice. The Developer Obligations assessment has been revisited since the earlier report to the Pre-Determination Hearing, to take account of the publication of the 2018 School Roll Forecasts. This report reflects that revised assessment, and as such there is no longer any requirement for increased capacity at Bridge of Don Academy.

It should be noted that, because the development itself includes the provision of facilities for community facilities, sports and recreation and works to form core path routes, financial obligations are reduced accordingly, however if those elements of the proposal are not ultimately delivered by the developer then a section 75 obligation can include a fall-back position that requires payment of the full sum in order that provision for such expanded facilities can be made separately. By utilising a planning obligation to secure these contributions, compliance with policy I1 of the ALDP and its associated 'Planning Obligations' SG can be ensured, and the impacts of the development can be offset.

### **Refuse/Recycling**

Policy R6 (Waste Management Requirements for New Development) of the ALDP sets out that all new development should have sufficient space for the storage of general waste, recyclable materials and compostable wastes, including provision for bins to be presented on collection days. In this regard, the detailed layout, its adequacy for refuse vehicle access and bin collection, and the inclusion of necessary bin stores for flatted blocks and commercial uses will be established by consideration of further applications for the approval of matters specified in condition. Conditions attached to any Planning Permission in Principle must secure this necessary information. Subject to appropriate conditions, compliance with policy R6 of the ALDP, along with Part B of the associated 'Resources for New Developments' SG, can be ensured.

### **Resources for New Development**

Policy R7 (Low and Zero Carbon Buildings and Water Efficiency) requires that all new buildings are constructed to achieve specified reductions in carbon emissions through the use of low and zero carbon generating technologies. The associated Supplementary Guidance provides that compliance may also be achieved through efficiencies in the building fabric. At this Permission in Principle stage, the detailed design specification of buildings is not yet known, however planning conditions can secure the submission of appropriate submissions to demonstrate the measures to be taken to ensure compliance with the requirements of policy R7 and its associated Supplementary Guidance. Similarly, a statement setting out water-saving measures to reduce pressure for abstraction from the River Dee, which is designated as a Special Area of Conservation. Such measures may include rainwater harvesting, low-flow and/or dual flush toilets, etc. The applicants have demonstrated early engagement with this process by providing an 'Outline Sustainability (Resources) Statement' as part of the supporting documentation, which highlights the intended use of hydrogen fuel cells in 30 units as a pilot scheme, along with the potential for a combination of passive 'fabric first' solutions and other eligible low and zero carbon generating technologies, alongside water saving measures such as rainwater harvesting, water meters and low-flow sanitary fittings. The details provided are indicative, and further submissions will be required to establish the exact nature of the measures employed – this can be achieved through use of a planning condition.

### **Development Plan Summary**

Whilst the proposed development is considered to adequately demonstrate its compliance with the environmental, placemaking and technical requirements of the Development Plan, it nevertheless concerns a site which is allocated by the 2017 ALDP for business and industrial uses and fundamentally does not provide for residential use. On that basis, it must be concluded that the proposal fails to accord with the provisions of the extant plan in terms of the OP2 allocation and Policy B1 Business and Industrial Land, and what requires to be determined is whether there are any other material considerations which would warrant the granting of planning permission as a Departure from the provision of the Development Plan. This report will now address other material considerations in turn.

### **Matters Raised in Representations**

It is noted that the vast majority of representations made in connection with this application express support for the proposed development. That the proposal represents a departure from the 2017 ALDP is recognised, and the adequacy of the housing and employment land supplies are discussed in detail elsewhere in this report, along with the current position in the processes for the preparation of a new Local Development Plan and Strategic Development Plan, respectively. Similarly, matters relating to the accessibility of the site and its impacts on the surrounding road network are discussed separately.

It is recognised that residential development at Cloverhill would offer scope for residents to be located close to potential places of employment, reducing the need for travel and contributing to sustainable development aims. It is noted also that particular support has been expressed for the provision of affordable housing and sporting facilities, to the benefit of the wider community in Bridge of Don.

Matters relating to the principle of residential use and the potential for noise nuisance have been addressed in the foregoing sections of this report, along with environmental impacts, mitigations and improvements. The Developer Obligations assessment identifies scope for financial contributions to offset the impacts of the development, including those on healthcare and schools capacities.

### **Matters Raised by Community Council**

Matter relating to the adequacy of the housing land supply are discussed in detail in the 'Housing Land Supply' section of this report, along with the Development Bid submitted in response to the Council's 'call for sites'.

Accessibility, Safe Routes to School and public transport connections are discussed in preceding sections of this report and have been assessed by ACC's Roads Development Management as being acceptable.

It is recognised that new development brings increased pressure on local community and healthcare facilities. As noted in the 'Affordable Housing and Developer Obligations' section of this report, and the related Developer Obligations consultation response, the developer is required to make financial contributions towards increasing capacity to offset the impacts of the development. The framework for assessing such impacts is set out in the Council's adopted 'Planning Obligations' SG.

The traffic and air quality impact of the proposal have been considered by Roads and Environmental Health colleagues, and no concerns have been raised. Right-turns across the A92 from the new access junction are not considered to unacceptably affect traffic flows, and the reduction in the speed limit to 40mph (with temporary 20mph at school travel times) is consistent with other roads in the city.

As noted in the 'Flooding and Drainage' section of this report, further supporting submissions have been made which have allowed SEPA to remove its earlier objection and we are satisfied that further assessment, based on the finalised layout and secured by conditions, offers the opportunity for appropriate scrutiny and public comment.

As regards the delivery of community facilities, the proposed on-site delivery forms part of the applicants' proposal, whereas the fall-back position is for greater financial contributions to be payable in order to allow for the provision of new facilities or increased capacity at existing facilities in the local area. Appropriate trigger points for payment of any financial contributions will be set out in a legal agreement which is tied to the land.

### **Employment Land Supply**

The Aberdeen City and Shire Employment Land Audit (ELA) is prepared annually, with the aim of providing up-to-date and accurate information on the supply and availability of employment land in the region. The most recently prepared audit (for the 2018/19 period, with a base date of 1<sup>st</sup> April 2019) was published in December 2019. The current SDP sets a requirement for at least 60ha of marketable land available to businesses in a range of places in Aberdeen City. The 18/19 ELA identified an 'established' employment land supply of 274ha, of which 210ha was identified as 'marketable'. The Cloverhill site that is subject of this application extends to 22.55ha forms part of that marketable supply. This indicates that residential development at Cloverhill would not result in any shortage of available employment land, with a significant surplus being maintained over and above the target set in both the current SDP and the Proposed SDP.

### **Housing Land Supply**

The Aberdeen City and Shire Housing Land Audit (HLA), like the ELA described above, is prepared on an annual basis. Its purpose is to illustrate the scale and characteristics of the current housing land supply in Aberdeen and Aberdeenshire. The most recently prepared audit, with a base date of 1<sup>st</sup> January 2019, was published in July 2019. The Strategic Development Plan (SDP) sets a 'housing requirement', and Scottish Planning Policy (SPP) requires planning authorities to maintain enough 'effective' housing land for at least five years. Effective sites are those which are either allocated for development or previously consented, and considered to be free from constraints, and which are therefore expected to be available for housing development.

This most recent HLA identified an effective supply of 7.2 years for the Aberdeen Housing Market Area (AHMA), indicating a generous supply of land available for housing development.

Members will be aware, however, that the Aberdeen City and Shire Strategic Development Plan is currently under review, introducing the potential for change to the 'housing requirement' used as the basis for HLAs. Following an Examination process, the Scottish Government's appointed Reporter published an Examination Report in January of this year. The report included a recommendation that the housing allowance for AHMA the period 2020-2032 be increased from 4,168 to 5,107 houses. The re-zoning of this site from employment to residential, (and inclusion of some others, in the Proposed ALDP) is a response to the anticipated requirements of the Proposed SDP and in response to Reporter's request for additional sites to be put forward, the content of the Proposed SDP being at a relatively advanced stage and representing an anticipated 'settled view'. In this regard, whilst the annual Housing Land Audit shows a generous supply of available housing land, that audit is carried out on the housing requirements of the current 2014 SDP, which is acknowledged as being beyond its review period since 29 March 2019. The publication of the Report of Examination is a significant material consideration, and its recommendation that the housing land supply be increased in the 2020-2032 period appears to contradict the conclusions of the HLA. In this regard, the conclusions of the HLA should not be taken in isolation and should be treated with some caution given the emerging Development Plan context. If we look to the most recently available information, it can be said that the Proposed SDP has set a higher bar for housing supply in Aberdeen, and that the re-zoning of the Cloverhill site in the Proposed ALDP contributes to meeting that more ambitious target requirement. This provides a strong set of material considerations through which to support this application as a suitable Departure from the extant Development Plan.

### **Contribution to Sustainable Development**

This proposal has been found to be of a nature that it is relevant to consider the whole Development Plan context. As noted above, due to the Aberdeen City & Shire Strategic Development Plan 2014 being beyond its 5-year review period, 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 Planning Authority must therefore consider the contribution that this proposal makes to sustainable development.

Whilst this proposal concerns the development of greenfield land, it is recognised that the site in question has been identified for development, albeit of a commercial rather than residential nature, in successive development plans. The emerging development plan context suggests that the city now has an abundance of commercial land available for the foreseeable future, whereas the reporter's report on the Proposed SDP indicates that housing allocations in the emerging LDP should be increased. This has now been reflected in the re-zoning of the Cloverhill site in the Proposed LDP for residential development. In this regard, the proposal is considered to make appropriate use of the available land resource by meeting that identified need on previously allocated land, rather than releasing one or more additional green belt sites.

Furthermore, in addition to its contribution towards meeting housing needs and housing supply targets, the site is well-located on the urban edge and directly adjacent to the busy A92 road which offers connections to public transport services. Subject to the reduced speed limits and other road and pedestrian infrastructure improvements described in this report, the character of the A92 can be altered to facilitate greater accessibility to the local shops, facilities and schools in the surrounding community. In this regard, the proposal would not be in an isolated location and can facilitate trips by sustainable means. It is noted that the surrounding employment land offers potential for people to live close to their place of work, consistent with policy aims to reduce journeys by car and promote sustainable development.

The development's placemaking value cannot be fully assessed at this stage, however the submitted Design and Access Statement sets out some central design principles to guide subsequent applications. This is rooted in establishing a landscape framework for the site, with generous provision of open spaces with play and recreational functions, appropriate mix of residential unit types to offer choice for residents, including accessible bungalow units. Provision is made for sports facilities within the site, as well as a central community hub with retail of a scale appropriate to the development, reducing the need for frequent short trips to be made by car. Retail/commercial uses would not be of a scale that would undermine the role of the City Centre as a first-tier location, nor detract from the development plan's identified network of centres.

As noted previously in the report, flood risk has been taken into account and further work will be required, however it is considered that flood risk can be adequately mitigated in the final scheme, as reflected in the removal of SEPA's earlier objection. The provision of an all-weather sports pitch as part of the development, available for public use and addressing a suggested deficiency in the local facilities, offers opportunities for participation in sport and social interaction and is consistent with policy aims to encourage physical activity and wellbeing. The inclusion of new recreational path routes, including the delivery of an identified aspirational Core Path route, further encourage physical activity and sustainable travel whilst opening up this section of a west-to-east route towards the coast. The site is not of particular environmental sensitivity, and the proposal offers the potential for environmental improvements through de-culverting of an existing watercourse, with appropriate buffers maintained in order to offer habitat enhancement and mitigate flood risks. The inclusion of a potential test-bed for hydrogen fuel cell technology is also welcomed as promoting research and development of reduced carbon technologies for domestic residential application.

Taking these factors into account it is considered that, notwithstanding the policy conflict arising from the site's zoning for employment uses, this proposal has potential to make a significant contribution towards sustainable development, consistent with the presumption set out in section 29 of SPP.

### **Proposed Local Development Plan 2020**

As part of the process of preparing a new Local Development Plan, a 'call for sites' seeks nominations from developers and landowners for sites to be included in the next plan. This formed part of a non-statutory pre-main-issues consultation, which ran from 19 March to 28 May 2018. The Cloverhill site was submitted at that time as a development bid, ref B02/20. Officers' assessment of development bids was included as an appendix to the Main Issues Report, which was published in Spring 2019 and subject to a 10-week consultation from 4<sup>th</sup> March to 13<sup>th</sup> May 2019. At that time, officers concluded that the Cloverhill site was 'undesirable' for inclusion in the Proposed Plan, though officers recognised that employment land allocations exceeded the requirements of the SDP, but considered that this site would contribute to maintaining a 60ha supply of available employment land. The assessment was carried out prior to publication of the SDP report of examination, and therefore found no pressing need for additional greenfield housing sites, concluding that the requirements of the Proposed SDP (prior to recommendations arising from examination) could be adequately met through previously developed brownfield sites. The emerging Proposed SDP context has changed since that time, and that is reflected in the Proposed LDP's re-zoning of the Cloverhill portion of OP2 as a residential opportunity site (ref OP2) for approximately 550 homes. The Proposed LDP was approved by Council on 2<sup>nd</sup> March 2020. In that regard, the principle of residential development in this location is fully supported by the Proposed LDP, which carries significant weight as it represents the most up to date 'settled view' of the Council. It is noted also that the residential re-zoning of land at the former Silverburn House site to the south (as OP12) also serves to remove some element of conflict between residential and commercial land uses.

In terms of the policies contained within the Proposed Plan, many of these are not materially altered in their requirements and aims from those contained in the current LDP. The most significant changes in policy have been that details previously contained within a suite of supplementary guidance documents have now in many cases been contained within the policies of the plan itself, reflecting changes in legislation that will mean that supplementary guidance no longer has a statutory basis and equal footing to the plan itself. Nevertheless, the general approach to residential development on sites so zoned/allocated is largely unchanged, with requirements for affordable housing provision, a mix of unit types and sizes, and retail/local facilities to serve new or expanded communities. More challenging density targets are introduced via policy H3, with an aim for 50 units per hectare instead of the current 30. As this application seeks planning permission in principle, the detail of layouts and unit mix will be established through future applications for the approval of matters specified in conditions. Any such applications will be assessed against the development plan in effect at that time, however as the Proposed ALDP progresses towards adoption it will gain increasing weight as a material consideration in the decision-making process. In summary, it is considered that the proposed development is consistent with the main policies applicable from the Proposed ALDP, and that further AMSC applications will allow for additional scrutiny of the proposals in detail. Taking account of the policy support and the residential re-zoning of the Cloverhill site, it is considered that the proposed plan represents a significant material consideration which weighs in favour of residential development in this location.

### **Proposed Strategic Development Plan**

As noted above in the discussion of housing land supply, the emerging policy context is that of the Proposed SDP, which will in turn set the housing land requirements for the respective Local Development Plans within the SDPA area. The Proposed SDP has been subject to public consultation and an examination conducted by the Scottish Government's appointed reporter. That examination led to the reporter's recommendation that housing numbers be increased in the period 2020-2032. Whilst the Proposed SDP has not yet been approved by Ministers, and there is still a possibility that the plan may be approved without the recommended modifications or rejected entirely, Scottish Government Circular 6/2013: 'Development Planning' highlights that in practice, Ministers will expect to take on board the reporter's recommendations unless there is a strong justification to depart from them. In this context, it is considered that the Proposed SDP both supports residential development in this location as a means of meeting its housing supply target and carries significant weight as a material consideration in the decision-making process due to its advanced stage in proceedings and the level of scrutiny afforded thus far.

### **Scottish Planning Policy**

Overall, whilst the departure from the current Local Development Plan conflicts with SPP's aims for a plan-led system, this is considered to be a development which contributes to sustainable development and does not result in any significant environmental or social impacts. It also reflects the emerging development plan context, which at this stage has significant weight as a material consideration. The use of hydrogen fuel cell technology is consistent with SPP's aims to diversify the energy sector and facilitate transition to a low carbon economy. This proposal offers an opportunity for a high-quality development in a sustainable and accessible location, which can be served by local shops and amenities on-site. It would contribute towards the delivery of new homes and provide for affordable housing, whilst also resulting in economic benefits, both during development and post-construction. Taking these factors into account, and despite the departure from the current Development Plan, it is considered that the proposal complies with many of the aims of Scottish Planning Policy, and that this expression of national policy weighs in favour of approval.

### **Other Material considerations**

In terms of economic benefits attributable to the development, the applicants have estimated that the circa £100m development would create 115 construction jobs per annum, with a further 175

jobs p.a. in the associated supply chain, along with £12.8m economic output in terms of Gross Value Added. Post-construction, the applicants estimate £3.0m of 'first occupation' expenditure, followed by £11m p.a. in resident expenditure locally. Post-construction, employment benefits are estimated to include 35 direct jobs (employed in new commercial/community uses in development), supporting 15 supply chain jobs and 175 jobs through local expenditure. The assumptions and methodology used have been reviewed by colleagues in the Council's City Growth Team and found to be based on standard practice. The £11m figure is seen as potentially being high/optimistic given the current performance of the local housing market.

The proposal is considered to be suitably accessible, with public transport options available within reasonable walking distance, subject to the provision of new stops adjacent to the main site access. The provision of local shops, community facilities and sports facilities on-site contributes towards reducing the need to travel and associated dependence on the private car, consistent with the outcomes sought by the Local transport Strategy.

The response provided by Invest Aberdeen highlights that the development of hydrogen fuel cell technology on the site is consistent with the aims of the Regional Economic Strategy and the Energetica corridor, as well as Aberdeen City Region's Hydrogen Strategy.

### **Conclusion**

In conclusion, whilst it is recognised that the proposal represents a departure from the 2017 ALDP, this relates wholly to its zoning and the associated B1 policy, and other access, placemaking and technical issues can be addressed in compliance with the plan. The emerging policy context provided by the Proposed SDP and Proposed LDP, the former requiring additional residential allocations and the latter supporting residential development in this location as endorsed by Aberdeen City Council in its approval of that plan as the settled view of the Council, is such that these as-yet unadopted plans nevertheless represent significant material considerations in support of approval. There is considerable public support for the proposed development, based upon the affordable housing provision and range of accommodation types it will bring to the local community as well as the provision of new leisure and community facilities as part of the development all of which are significant material considerations weighing in favour of the development. Whilst the site is presently zoned for employment uses, the most recent Employment Land Audit and the inclusion of the site in the Proposed LDP support the view that there is an abundance of employment land available in the city and therefore the loss of this site will not result in any shortage. Amenity issues relating to the location of residential use close to the main A92 road and the surrounding industrial uses can be overcome through appropriate noise mitigation, such that business and employment uses on neighbouring land are not prejudiced and residential within the Cloverhill development are afforded an appropriate level of amenity in their homes, gardens and public spaces. Furthermore, the utilisation of hydrogen fuel cell technology within a proportion of homes in the first phase serves as a test bed for low-carbon technology being applied to volume housebuilding, contributing towards national aims for a low-carbon future. Taking account of all these factors, and recognising the contribution that residential development on this site would make to the city's housing needs, it is considered that a Departure from the extant Development Plan is justified.

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

A legal agreement will be required in order to secure the following matters:

- Payment of developer obligations monies (as specified in the Developer Obligations consultation response), including triggers for payment and use of monies thereafter. This shall require on-site delivery of the identified sports pitch and community facilities, with a fall-back position for equivalent financial contributions if it can be demonstrated that on-site delivery is not practicable;

- Delivery of a minimum of 25% of the total units as affordable housing, including a mix that adequately reflects the mix of unit types and sizes within the wider development;

### **Time Limit Direction**

The applicants' submissions set out an intention to develop the site in three distinct phases, and it is appropriate for a condition to secure a detailed phasing plan accordingly. As this is a development of a relatively large scale, the default 3 year period for submission of any pre-development applications for the approval of matters specified in conditions may not be appropriate, as the detail of later phases may not be drawn up in detail at the point of commencing phase 1. Section 59 of the Act allows for planning authorities to substitute such alternative periods as it considers to be appropriate. In this instance, the applicants have suggested that a 5 year period is allowed for the submission of pre-commencement applications for the approval of matters specified in conditions. Thereafter, the default periods allow for a further 2 years within which development may be commenced. It is considered that a combination of that alternative 5 year period and framing conditions to allow for a phase-by-phase submission of details, where appropriate, allows sufficient flexibility for the developer without resulting in any conflict with the provisions of the Development Plan or harm to the wider public interest. On that basis, it is proposed that a Direction under s59 of the planning act be added to any decision notice accordingly as follows:

*The [planning authority] direct that subsections (2)(a)(i) and (3) of section 59 of the Town and Country Planning (Scotland) Act 1997 apply as respects [ the PPP ] with the substitution for the period of 3 years referred to in each of those subsections, of the period of 5 years.*

## **RECOMMENDATION**

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### **Approve Conditionally & Legal Agreement**

## **REASON FOR RECOMMENDATION**

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This application represents a departure from the 2017 Aberdeen Local Development Plan (ALDP), specifically in relation to its zoning for business/employment land and the associated B1 policy restriction on other uses. Nevertheless, the proposal is able to satisfy many of the other requirements of the plan in relation to the provision of an appropriate residential environment and mitigating the impacts of the development.

It is evident that Aberdeen has an abundant supply of available employment land, such that the development of this site for an alternative site whilst maintaining a generous supply for future use. The emerging policy context provided by the Proposed Strategic Development Plan (SDP) and Proposed Local Development Plan (PLDP), speaks to a requirement for additional housing land to meet anticipated needs, and the PLDP re-zones the Cloverhill site in order to contribute towards meeting that requirement. The PLDP, having been approved by Aberdeen City Council, now represents the settled view of the Council and has significant weight as a material consideration in favour of the proposed development. The weight afforded by this emerging policy context, the anticipated economic benefits of the development, its provision of sporting and community facilities for benefit of the community, the piloting of hydrogen fuel cell technology and the significant public support expressed through representation are considered to outweigh any harm arising from departing from the Development Plan in this instance.

## CONDITIONS

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### (1) Phasing

That no development shall take place unless a phasing programme outlining the delivery of buildings, open spaces and roads infrastructure across the entire application site has been submitted to and approved in writing by the planning authority. For the avoidance of doubt, this scheme shall include details of trigger points for delivery of retail use to meet the local need generated by the new residential development, as well as community and sporting facilities.

Reason: in order to ensure development is progressively accompanied by appropriate associated infrastructure.

### (2) Detailed Design (by phase)

No development in connection with any individual phase of the planning permission hereby approved shall take place unless the following details for that respective phase have been submitted to the Planning Authority and agreed in writing. Thereafter, development within that phase of development shall be implemented in accordance with the approved details.

Unless otherwise agreed in writing with the planning authority, MSC applications shall include:

- a) siting, design and external appearance of the built development;
- b) a detailed landscape plan and strategy;
- c) details of the means of access
- d) A detailed levels survey of the site and cross sections showing proposed finished ground and floor levels relative to existing ground levels and a fixed datum point;
- e) A detailed Drainage Plan, including details of the proposed means of disposal of surface water, including how surface water run-off shall be addressed during construction, incorporating the principles of pollution prevention and mitigation measures. The final location of SUDs, including ponds, should be appropriately positioned in accordance with an agreed flood risk assessment;
- f) Details of the connection to the existing Scottish Water foul water drainage network;
- g) Details of all cut and fill operations;
- h) The details of all roads, footpaths, cycleways and car parking provision;
- i) Details of any screen walls/fencing/boundary enclosures;
- j) Details of all landscaping, planting and screening associated;
- k) Details of the layout, siting, design and finish of all residential properties;
- l) Details of the layout, siting, design and finish of all non-residential properties, including but not limited to: retail and commercial premises, community facilities, sports pitch and pavillion; and,
- m) Details of waste/recycling collection points, for residential and non-residential properties.

Reason: 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.

### (3) Landscaping Information

The landscaping details to be submitted pursuant to Condition 2 above (detailed design by phase) shall include:

- a) Existing and proposed finished ground levels relative to a fixed datum point;
- b) Existing landscape features and vegetation to be retained.
- c) Tree survey, including layout plan showing proposed development together existing trees;
- d) Existing and proposed services including cables, pipelines and substations;
- e) The location of new trees, shrubs, hedges, grassed areas and water features;
- f) A schedule of plants to comprise species, plant sizes and proposed numbers and density;

- g) The location, design and materials of all hard landscaping works including walls, fences, gates, street furniture and play equipment;
- h) An indication of existing trees, shrubs and hedges to be removed;
- i) A Biodiversity Action Plan;
- j) A Management Plan detailing appropriate management measures for all watercourse buffer strips;
- k) A programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of each respective phase of the development or such other date as may be agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of each phase of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted - in the interests of protecting trees and ensuring a satisfactory quality of environment.

#### **(4) Drainage connections**

The details to be submitted pursuant to Condition 2 for each respective phase of the development shall show the proposed means of disposal of foul and surface water from the relevant phase of the development within the form of a Sustainable Urban Drainage System and include a development impact assessment and detailed design and methodology statement. Unless otherwise agreed in writing by the Planning Authority, in consultation with SEPA, the development shall connect to the public sewer and the relevant phase of the development shall not be occupied unless the agreed drainage system has been provided, is operational, and maintained thereafter throughout the lifetime of the consent in accordance with the approved maintenance scheme.

Reason: To protect the water environment and help reduce flooding.

#### **(5) Archaeology**

No works in connection with the development hereby approved shall commence unless an Archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the WSI will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post-excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority.

Reason - to safeguard and record the archaeological potential of the area. In the first instance a 7-10% archaeological investigation is envisaged to be suitable

#### **(6) Contaminated Land (i)**

No development shall take place unless it is carried out in full accordance with a scheme to address any significant risks from contamination on the site that has been approved in writing by the planning authority. The scheme shall follow the procedures outlined in "Planning Advice Note 33 Development of Contaminated Land" and shall be conducted by a suitably qualified person in accordance with best practice as detailed in "BS10175 Investigation of Potentially Contaminated Sites - Code of Practice" and other best practice guidance and shall include:

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
4. verification protocols to demonstrate compliance with the remediation plan

#### **(7) Contaminated Land (ii)**

No building(s) within an individual phase of the development hereby approved shall be occupied unless the following matters have been agreed for that phase:

1. any long-term monitoring and reporting that may be required by the approved scheme of contamination or remediation plan or that otherwise has been required in writing by the planning authority is being undertaken and
2. a report specifically relating to the building(s) has been submitted and approved in writing by the planning authority that verifies that remedial works to fully address contamination issues related to the building(s) have been carried out, unless the planning authority has given written consent for a variation.

The final building on the application site shall not be occupied unless a report has been submitted and approved in writing by the planning authority that verifies that the remedial works have been carried out in full accordance with the remediation plan, unless the planning authority has given written consent for a variation.

Reason: to ensure that the site is suitable for use and fit for human occupation

#### **(8) Safe routes to school**

That no residential units shall be occupied unless safe routes to school have been provided in accordance with a scheme which has first been submitted to, and approved in writing by the planning authority. This shall include details of measures, including a timetable for implementation, required to help ensure safe travel to school.

Reason: In order to provide safe routes for travelling to local schools by sustainable means.

#### **(9) Residential Travel Pack,**

That no residential unit within the development shall be occupied unless a Residential Travel Pack, expanding on the principles set out in the agreed Travel Plan Framework and containing proposals for reducing dependency on the private car has been submitted to and approved in writing by the Planning Authority, and thereafter provided to residents on first occupation.

Reason: to be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport – in the interests of reducing travel by private car.

#### **(10) Bus Stops**

That no residential units shall be occupied unless bus stops have been provided on the A92, in accordance with a scheme which has first been submitted to and agreed in writing by the planning authority.

Reason: In order to provide the necessary infrastructure to make the development accessible by public transport and to encourage travel by sustainable means.

#### **(11) Traffic Regulation Orders**

No buildings within the development hereby approved shall be occupied unless the necessary the necessary Traffic Regulation Orders have been obtained for the reduction of speed limits on the A92 to 40mph, including provision for temporary 20mph limits to accommodate safe travel to schools.

Reason: In order to facilitate safe access to schools and to reduce traffic speeds to a level appropriate for a residential area.

### **(12) Toucan Crossing south of Murcar roundabout**

No buildings in the area shown shaded on Halliday Fraser Munro drawing ref 11085-SK-040 (or such equivalent drawing as has been submitted to and approved in writing by the planning authority as part of the final designed scheme) may be occupied unless a toucan crossing has been provided across the A92, at a suitable location north of the main site access and to the south of the Murcar Roundabout (or such equivalent alternative means of facilitating pedestrian/cycle crossing as agreed), in accordance with a scheme submitted to and approved by the planning authority.

Reason: to ensure that the site has appropriate pedestrian infrastructure to allow connection to local shops and services in the surrounding area and to ensure compliance with policies T2 (Managing the Transport Impacts of Development) and T3 (Sustainable and Active Travel) of the ALDP.

### **(13) Access Junctions (i)**

That no unit within the site shall be occupied unless the main access junction (as shown in Appendix D to the Transport Assessment, drawing ref 123823/sk1012-Rev B, or any such other drawing as has been approved by the planning authority for this purpose, based on the finalised scheme) has been fully constructed and made available for use.

Reason: In order to ensure that the development is served by the necessary roads infrastructure and to ensure compliance with policy T2 (Managing the Transport Impacts of Development) of the ALDP.

### **(14) Access Junctions (ii)**

That no more than 150 units within the site shall be occupied unless both access junctions (as shown in Appendix D to the Transport Assessment, drawing refs 123823/sk1012-rev B and 123823/sk1013-revA, or any such other drawings as have been approved by the planning authority for this purpose, based on the finalised scheme) have been fully constructed and made available for use.

Reason: In order to ensure that the development is served by the necessary roads infrastructure and to ensure compliance with policy T2 (Managing the Transport Impacts of Development) of the ALDP.

### **(15) Noise Assessment and Mitigation Measures**

No works within a given individual phase of development shall commence unless a further noise assessment, based on the final design and layout approved for that phase via condition 2 (Detailed Design by Phase) and including details of any necessary noise mitigation measures, has first been submitted to and agreed in writing by the planning authority.

Thereafter, no residential unit within that phase of the development shall be occupied unless the approved mitigation measures have been implemented in full and a further Noise Impact Assessment has been submitted to and approved in writing, demonstrating that mitigation

measures have delivered the anticipated noise reductions (or such other alternative arrangements as have been agreed in writing) by the planning authority.

In the event that the anticipated noise reductions are not achieved by the agreed mitigation measures, alternative mitigation must be agreed in writing with the planning authority and its efficacy verified prior to occupation of the affected units.

Reason: To ensure that a suitable residential environment is provided, and that potential noise impact is mitigated as necessary.

#### **(16) Dust Risk Assessment and Management Plan**

No development in connection with the planning permission hereby approved shall be carried out unless:

(i) An Air Quality (Dust) Risk Assessment, carried out by a suitably qualified consultant in accordance with the Institute of Air Quality Management document "Guidance on the Assessment of Dust from Demolition and Construction" 2014, has first been submitted to and agreed in writing by the planning authority.

(ii) A site-specific Dust Management Plan, based on the outcomes of the Air Quality (Dust) Risk Assessment and detailing the necessary control measures to be implemented for each phase of the proposed works (demolition, earthworks, construction, and trackout), an example of the monitoring protocol and schedule to be implemented on-site, and the responsible person for dust control on-site, has first been submitted to and agreed in writing by the planning authority.

Thereafter, all works shall be carried out in accordance with the control measures so agreed.

Reason: In order to mitigate the impact of dust from construction activities associated with the development on local air quality.

#### **(17) Species Surveys and Mitigation**

No development in any individual phase of the development hereby approved shall take place unless pre-construction surveys for reptiles and protected species (red squirrel /bats /badgers) for that phase, including details of any necessary mitigation measures, have been carried out and submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place within the relevant phase of the development unless any necessary mitigation measures have been implemented as agreed

Reason: to ensure the protection of reptiles and protected species during construction works

#### **(18) Private Water Supplies**

No development in any particular phase of the development hereby approved shall take place unless it is demonstrated to the satisfaction of the planning authority, in consultation with SEPA, that any wells within/in the vicinity of that phase of works are avoided through appropriate buffers, as detailed in SEPA's guidance on 'Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems' or otherwise agreed with the owner of any PWS that they will be connected to the public supply to avoid disruption and negative impacts during the construction works.

Reason: To protect the water environment and its users.

#### **(19) De-culverting of Watercourses**

Prior to commencement of any work in any individual phase a detailed scheme for the protection and enhancement of the water environment within that phase shall be submitted to, and approved in writing by, the Planning Authority in consultation with SEPA.

As a minimum, this shall include:

- a) Demonstration of how the existing waterbodies on site have been incorporated into the layout of the development, including appropriate buffer zones
- b) Detailed information relating to the investigation of and realignment / de-culverting of any watercourses onsite
- c) Full details relating to any other proposed engineering activities in the water environment, including the location and type of any proposed watercourse crossings. Any proposed watercourse crossings shall be bridging solutions or bottomless or arched culverts, designed to accept the 1 in 200 year flow unless otherwise agreed with the Planning Authority in consultation with SEPA.

All works on site must be undertaken in accordance with the approved scheme unless otherwise agreed in writing with the Planning Authority.

Reason: To protect the water environment and to prevent an increase in flood risk.

#### **(20) Sustainable Urban Drainage and relationship to the water environment**

That no development in any individual phase shall take place unless a scheme detailing levels of sustainable drainage (SUDS) surface water treatment has been submitted for the written approval of the planning authority, in consultation with SEPA, and all work shall be carried out in accordance with the approved scheme. This shall include an assessment to demonstrate how the layout and design has considered the feasibility of de-culverting any water courses within the site and also what measures are proposed to minimise impacts on the spring in the north east of the site, identifying reasonable compensatory measures or proportionate mitigation to the satisfaction of the planning authority. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C697) and should incorporate source control. A minimum 6m buffer shall be maintained between development including garden ground and property boundaries and the top bank of the Silver Burn and any proposals to de-culvert watercourses through the site.

Reason: To ensure adequate protection of the water environment from surface water run-off and to provide for enhancement of the natural environment.

#### **(21) Tree Survey and Protection Measures**

That no development in any individual phase shall take place unless a plan showing those trees to be removed and those to be retained and a scheme for the protection of all trees to be retained on the site during construction works has been submitted to, and approved in writing by, the Planning Authority and any such scheme as may have been approved has been implemented.

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

#### **(22) Trees – Care and Management**

That no units within a given individual phase of the development hereby approved shall be occupied unless a plan and report illustrating appropriate management proposals for the care and maintenance of all trees to be retained and any new areas of planting (to include timing of works and inspections) for that phase has been submitted to and approved in writing by the Planning Authority. Thereafter, the works shall be carried out in accordance with such plan and report as may be so approved.

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

**(23) Carbon Reduction and Water Efficiency**

No units within a given individual phase of development shall be occupied unless a scheme detailing measures to ensure compliance with the Council's 'Resources for New Development' Supplementary Guidance (including water efficiency measures) within that phase has first been submitted to and agreed in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions and reduction in water use have been implemented in full.

Reason: To ensure that this development complies with the requirements for carbon emission reductions and water saving measures set out in the Council's 'Resources for New Development' Supplementary Guidance.

**(24) Sports Pitch – Hours of Operation**

The approved sports pitch shall not be used outwith the hours between 09.00 and 22.00.

Reason - To ensure adequate protection of amenity to the residents of the development.

**(25) Sports Pitch – Noise Assessment and Mitigation**

No development relating to the formation of the approved sports pitch shall be undertaken unless a further noise impact assessment, including an assessment of adherence to 'Sportscotland Outdoor Sports Facilities - Planning Guidance/1002 - Siting of Synthetic Grass Pitches - Guidance on Noise and Floodlighting' and detailing any necessary noise mitigation measures, has first been submitted to and approved in writing by the planning authority.

Thereafter, the approved sports pitch shall not be brought into use unless all mitigation measures set out in the agreed noise impact assessment have been implemented in full.

**(26) Street Design, Car Parking etc.**

Prior to the commencement of works in any individual phase of development details of the proposed street design for that phase, which shall contain but not be limited to: a parking strategy; road geometry, dimensions and swept-path analysis; road junctions and visibility splays; traffic calming measures; cycleway provision; gradient; level details, finishing/surfacing materials and crossing points, shall be provided for the further written approval of the Planning Authority in consultation with the Roads Authority. No building shall not be occupied unless the streets and parking areas for the respective block are complete and available for use.

Reason: in the interests of road safety.

**(27) Construction Environment Management Plan (CEMP)**

No development shall be carried out within any individual phase of the development hereby approved unless a site specific Construction Environmental Method Plan (CEMP) for that phase of works has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. Thereafter, all works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Planning Authority.

Reason: In order to minimise the impacts of necessary demolition and construction works on the environment.

**(28) Flood Risk Assessment on final layout**

No development shall take place unless a matters specified in conditions application comprising a flood risk assessment (FRA) has been submitted to and approved in writing by

the planning authority in consultation with SEPA. The FRA shall be undertaken in accordance with SEPA's 'Technical Flood Risk Guidance for Stakeholders' and considers the flood risk from all sources which may affect the development.

Thereafter all works on site must be undertaken in accordance with the approved FRA unless otherwise agreed in writing with the Planning Authority in consultation with SEPA.

Reason - in order to protect the proposed development from flood risk.

**(29) A92 streetlight upgrading**

That no residential units within the development hereby approved shall be occupied unless streetlights on the A92, between Murcar Roundabout and The Parkway, have been upgraded to LED illumination.

Reason: In order to reflect the increased pedestrian travel along this route and to bring it up to current standards for streetlighting in residential areas.

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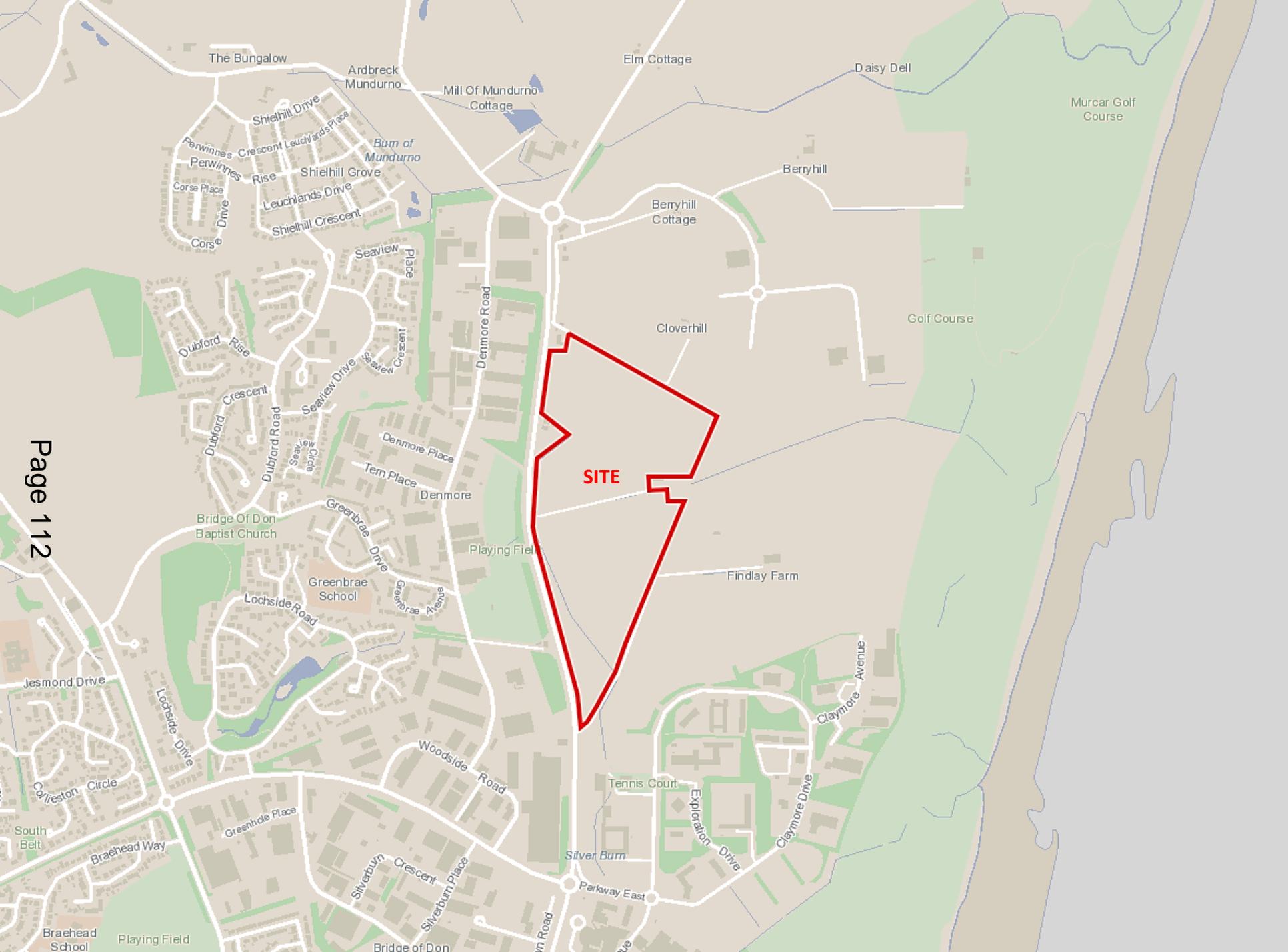
# Planning Development Management Committee

Thursday 30<sup>th</sup> April 2020



**Item 6.1** - Planning Permission in Principle for Erection of residential led, mixed use development of approximately 550 homes, community and sports facilities, retail (Classes 1, 2, 3 and Sui Generis) with associated landscaping, open space and infrastructure

Land At East Of A92 Ellon Road At Cloverhill Murcar Bridge Of Don Aberdeen



The Bungalow

Elm Cottage

Daisy Dell

Murcar Golf Course

Ardbreck Mundurno  
Mill Of Mundurno Cottage  
Shielhill Drive  
Crescent Leuchlands Place  
Perwinnes Rise  
Shielhill Grove  
Leuchlands Drive  
Shielhill Crescent  
Bum of Mundurno

Berryhill  
Berryhill Cottage

Seaview Place  
Seaview Crescent  
Dubford Rise  
Dubford Crescent  
Dubford Road  
Seaview Drive  
Seaview Crescent

Cloverhill  
Golf Course

Denmore Place  
Tern Place  
Denmore

**SITE**

Bridge Of Don Baptist Church  
Greenbrae School  
Greenbrae Drive  
Greenbrae Avenue

Playing Field

Findlay Farm

Jesmond Drive  
Lochside Drive  
Creston Circle  
South Belt

Lochside Road  
Greenbrae Avenue

Woodside Road

Tennis Court

Claymore Avenue  
Claymore Drive

Braehead Way

Greenhole Place  
Silverburn Crescent  
Silverburn Place

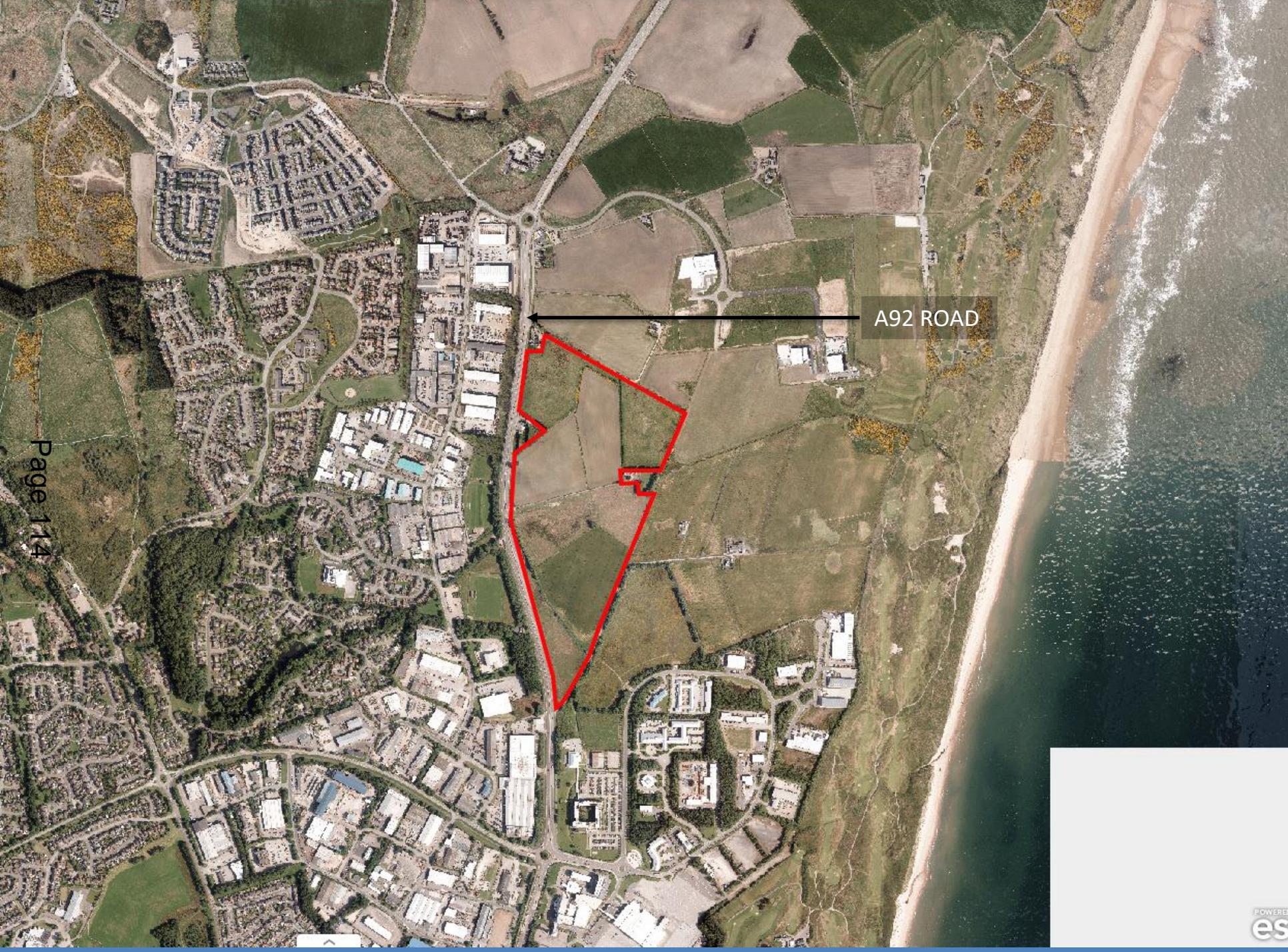
Silver Burn

Parkway East

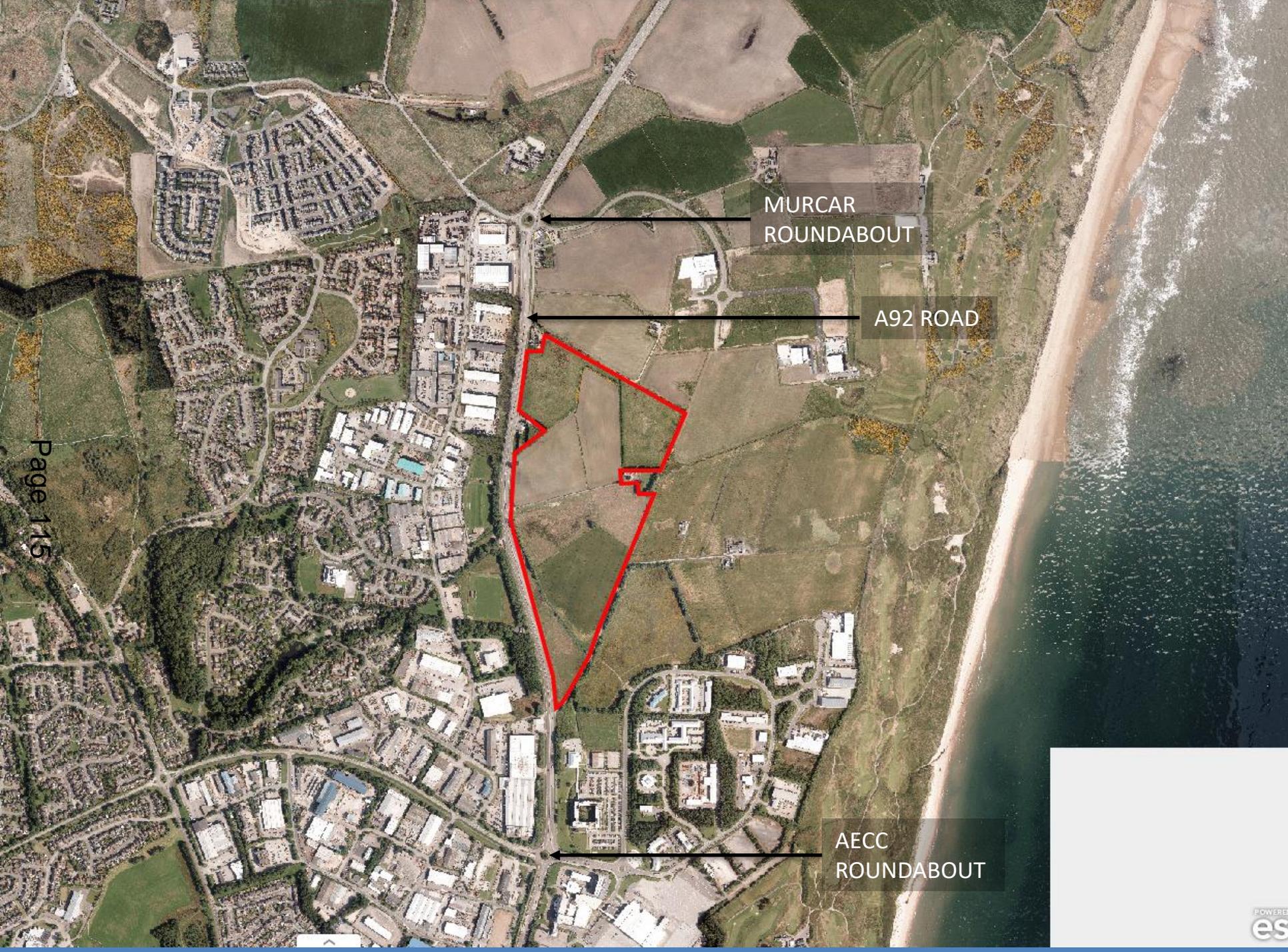
Braehead School  
Playing Field

Bridge of Don





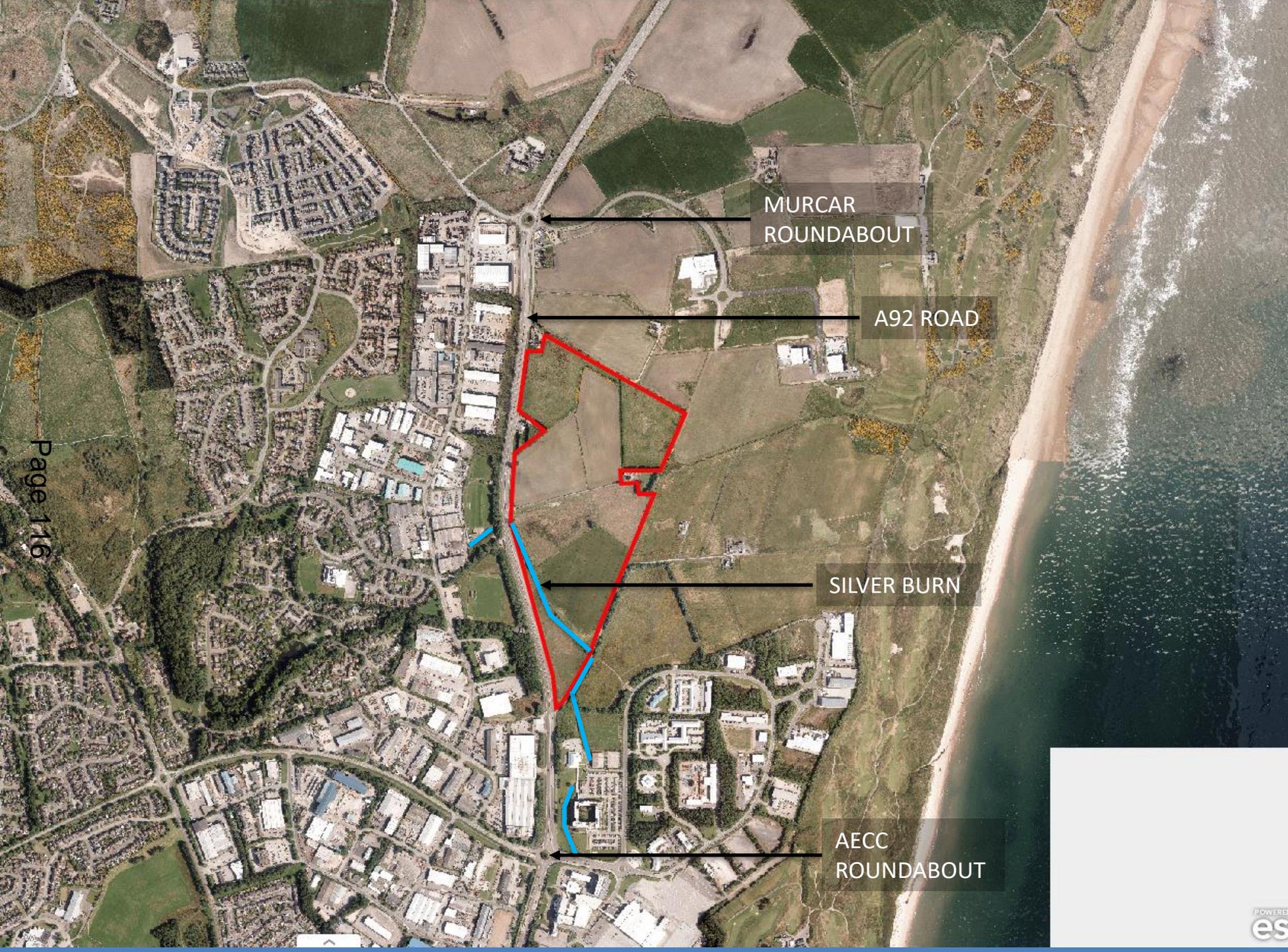
A92 ROAD



MURCAR  
ROUNDBOUT

A92 ROAD

AECC  
ROUNDBOUT

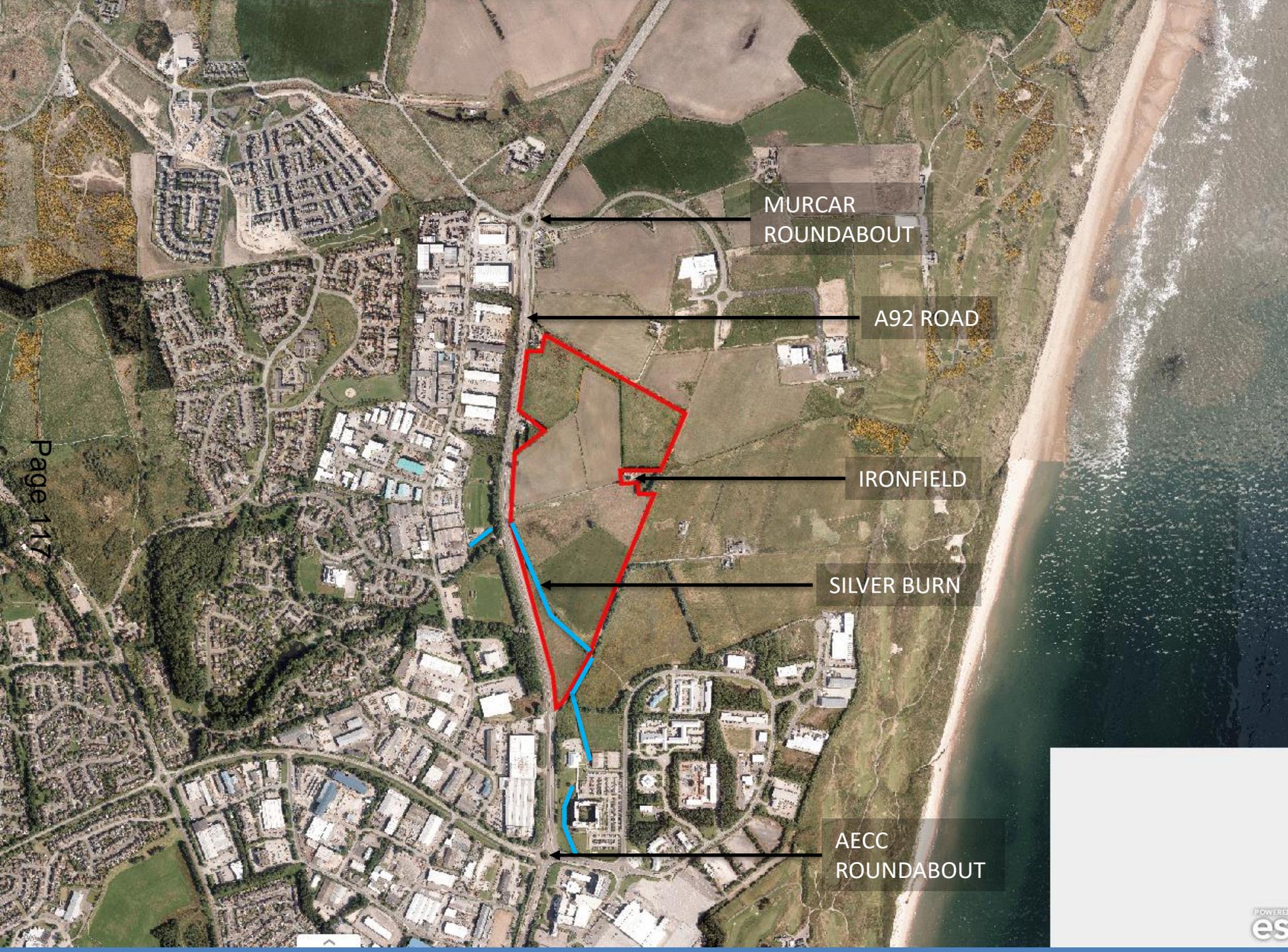


MURCAR  
ROUNDBOUT

A92 ROAD

SILVER BURN

AECC  
ROUNDBOUT



MURCAR  
ROUNDBOUT

A92 ROAD

IRONFIELD

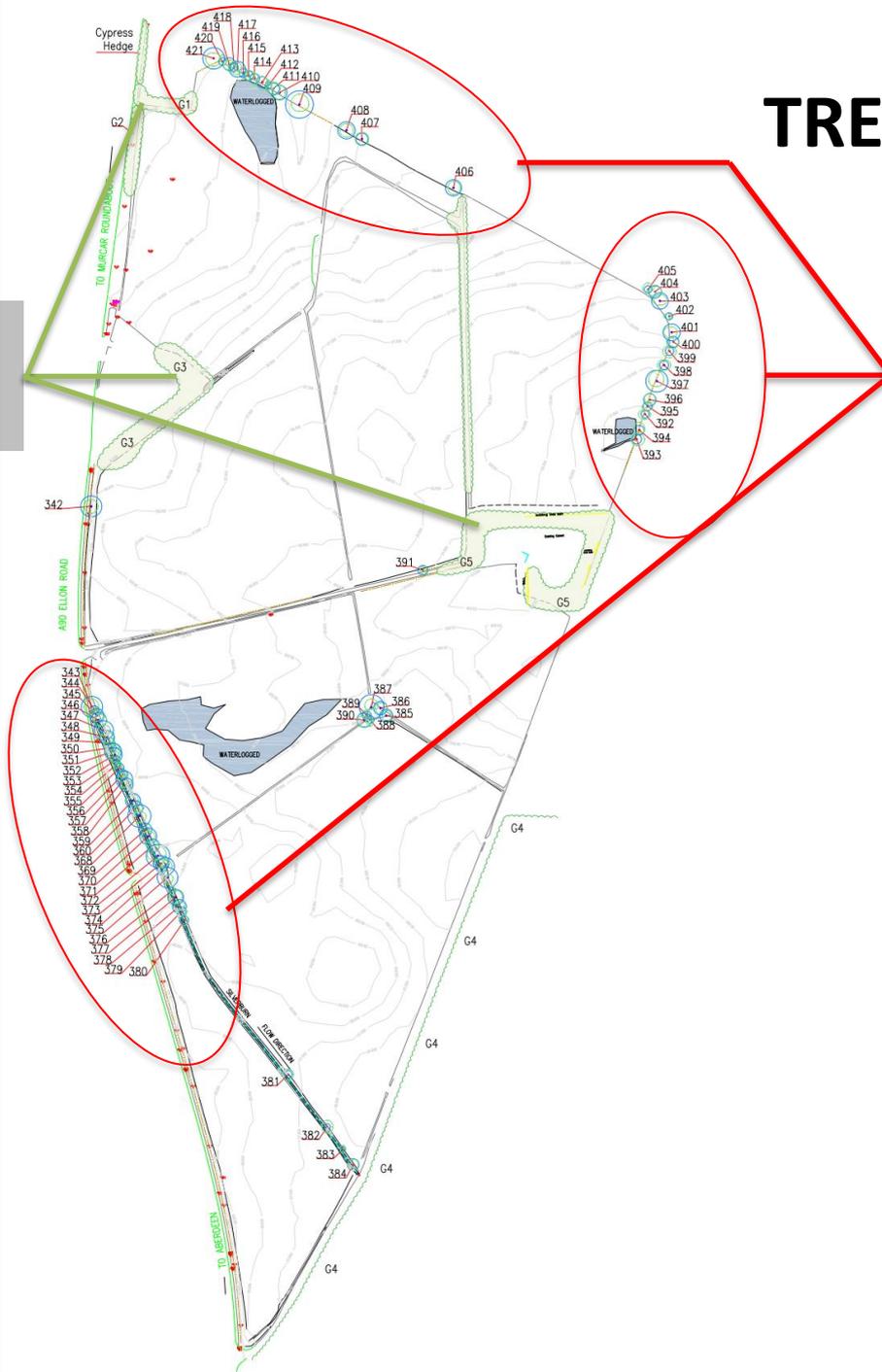
SILVER BURN

AECC  
ROUNDBOUT

# TREE SURVEY DWG

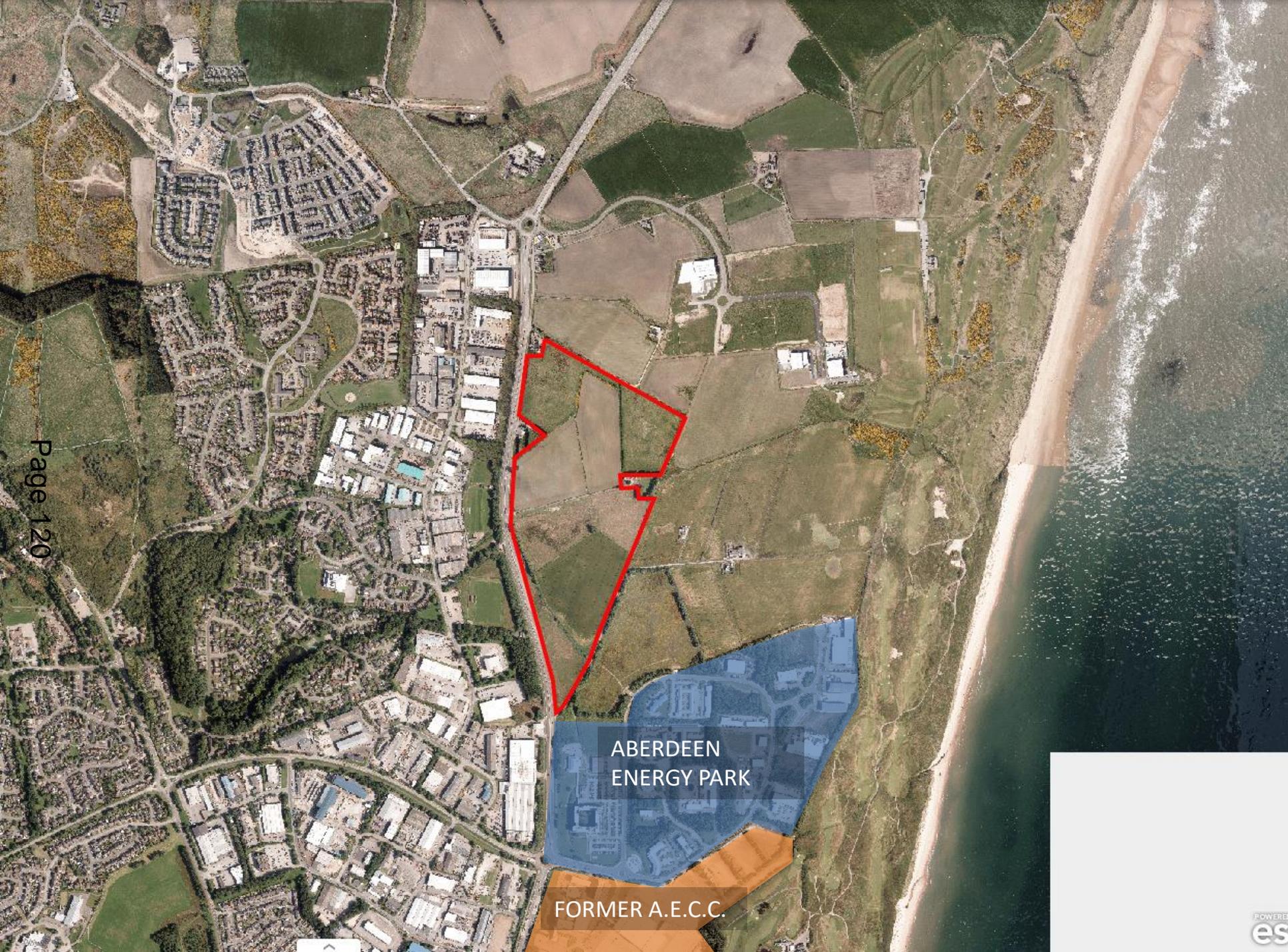
DENSE SHELTER  
PLANTING AROUND  
EXISTING DWELLINGS

3no MAIN CLUSTERS  
OF EXISTING TREES





ABERDEEN  
ENERGY PARK



ABERDEEN  
ENERGY PARK

FORMER A.E.C.C.



GOLF COURSES

ABERDEEN  
ENERGY PARK

FORMER A.E.C.C.



BOD RETAIL PARK

GOLF COURSES

ABERDEEN  
ENERGY PARK

FORMER A.E.C.C.



BOD RETAIL PARK

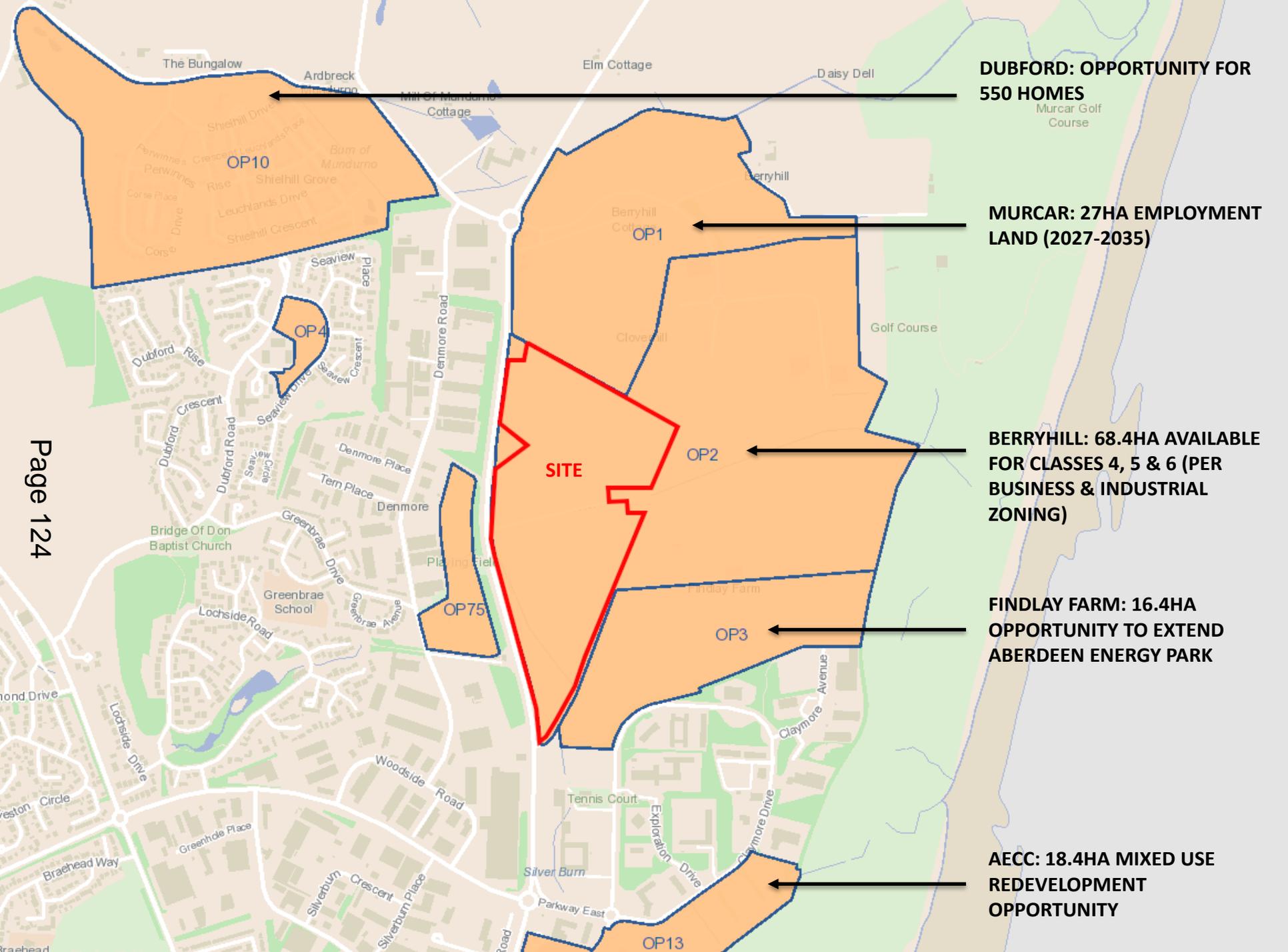
GOLF COURSES

DEMORE /  
MURCAR  
INDUSTRIAL  
ESTATE

ABERDEEN  
ENERGY PARK

BOD  
INDUSTRIAL  
ESTATE

FORMER A.E.C.C.



**DUBFORD: OPPORTUNITY FOR 550 HOMES**

**MURCAR: 27HA EMPLOYMENT LAND (2027-2035)**

**BERRYHILL: 68.4HA AVAILABLE FOR CLASSES 4, 5 & 6 (PER BUSINESS & INDUSTRIAL ZONING)**

**FINDLAY FARM: 16.4HA OPPORTUNITY TO EXTEND ABERDEEN ENERGY PARK**

**AEC: 18.4HA MIXED USE REDEVELOPMENT OPPORTUNITY**

OP10

OP1

OP4

OP2

**SITE**

OP75

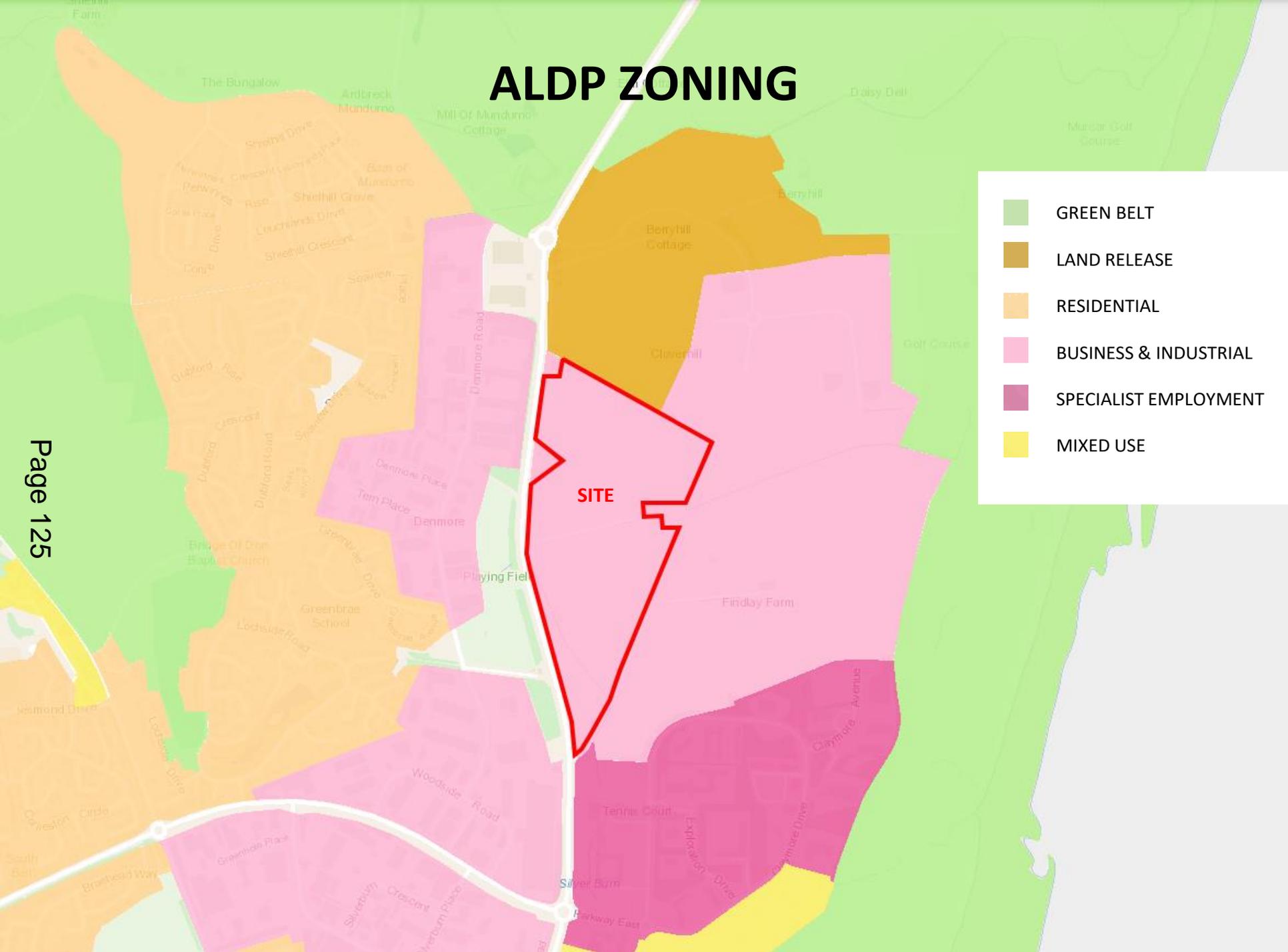
OP3

OP13

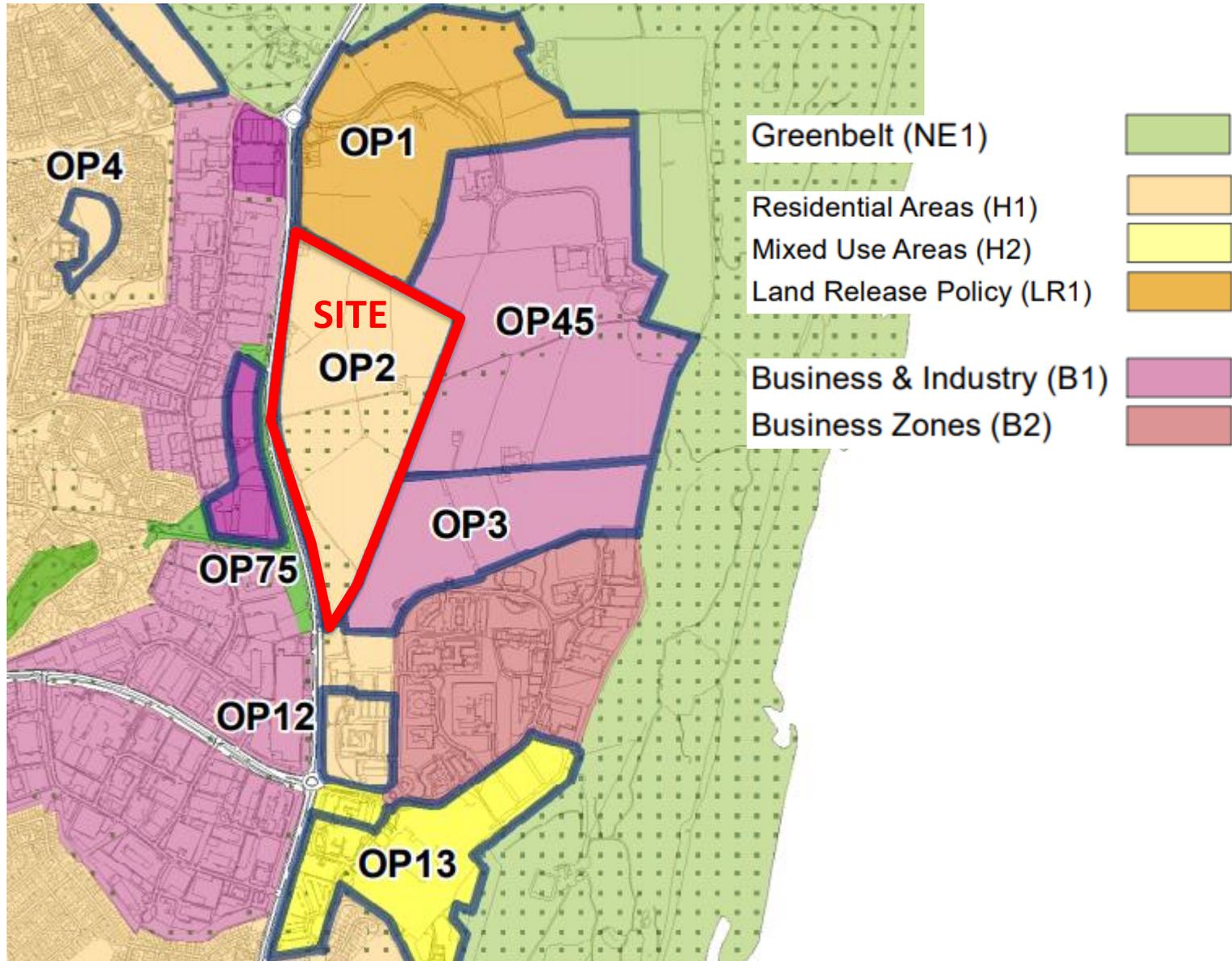
# ALDP ZONING

-  GREEN BELT
-  LAND RELEASE
-  RESIDENTIAL
-  BUSINESS & INDUSTRIAL
-  SPECIALIST EMPLOYMENT
-  MIXED USE

**SITE**



# PROPOSED ALDP ZONING



# Indicative Masterplan



'MAIN SQUARE' AS FOCAL POINT

OPEN SPACE / LINEAR PARK INC. SUDS & EAST / WEST CORE PATH ROUTE

SPORTS PITCH

MAIN ACCESS

SECONDARY ACCESS





**Key**

-  Site Boundary
-  Higher Rise Landmark Buildings
-  Lower Rise Buildings
-  Potential Core Path
-  Aspirational Core Path
-  A92

Aberdeen  
Energy F

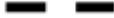


**Key**

Mixed-Use	
Semi-detached	
Cottage Flats	
Detached	
Terraces	
Community Meeting Space	
Sports Facility	
Bungalows	



# STREET HIERARCHY

- Primary Street 
- Secondary Street 
- Tertiary Street 
- Lanes 
- Potential Bus Route 



# Indicative Phasing Plan

## Phase 1

- Development will start adjacent to the central entrance from A92 and will provide the main access into the development and will seek to develop the linear park and housing to the south.
- Approximate numbers in this phase would be circa 100 mainstream units and 145 affordable/council units.
- Central linear park
- Southern secondary junction to A92 to be formed after 150 dwellings are delivered.
- Sports pitch to be delivered (exc. Pavillion)

## Phase 2

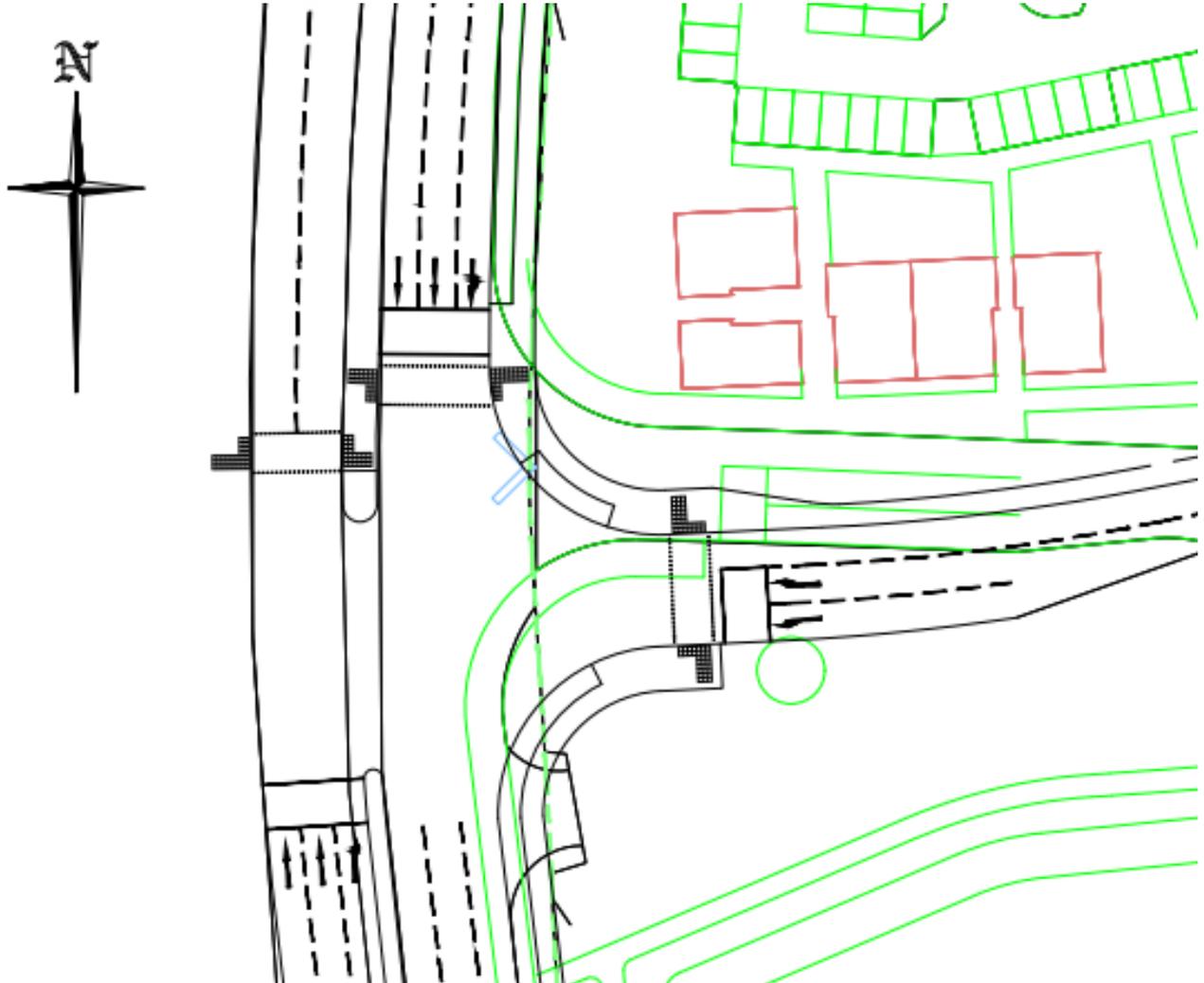
- Development to the north of the main linear park with all associated landscaping and infrastructure. Circa 250 mixed dwellings.
- Landmark entrance flats and neighbourhood centre will be developed with potential for community facilities.

## Phase 3

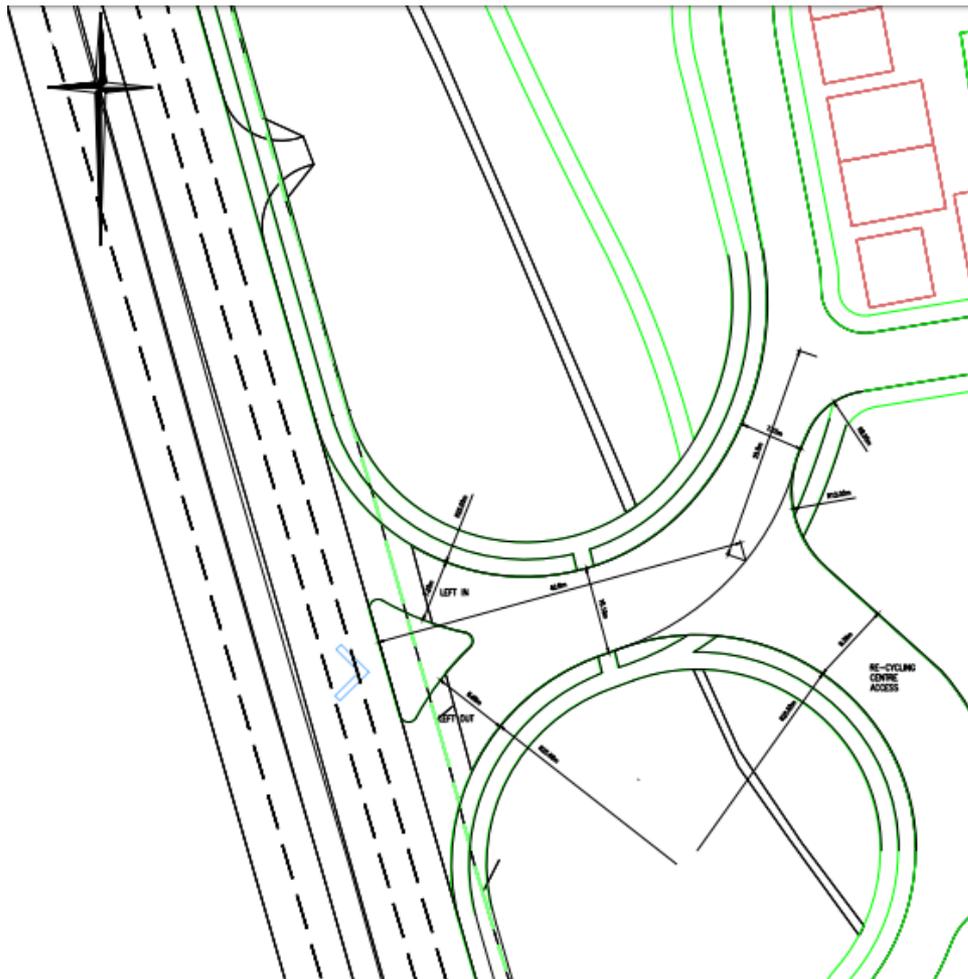
- Sports pavilion—to be delivered by 3rd party operator *(Potential to deliver in an earlier phase if agreement can be agreed with parties involved.)*
- Housing south of the Silver Burn. Circa 30 dwellings



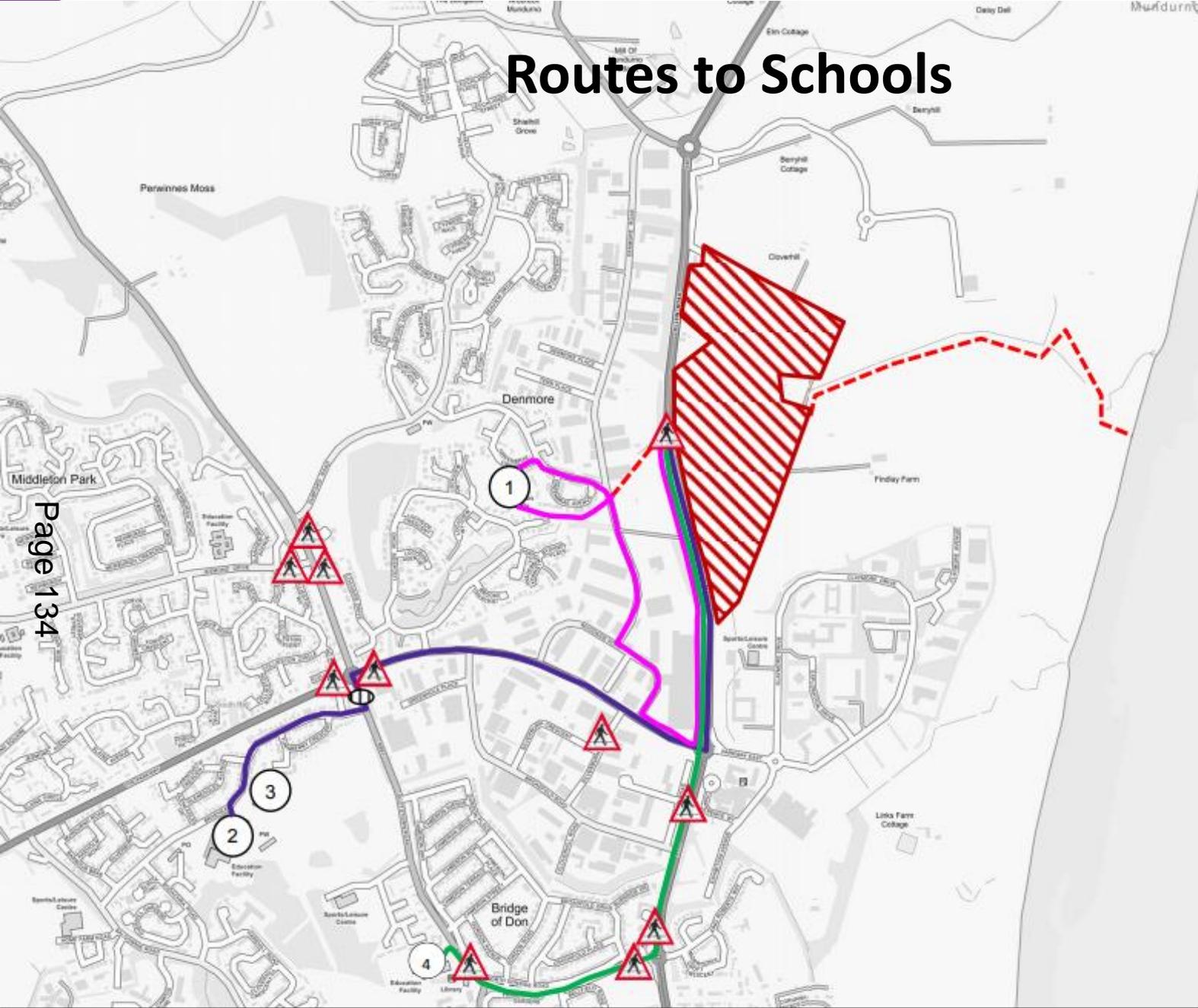
# Indicative Main Access Junction



# Indicative Secondary Access Junction



# Routes to Schools



## KEY:

-  Cloverhill Site
-  Greenbrae Primary School
-  Bridge of Don Academy
-  Braehead Primary School
-  Scotstown Primary School
-  Aspirational Core Path
-  Signalised Crossing
-  Zebra Crossing

 Route to Scotstown Primary School (2km)

 Route to Bridge of Don Academy / Braehead Primary School (2.5km)

 Route to Greenbrae Primary School (2.2km)

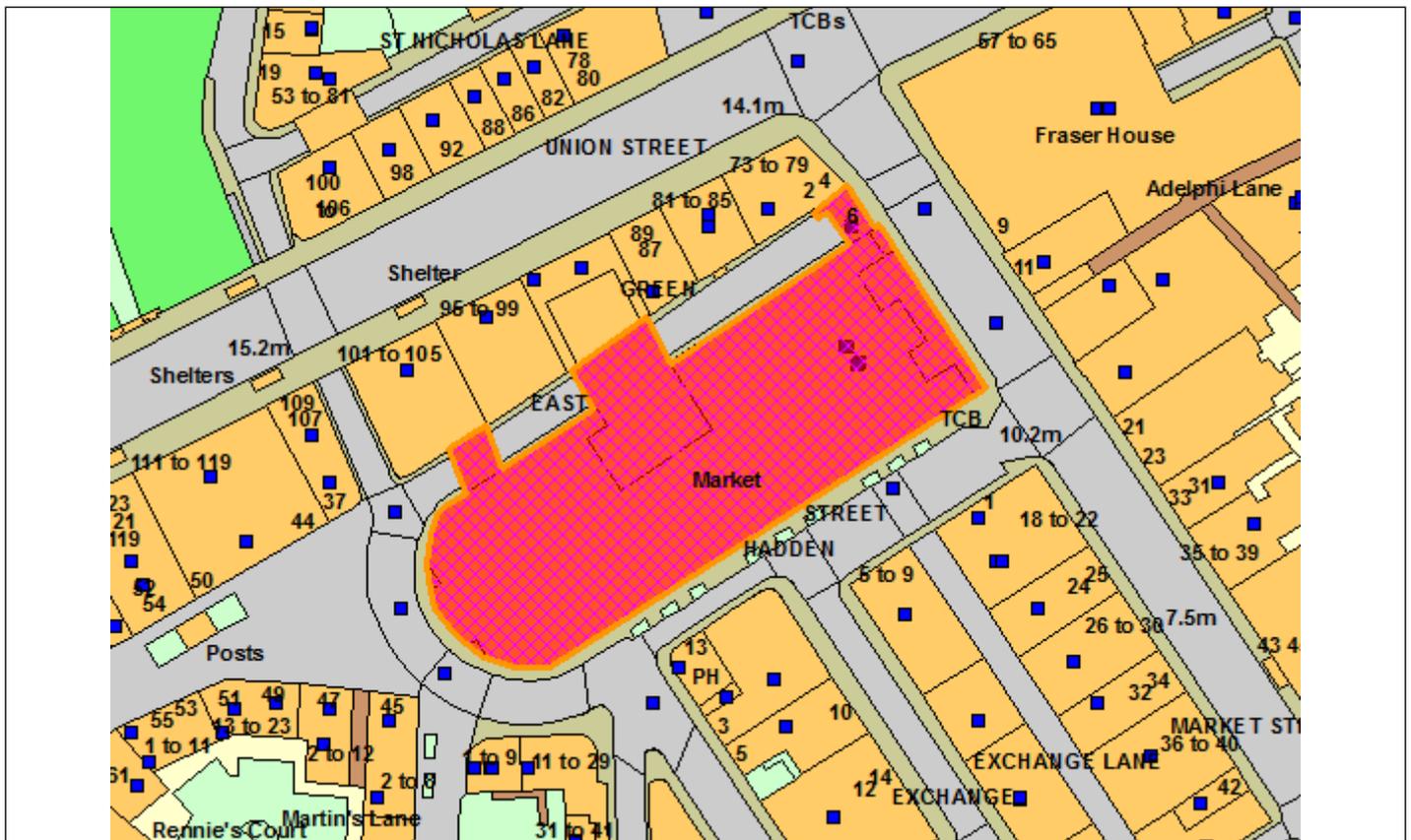


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 30 April 2020

<b>Site Address:</b>	Aberdeen Market, Market Street, City Centre, Aberdeen
<b>Application Description:</b>	Major development consisting of demolition and redevelopment of the existing site to form a mixed use office-led development (Class 4) (circa 18,000 sqm), with retail (Class 1), financial and professional (Class 2), food and drink (Class 3), public house (Sui Generis) and assembly and leisure (Class 11) uses (circa 750sqm), landscaping, public realm, car parking and associated works
<b>Application Ref:</b>	190312/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	26 February 2019
<b>Applicant:</b>	PATRIZIA
<b>Ward:</b>	George Street/Harbour
<b>Community Council:</b>	City Centre
<b>Case Officer:</b>	Matthew Easton



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### RECOMMENDATION

Approve Conditionally and withhold consent until a legal agreement is secured to deliver developer obligations towards core paths, open space and provision of a car club vehicle.

## **APPLICATION BACKGROUND**

### **Site Description**

The application relates to the Aberdeen Market building which is situated between Market Street, Hadden Street and The Green. The building was designed by Robert Matthew, Johnson-Marshall & Partners (RMJM) and built in 1971. It features characteristics of the Brutalist and modernist architectural styles and is set over four and five stories, with taller elements at the stair and service cores. It is finished in a mixture of concrete panels, blockwork and louvred elements.

Although best known for accommodating the indoor market across its lower two floors, the upper two floors are a separate retail unit which was until August 2016 occupied by British Home Stores (BHS). It has since been vacant. The indoor market has around 500sqm of stalls and around 40 businesses within it, providing a wide range of products from health and beauty and household items to fresh meat and fish. There are also several food and drink premises.

Two link structures which connect the market building across East Green to 91–93 Union Street (part of the former BHS retail premises) and 101–105 Union Street (a retail unit and access to the Indoor Market from Union Street) are also included within the application. Similarly, 6 Market Street (a retail unit) is also included.

The site is within the Union Street Conservation Area. Several buildings in the vicinity are listed, predominately category C and some category B.

### **Relevant Planning History**

- Detailed planning permission (060876) and listed building consent (060871) were granted in September 2006 for alterations to the Aberdeen Market building, as part of a wider scheme to increase the floor space of it and adjacent buildings. These consents were not implemented and expired in September 2011.
- Detailed planning permission (171503/DPP) was granted on 1 November 2018 for refurbishment and reconfiguration of the existing Market building. The proposal involved –
  - Over-cladding of the upper storeys with a perforated metal cladding which would be back-lit. The stair/service cores would be over-clad with dark grey single skin vertical standing seam cladding.
  - Alterations to the Market Street elevation and Hadden Street end of the building to remodel the building to step back from the edge of Market Street. A more open frontage with two storey glazing would be formed. New public realm would be formed outside the building.
  - Removal of the two upper floors, resulting in a three-storey building.

This consent has not been implemented and expires in November 2021.

- A Proposal of Application Notice (181656/PAN) for the current proposal was submitted in September 2018.
- A request for an environmental impact assessment (EIA) screening opinion was submitted by the applicant in November 2018. It was determined by officers that the application did not require to go through the EIA process.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought to redevelop the site and construct a mixed-use office-led development. The proposal would see the complete demolition of the Aberdeen Market building and its replacement with a new building.

The building would have a total floor space of 21,553sqm (gross external area). It would provide a 17,181sqm of class 4 (business) floor space, the principal use, to be accommodated on the upper floors of the proposed building. The ground floor would feature three units totalling 796sqm which it is proposed could be used for either Class 1 (Shop), Class 2 (Financial, Professional & Other Services), Class 3 (Food & Drink), Class 11 (Assembly & Leisure) or public house use. Each would have independent external access, with two units located facing The Green and one facing Market Street.

The new building would sit largely on the footprint of the existing building. Exceptions to this are proposed at The Green end (western elevation), where the building would be set back from the extent of the existing building, to create an additional 345sqm of public realm. At the Market Street and Hadden Street junction, the building would be set back in part to create a public plaza of 250sqm, adjacent to the main building entrance.

The building would be set across eleven floors. It would step up from five storeys (four full storeys and a setback storey, achieving 23m) at the Market Street end, gradually increasing to six storeys and then eight storeys as it progresses towards The Green. The element on the north side of the building facing The Green and East Green, would be nine storeys high (39m). The tallest part of the building, at eleven storeys, would be located at the south west corner of the building, facing onto The Green and opposite the junction of Carmelite Street and Hadden Street. It would feature an architectural frame around the glass enclosed top two floors. The frame would extend beyond the roof of the top floor, achieving an overall height of 57m above street level. It would be angled to form a point to introduce a distinctive landmark 'lantern' feature at the tallest point of the structure.

The building would be finished in granite cladding panels at lower level, with increasingly sized areas of curtain wall glazing as the building progresses in height. The top floors of each part of the building would be constructed using structural planar glazing. Elements enclosing mechanical plant at the top of the building would be finished with glazed screening. The service core, facing onto East Green would be finished in grey aluminium standing seam cladding. Part of the Hadden Street elevation would feature a green living wall at lower level, as would parts of the building facing onto the Market Street entrance plaza.

A four-level car park would be provided within the basement and part of the ground floor, accommodated by utilising the change in ground level between Market Street and The Green. The car park would contain 126 car parking spaces, with access and egress from two openings at ground floor level onto Hadden Street. Of the 126 spaces, five would offer electric vehicle charging and six would be accessible spaces. There would be 66 bicycle spaces and eight motorcycle spaces.

### **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=PNCEIJBZLCA00>

- Air Quality Assessment
- Archaeological Desk Based Assessment
- Design and Access Statement
- Drainage Assessment
- Flood Risk Statement
- Geo-Environmental Desk Study
- Micro-Climate Assessment
- Noise Impact Assessment
- Office Market Report
- Parking Review
- Planning Statement
- Pre-Application Consultation Report
- Public Realm Design Statement
- Sustainability Statement
- Transport Assessment
- Visual Impact Assessment

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

The application has been referred to the Planning Development Management Committee because the proposal is within the major category of development.

### **Pre-Application Consultation**

The applicant undertook statutory pre-application consultation which included a public exhibition at the adjacent former BHS premises on Union Street on 1 November 2018. Approximately 50 members of the public attended including representatives from the City Centre Community Council and local ward members. In general, the feedback from attendees was reported by the applicant to be positive, with many welcoming the redevelopment of the site, the provision of increased public realm, use of granite and the provision of commercial uses at ground floor. Some reservations were expressed about the modern design and height and concern was raised that there would be no space for local traders.

The applicant presented to the Pre-Application Forum on 6 December 2018. Members of the forum heard from the applicant and their architect and asked a number of questions of both the applicant and the case officer and the following information was noted –

- There was an appetite for improvement in the area and engagement with other owners in The Green was very important.
- The public realm enhancements were also very welcomed.
- It was important to look at lighting strategies in the area as well as the potential for a water feature.
- It was suggested that the applicant liaise with Project Officer for the Conservation Area Regeneration Scheme.
- There wasn't such a demand for larger department stores now, so the applicant was looking to retain the use of retail but with smaller units.
- In regard to vacant office spaces at present, the applicants were looking to provide Class A office space, which is more efficient with the use of open space etc, more agile working environment and a lot of the empty buildings don't offer the same benefits.
- The applicant was currently engaging with Aberdeen Inspired.

Befitting its importance as a potentially key contributor to, and catalyst for, city centre renewal and

regeneration the proposal has been subject to substantial, intensive design development and refinement at both the pre-application and post-application stage. This has involved a number of workshops and meetings with the applicant and agent and subsequent iteration and refinement of the plans.

## **CONSULTATIONS**

**ACC - Developer Obligations** – Core Paths and links to the Core Path Network are an infrastructure facility necessary for the purposes of recreation and sustainable active travel. New developments are required to install or upgrade Core Paths that are designated within the site and contribute towards addressing any cumulative impacts on surrounding core paths. In this instance, a contribution of £14,229 has been identified towards Core Paths 96, 98 and/or 102, which are in the immediate vicinity of the site.

Although some public realm is being provided as part of the development, the substantial office floorspace created will result in additional pressure being placed on existing open spaces in the vicinity of the site. A contribution of £7,000 has therefore been identified towards improving the quality of nearby open spaces such as Union Terrace Gardens, St Nicholas Street Civic Space and/or the Castlegate.

**ACC - Environmental Health** – No objection.

Contaminated Land – The Geo-Environmental Desk Study recommends that a buildings asbestos survey is undertaken prior to any demolition. The survey should be undertaken by an appropriately qualified person and any identified asbestos containing materials (ACM), should be removed by a specialist contractor prior to demolition. ACM should be removed to a licensed waste management facility and all waste transfer notes retained for inclusion within a validation report.

The study also recommends that post demolition, a geo-environmental investigation is carried out across the site in order to determine the ground conditions to inform foundation design and to investigate any potential contamination. Environmental Health agrees with this recommendation.

Noise – The proposed development is located within a Noise Management Area and is likely to require associated fixed plant and equipment, which has potential for an adverse noise impact on the amenity of the occupants of existing neighbouring residences.

The Noise Impact Assessment has been reviewed and Environmental Health accepts the proposed development, provided application of noise mitigation measures achieving at least an equivalent effect of those measures contained within the assessment are implemented in relation to fixed mechanical plant and any public house use, both being subject to a more detailed assessment demonstrating the achievement of acceptable noise levels.

Odour Control – A Class 3 (food and drink) approval would permit significant food preparation activities to be undertaken at the development. Due to the location of the proposed development and nature of neighbouring properties, food premises undertaking preparation of hot foodstuffs introduces the risk of food malodour impacting on the amenity of the occupants of existing neighbouring residences. Accordingly, Environmental Health would request that a suitable extract ventilation assessment be submitted prior to determination of the application.

Control of Substances Hazardous to Health – In relation to certain activities previously undertaken at the market Environment Health have received justified complaint of inadequate control and exposure of the public and employees to fumes solvents and varnishes within nail bars. It is recommended that should such activities take place within the new development a suitable assessment is undertaken.

Air Quality – The proposed site essentially lies within an Air Quality Management Area (AQMA). Market Street has previously been declared part of the City Centre - Air Quality Management Area (AQMA) due to exceedances of air quality objectives for ‘Particulate Matter’ 10 micrometres or less in diameter (PM10) annual and 24 Hour mean concentrations and Nitrogen Dioxide (NO2) annual and 1 Hour mean concentration. The findings of the initial Air Quality Impact are accepted.

**ACC - Roads Development Management Team** – No objection. Comments are summarised below.

Accessibility –

- Given the site’s city centre location, pedestrian and cycle accessibility are both very good. The existing network of footways incorporate pedestrian crossing facilities at key points on the highway. A 20mph speed limit applies on the existing road network within the city centre boundary which is conducive to safer pedestrian movements.
- The site is within 400m of the bus station, the railway station, the ferry terminal, and a number of other bus stops. The site is also adjacent to a taxi rank. As such, the site is highly accessible by public transport.

Parking

- National, regional and local policy point towards new developments being more ecologically friendly, avoiding private car trips where possible, opting instead for using more green transportation measures
- The existing Market development has an existing undercroft car park consisting of 32 spaces and is accessed off East Green. As such the net parking increase proposed is 94 spaces. This original level of parking is much more acceptable than the currently proposed figure.
- All 128 parking spaces are to be allocated to the office development, which results in a parking ratio of 1 space per 130m<sup>2</sup>. The standards dictate that the maximum allowable parking provision is 1 space per 80m<sup>2</sup>, which would result in a maximum of 207 spaces.
- The transport assessment acknowledges that “*car drivers to the development will be restricted by the availability of parking spaces*” and that “*it is considered that traffic generation can be restricted to match the parking allocation*” – this is a further reason to reduce the particularly large parking allocation. Given the direction the Council is heading there is no justification for any net increase in parking relative to the existing market development.
- Notwithstanding, whilst it is disappointing that the number of spaces has been reduced so minimally, especially relative to how accessible the site is, the proposed number is still within the bounds of that which is required, and that which is allowed. For this reason, the proposed 126 spaces are accepted.
- No allowance is made for parking associated with the café / restaurant element of the development as it is envisaged that these will complement existing amenities in the city centre. This is in keeping with adopted policy documents.
- A disabled parking provision of 6 spaces is proposed which is acceptable.

- A condition requiring the applicant to agree a car club contribution prior to starting work on site would be acceptable from a Roads perspective.
- The applicant shows 66 cycle spaces internally and 30 spaces externally. This is acceptable.
- The provision of eight motorcycle parking spaces is acceptable.
- It is also noted that five electric vehicle charging spaces are now shown – an increase from the 4 previously proposed. This is acceptable.

Traffic – The Hadden Street impact is predictably the greatest, given that this houses the site access and is currently a relatively quiet street. The AM and PM impacts are noted as 89% & 108%, respectively. However, this is relative to a very low base traffic, as such this is not concerning. To further evidence this, the applicant has undertaken further detailed analysis which indeed shows there to be no issue.

The removal of spaces within the taxi rank is noted. The Traffic Management Team have confirmed that the change of the taxi rank would require both a TRO and a taxi stance change which is carried out by Legal / licensing, involving their own consultation process.

The existing service yard (proposed to be removed), serves the existing building only – the service yard does not serve other buildings. The existing service yard is part of the current refuse service plan.

**ACC - Structures, Flooding and Coastal Engineering** – No objection. Having reviewed the Flood Risk Statement, the only concern with the new development is the proposed freeboard of 10 cm. However, given that there is an existing building on the site, the proposal for flood resilient doors/barriers to all external doors is accepted and a condition should be attached requiring such. A condition seeking a detailed drainage scheme should also be applied.

**Archaeology Service (Aberdeenshire Council)** – No objection. Taking into consideration the nature of the development, its location within the historic core of the city, and the recommendations contained within the Archaeological Desk Based Assessment, it is recommended that a condition is attached requiring a programme of archaeological works to be undertaken.

**City Centre Community Council** – The Community Council expresses concerns regarding the impact of the proposal on current retail owners and staff and their future, in terms of rental increases and a more competitive trading environment. It is felt that the market brought independent traders to the city centre and is keen to see this continued with opportunities offered to start-up businesses.

Support is expressed in terms of the enhancement of the built environment. However, there is disappointment that this is going to affect market traders and those who shop there, many of which are on low incomes. Concern is raised that the new units would be unaffordable to current market tenants and that the units would remain empty. Customers may also have to pay for goods and services elsewhere.

**Scottish Environment Protection Agency** – No objection, comments summarised below.

Flooding – The site lies within the medium likelihood (0.5% annual probability or 1 in 200-year return period) fluvial flood extent of the SEPA Flood Map, and may therefore be at medium to high

risk of flooding from the Den Burn and surface water flooding. SEPA would caution however, that given the complex nature of the built-up area and the network of underground sewers and culverts, the Flood Map may not be an accurate representation of flood risk in the area.

It is proposed to demolish and replace the existing building and based on the existing and proposed site layout plans provided there is no significant increase in building footprint as a result of the development. The building is currently used for commercial, leisure and retail purposes and as such, there would be no increase in land use vulnerability as a result of the development which will have the same use.

A Flood Risk Statement summarises the risk in the area and concludes that there may be a residual flood risk to the building due to overland flow routes. The highest risk appears to be from overland flow which may affect the lower level of the building by East Green.

As the proposal is to demolish and replace an existing building with the same vulnerability, SEPA consider the proposed development to be an opportunity to reduce vulnerability to flooding by constructing a more resilient property. SEPA would recommend the use of water-resistant materials and forms of construction as appropriate. We would also recommend a minimum freeboard of 500-600mm for finished flood levels. Aberdeen City Council as Flood Prevention Authority can provide further advice on this.

SEPA are fully supportive of measure to reduce the pressure on water abstraction from the River Dee, and the pressure on water infrastructure, all new buildings are required to use water saving technologies and techniques. In addition, SEPA are fully supportive that, as detailed in the Public Realm Design Statement, one of the aims of the proposal is to bring additional greenery to this area of the city.

Drainage – The Drainage Assessment advises that all surface water run-off will discharge to the underground drainage within the site prior to discharge to the existing sewer network, to be agreed by Scottish Water, and an alternative discharge to the sewer within Market Street is also been investigated.

Sustainability – To ensure the delivery of the proposed features such as water features, green walls, planters, renewable energy systems and other placemaking opportunities are fully investigated, to complement/in conjunction with other initiatives such as the Town Centre Funding, we request that the further investigation and implementation of these measures is secured by planning condition requiring the submission of a schedule of The Green measures that will be implemented on site, for example green roofs, rain water harvesting/sustainable water use measures, sustainable landscape measures. The schedule should be submitted prior to the commencement of development on site.

Pollution prevention and environmental management – As the site is constrained with limited options for treatment and discharge of construction phase drainage, we request that the submission of the construction Surface Water Management Strategy is covered by planning condition.

Waste Management – According to the Geo Environmental Desk Assessment, there is a strong possibility of asbestos being present in the building. The Desk Assessment also mentions that there is a high likelihood that made ground found in the area will contain contaminants including hydrocarbons. Advice on land contamination issues should be sought from the local authority contaminated land specialists because the local authority is the lead authority on these matters.

Although SEPA is not the regulating body in this instance, to ensure that the area is adequately remediated, we still have a duty to ensure that any contaminated material removed from the site is

taken to an appropriately licenced facility. We would therefore request that the submission of a Site waste Management Plan for the site is covered by planning condition.

In addition, the drainage assessment suggests that underground drainage will either be removed or abandoned, if drains are abandoned this will require justification and this should be detailed in the plan.

Surface water drainage – Although SEPA no longer provide site specific advice on sustainable urban drainage systems (SUDS) regarding water quality, to assist it is highlighted that the drainage assessment states that the current proposal to deal with roof run-off is to discharge to the existing sewer network at a restricted rate. It is not clear if this is to the combined, or surface water, sewer. An alternative proposal to discharge at an unrestricted rate to the surface water sewer is currently being reviewed with Scottish Water. Any discharge to the surface water sewer will require that run-off is treated with appropriate SUDS. The current proposals do not include any treatment SUDS components, only attenuation.

**Scottish Water** – No objection. There is currently sufficient water capacity in the Invercarnie Water Treatment Works and sufficient foul water capacity in the Nigg PFI Waste Water Treatment Works. For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system.

## **REPRESENTATIONS**

Ten representations (including one petition) have been received objecting to the proposal. One is from the Market Village Company which operates the Aberdeen Indoor Market (which currently occupies the lower floors of the existing building), one from the Aberdeen Civic Society and the remainder are from residents or businesses of The Green area and wider Aberdeen. The petition was signed by twenty-six traders based within Aberdeen Indoor Market.

### Layout and Design

1. The development does not respect the historic character or architecture of the area. It features an inappropriate scale and architecture, dominating the buildings surrounding it and as a result overshadowing The Green and diminishing the quality of the space.
2. The development would infringe on privacy and availability of light to surrounding residential properties.
3. The development would not replace two key links between Union Street and The Green/Market Street.
4. The proposed public realm enhancements on The Green do not appear to take into account traffic management issues that will impact on its safe use.
5. The development would create a wind tunnel effect.

### Aberdeen Indoor Market

6. There would be an adverse impact on small businesses which rely on the Aberdeen Indoor Market for their livelihood.

7. The Market Village Company's lease of the Aberdeen Indoor Market Building expires in 2027 and therefore the site is not available for redevelopment.
8. Floor space should be allocated within the development to accommodate traders from Aberdeen Indoor Market.
9. A socio-economic impact assessment to consider the loss of the market should be submitted by the applicant.

#### Other

10. Health and safety concerns with demolition of existing building which may contain asbestos
11. Disruption to traffic and visitors to the area
12. Lack of consultation or notice from the building owners.

The matters raised in the representations are considered in the 'Evaluation' section below.

### **MATERIAL CONSIDERATIONS**

#### **Legislative Requirements**

- Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.
- Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- Section 149 of the Equalities Act (2010) requires a public authority in the exercise of its functions to have due regard to the need to –
  - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

## **National Planning Policy and Guidance**

- Scotland's Third National Planning Framework (NPF3)
- Scottish Planning Policy (SPP)
- Historic Environment Policy for Scotland (HEPS)
- HEPS Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent
- Managing Change in the Historic Environment: Setting

## **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 was 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. The Proposed SDP constitutes the settled view of the Strategic Development Planning Authority (and both partner Councils) as to what should be the final content of the next approved Strategic Development Plan. The Proposed SDP was submitted for Examination by Scottish Ministers in Spring 2019, and the Reporter submitted the Report of Examination to the Scottish Government in January 2020. The Scottish Ministers will consider the Reporter's Report and decide whether or not to approve or modify the Proposed SDP. The exact weight to be given to matters contained in the Proposed SDP in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

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

- Policy D1 (Quality Placemaking by Design)
- Policy D2 (Landscape)
- Policy D3 (Big Buildings)
- Policy D4 (Historic Environment)
- Policy NC1 (City Centre Development - Regional Centre)
- Policy NC2 (City Centre Retail Core and Union Street)
- Policy I1 (Infrastructure Delivery and Planning Obligations)
- Policy T2 (Managing the Transport Impact of Development)
- Policy T3 (Sustainable and Active Travel)
- Policy T4 (Air Quality)
- Policy NE6 (Flooding, Drainage and Water Quality)
- Policy R6 (Waste Management Requirements for New Development)
- Policy R7 (Low and Zero Carbon Buildings, and Water Efficiency)

- Policy CI1 (Digital Infrastructure)

The site is identified as an opportunity site (OP67 – Aberdeen Market) where there is an opportunity for qualitative retail/mixed use improvements to include better pedestrian access from The Green to Union Street and address public realm issues.

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

- Air Quality
- Big Buildings
- Flooding, Drainage and Water Quality
- Harmony of Uses
- Landscape
- Planning Obligations
- Resources for New Development
- Transport and Accessibility

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

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies from the Proposed LDP are applicable to the current application.

- D1 (Quality Placemaking)
- D2 (Amenity)
- D3 (Big Buildings)
- D4 (Landscape)
- D5 (Landscape Design)
- D6 (Historic Environment)
- D7 (Our Granite Heritage)
- VC1 (Vibrant City)
- VC4 (City Centre and Retail Core)
- I1 (Infrastructure Delivery and Planning Obligations)
- T2 (Sustainable Transport)
- T3 (Parking)
- WB1 (Healthy Developments)
- WB2 (Air Quality)
- NE4 (Our Water Environment)
- R5 (Waste Management Requirements for New Development)
- R6 (Low and Zero Carbon Buildings, and Water Efficiency)
- R8 (Heat Networks)

- C11 (Digital Infrastructure)
- Opportunity Site OP110 (Heart of the City – City Centre Masterplan Intervention Area) – Redevelopment of Aberdeen Indoor Market for appropriate uses such as use class 1 (Retail), use class 3 (Food and Drink) and use class 11 (Assembly and Leisure), use class 6 (Houses) and use class 7 (Hotels and Hostels).

### **Other Material Considerations**

- City Centre Masterplan – Project CM06: Aberdeen Indoor Market.
- Union Street Conservation Area Appraisal.

## **EVALUATION**

### **Principle of Development**

#### National Policy

National Planning Framework 3 (“NPF3”) is a long-term strategy for Scotland – the spatial expression of the Government’s Economic Strategy, and of plans for infrastructure investment. In its section on Aberdeen and the North East, NPF3 states that the city centre will be a focus for regeneration efforts.

Scottish Planning Policy (“SPP”) states that planning for town centres (which include Aberdeen city centre) should be flexible and proactive, enabling a wide range of uses which bring people into town centres. SPP goes on to say the planning system should apply a town centre first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities; encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening; and consider opportunities for promoting residential use within town centres where this fits with local need and demand.

As an office-led mixed-use development, featuring the potential for retail, food and drink and leisure and public house uses that would attract a significant number of people the proposal would represent a use which would be most appropriately located within the city centre. The mix of uses and potential number of people working in (800 to 1000 at full capacity) and visiting the building would contribute to the vibrancy, vitality and viability of this part of the city centre – these matters are discussed in more detail later in the report. Whilst residential use was considered by the applicant at the early stages of the project, this option has not been pursued. Notwithstanding, the proposal represent a significant investment seeking to regenerate part of the city centre, which would be consistent with the strategy and vision of NP3 and SPP.

#### Strategic Development Plan

At a regional level, the Aberdeen City and Shire Strategic Development Plan (“SDP”) states that Aberdeen city centre is an important asset for the City region and its regeneration is vital for the economic future of the area and how potential investors and residents see it. The SDP identifies an aim of attracting more major office developments to the city centre and for there to be a strong focus on improving the quality of the city centre’s shopping, leisure, commercial and residential environment. For the same reasons identified above in relation to national policy, the proposal would be consistent with the SDP in terms of its desire to regenerate the city centre, and more specifically with the aims of attracting a larger presence of major office developments within city

centre.

### Proposed Strategic Development Plan

The Proposed SDP continues to prioritise the promotion and enhancement of the city centre. It highlights the objectives of growing the city centre employment base by promoting the area as a centre for business, trade, leisure, innovation and enterprise and ensuring a metropolitan outlook, with recognition of the fact that proposals for the city centre will have a wider metropolitan context across the City Region.

The SDP Authority have received the Scottish Government Reporter's report into the examination of the Proposed SDP and no modifications to the Proposed Strategic Development Plan are considered necessary in response to representations relating to the city centre. It is therefore considered that the Proposed SDP is consistent with the position taken on the matter by the adopted SDP. Otherwise there are no other strategic or regionally significant matters which require further detailed consideration against the SDP.

### Land Use Zoning

The application site is located within the City Centre, where Policy NC1 (City Centre Development – Regional Centre) and Policy NC2 (City Centre Retail core and Union Street) apply. Policy NC1 states that proposals for new retail, office, hotel, commercial leisure, community, cultural and other significant footfall generating development (unless on sites allocated for that use in this plan) shall be located in accordance with the sequential approach, which indicates that the City Centre is the preferred location for such developments. The site is located within the identified city centre boundary and therefore is fully consistent with this aspect of the policies

The Policy goes on to state 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 ("CCMP"). In turn, the CCMP describes how the range of projects within the CCMP linked to economy, environment and infrastructure aim to enhance the attractiveness and viability of the city centre core centred on Union Street, St. Nicholas and the Merchant Quarter. In relation to the application site more specifically, the CCMP identifies the Aberdeen Indoor Market, St. Nicholas Centre, Trinity Centre and Union Street as opportunities to create stronger complementary nodes that piece together a higher quality retail circuit, not only in terms of overall retail provision, but through an enhanced experience in terms of the diversity of retail (e.g. independent retailers), other complementary uses (e.g. food and drink) and improved public realm.

The CCMP considers the redevelopment of the application site as a key outcome of the masterplan, which is emphasised by the identification of Project CM06 (Aberdeen Indoor Market). It describes the Brutalist design of the market building as not particularly in keeping with the historic Merchant Quarter and indicates that the building is becoming increasingly tired through lack of investment. The CCMP considers the site to present a significant opportunity to introduce a mix of uses including retail that better addresses The Green and enhances the overall vibrancy and attractiveness of the area, including other uses such as residential.

Broadly speaking, it is considered that the proposal would provide the appropriate mix of uses sought by the CCMP and would create an enhanced node within the city centre which would be a focus of activity during daytime and evening. The commercial environment and public realm would also be significantly enhanced. The proposal would contribute to the high-level vision of the CCMP and therefore be compliant with Policy NC1. The CCMP also contains more specific development objectives related to the site, which are considered later in the report.

The development, when fully occupied could accommodate between 800 and 1000 people, bringing benefits in terms of locating workers in a highly sustainable location and in terms of the positive knock-on effects for surrounding retailers, restaurants bars and other businesses. Whilst demand for office floorspace is dictated by the market economy and is not a material planning consideration, the applicant is confident that there will continue to be demand for high quality office space within the city centre in the coming years. According to property advisors CBRE, in quarter one of 2020 around 70% of the new grade A office space recently developed in the city centre has been let, with strong interest reported in the remaining new space. This is evidenced by the gradual occupation of the Silver Fin, Capitol and Marischal Square developments, with many occupiers relocating from other parts of the city to the city centre. Providing increased employment space in the city centre also increases its attractiveness as a place to live, as opportunities arise for people to live and work in the same area.

The ALDP identifies the Aberdeen Indoor Market as an opportunity site (OP67) for qualitative retail / mixed use improvement to include better pedestrian access from The Green to Union Street and opportunity to address public realm issues. This lends further supports the principle of redevelopment of the site.

### Demolition of market building

The proposed demolition of the market building is permitted development and therefore does not form part of this application. However due to its location within a conservation area a separate conservation area consent is required. Such an application (190313/CAC) to allow its demolition has been submitted and will be determined under delegated powers. It has been concluded that the building does not contribute to the character of the conservation area and that its demolition would be acceptable.

### Loss of Aberdeen Market

Concern is raised in with the loss of the Aberdeen Market, expressed through the submission from the City Centre Community Council, representations including from the operator of the market and a petition from occupiers of the market (*issues #6, #7, #8 and #9 in representations*).

Scottish Government Circular 4/2013 (Development Management) indicates that the planning system operates in the long-term public interest. It goes on to say that whether a proposal would result in financial or other loss to owners or occupiers of existing buildings is not a material planning consideration.

Notwithstanding, any wider economic impact as a result of a proposal or its effect can be a material consideration. In this instance it is acknowledged that the market offers floor space for many small businesses and that they contribute to the vitality & viability of the city centre as well as the local economy. SPP explains that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. With that in mind, whilst it is acknowledged that the economic activity generated by the market contributes positively to the city centre, it is considered that the economic activity and environmental improvements to the urban realm of the city centre which the proposed development would bring, would outweigh the loss of the market. The benefits of the proposal are discussed in detailed in the remainder of the report.

### **Layout, Design and Contribution to City Centre and Public Realm**

As explored earlier in the report, the CCMP considers the redevelopment of the application site as a key outcome of the masterplan, which is emphasised by the identification of Project CM06 (Aberdeen Indoor Market). The CCMP seeks the redevelopment of the market to be replaced by a

more contextually appropriate development of buildings and spaces. Key design criteria identified by the CCMP for any redevelopment includes (i) enhanced active frontages on Union Street, Market Street, Hadden Street & The Green, (ii) continued retail use at Union Street level and (iii) a mix of retail, food and drink and leisure uses at Hadden Street level.

Before considering these matters, it is useful to understand the problems with the existing building. At present the market building lacks an active frontage or any architectural articulation at street level, particularly Hadden Street. The main Market Street entrance is situated under an overhanging part of the building, offering a poor interaction with the street and an unwelcoming appearance. Apart from small secondary entrances located on Hadden Street and The Green, there are otherwise limited openings onto surrounding streets. The building presents a largely blank, vast and uncompromising façade, and is inward looking in nature, having little positive interaction with its surroundings. For these reasons it is considered that the building contributes little to the character or appearance of the conservation area or the amenity and vitality of the surrounding area in general.

Taking the first matter highlighted by the CCMP into account, the Union Street part of the building (91–93 Union Street, part of the former BHS premises) would become a separate planning unit when the link structure is removed as part of the demolition of the market building. The future use of 91–93 Union Street is not being considered as part of this application, however it would continue to benefit from its existing retail use and a recently granted planning permission for change of use to Class 11 (Assembly and Leisure) which at the time of writing has not been implemented but is extant. 91–93 Union Street would continue to be serviced from East Green. Concern is raised (*representation #3*) that the two links would not be replaced, removing a route between Union Street and The Green. With the removal of the market building, the two link structures are effectively redundant. With continued and more convenient access available to the Merchant Quarter via Market Street, Netherkirkgate, Correction Wynd and Back Wynd Steps, all within very close proximity, it is considered unnecessary to retain a link. In accommodating a link into the new building, the ability to make efficient use of the floor space would be compromised. Removal of the links will also allow more natural light into East Green, which is to be welcomed.

In considering the second and third matters together, Policy D3 (Big Buildings) and the Council's Big Buildings guidance explains that the detailing of how the building meets the street is extremely important as this provides animation to the street scene. The proposed development would radically improve upon the existing situation, with new active frontages relating to the three commercial ground floor units presenting double height glazed elevations onto Market Street, The Green and the parts of Hadden Street closest to The Green and Market Street. The three ground floor units would be made available for retail, food and drink, public house or assembly and leisure uses (except for nightclub or casino). This would provide opportunities for leisure activity which would complement the existing uses in The Green and Market Street areas and encourage people into the wider Merchant Quarter area.

The area of public realm at the corner of Hadden Street and Market Street would provide a new public open space in the city centre directly outside the entrance of the building. This small plaza would be set back from the Market Street carriageway, providing more space for pedestrians on what is a busy route between Market Street and Guild Street. It would be enclosed on two sides by a double height ground floor, with one of the commercial units on the north and the building's entrance and reception foyer on the east side. It would feature green living walls which would enhance the immediate environment and experience of the space, improve local air quality and create a contrast with the hard surfaces of the public realm and buildings in area. To create a connection between the external and internal space, it is proposed that The Green wall and public realm materials would continue into the foyer of the building. A condition would be attached requiring a detailed design showing materials, street furniture and how level differences between the entrance area and Hadden Street would be dealt with.

At The Green end of the building, the built structure would be set back from the existing curved building line of the Aberdeen Market, creating additional public realm associated with the new building and ground floor uses. This would also provide the opportunity to utilise the space for outdoor seating associated with the two commercial units located adjacent as well as creating additional space for any future outdoor market or public events in The Green. At this stage the detailed public realm design has not been agreed however it is expected that materials to complement the materials already used in The Green and Merchant Quarter would be used. This would be subject of a condition that would also require cognisance to be taken of the effects of the micro-climate created by the building (see Amenity and Environment section of the report below).

The middle section of the Hadden Street elevation would accommodate the car park entrances and relate to the car park behind within the ground floor, therefore there would be no active frontage at this part. However, this would only represent a small portion of the elevation and to maintain visual interest, it would feature sections of green living wall, visually enhancing the local environment. The intention is that as many of the existing stone planters on Hadden Street which feature trees will be retained, although at least one will require to be removed to provide access to the new car park. As part of the proposed condition dealing with public realm, detailed proposal for this area would be submitted.

The East Green elevation relates to the service areas of the building and car park and therefore would not present an active frontage. This is dictated by the requirement to accommodate such areas within the building and is considered acceptable and in keeping with the character of East Green, which is predominately used as a service lane for buildings on Union Street.

The provision of additional public realm, and improved interaction between the site and its surroundings, would build on the streetscape and resurfacing works which were undertaken in The Green area between 2009 and 2014. These enhancements, alongside improvements to shopfronts and building fabric saw a step change in the perception of The Green area. The proposal represents the next step in terms of significantly improving what The Green and wider Merchant Quarter offers in its role as a key area that is actively used at the heart of the city centre.

The big buildings guidance highlights that top floors and accessible roof terraces are likely to provide good views across the city and useable out-door amenity space. Reflecting that, the building would include two roof terraces, both accessed from the tenth floor. Furthermore the building has been designed so that, should the opportunity arise to occupy the top floors for a public use, such as a restaurant or bar, that this can be achieved without compromising the ability to use the remainder of the upper floors for their intended office use. This is facilitated by separate lift access from The Green entrance to the top floors of the building. Otherwise, the building has been designed to have flexible floor plates which can be subdivided to suit a range of office occupiers.

No. 6 Market Street is a separate retail unit, located between Aberdeen Market and 73–79 Union Street (occupied by Café Nero). It is thought that it was designed as part of the original design for the Aberdeen Market by Archibald Simpson dating back to the 1840s (the current market building was built in the early 1970s). Although it has been altered, the shop front features elements of original classical detailing including three arches which are beneath the modern shop sign and has curved glass windows which were a later addition. It is considered that the façade contributes to the character of the area and therefore it is to be retained as part of the new development, being integrated with the ground floor commercial use at this end of the building. A condition would be attached requiring detail of the façade integration to be submitted.

In summary, it is considered that by providing active uses at ground floor which interact with the surrounding streets, that the urban environment in this part of the city centre would be dramatically enhanced. This would be consistent with the aspirations of the CCMP.

## Scale, Massing and Design

Policy D3 on Big Buildings explains that the most appropriate location for big buildings is within the city centre and its immediate periphery. Big buildings must be of a high-quality design which complements or improves the existing site context.

### Long Distance Views

The big buildings guidance explains how big buildings at a long-distance are interesting and act as place markers defining areas of the city and that it is their proportion, mass, silhouette, skyline composition, juxtaposition and lighting which are important factors. The Aberdeen skyline is scattered with tall buildings in the form of church spires, residential tower blocks and office buildings, predominately in the city centre. The visual analysis submitted provides three viewpoints to represent how the building may look from around the city, these being Torry Battery, Wellington Road and West Tullos Road. These demonstrate that in long-distance views the building would not be overly intrusive and would sit comfortably on the skyline, complementing the other tall buildings that it would sit alongside as well as those in the background.

### Impact on Conservation Area and Setting of Listed Buildings (Medium to Short Distance Views)

The analysis of medium to short distance views is best considered in the context of how the building would impact upon the surrounding conservation area, which requires an understanding of built heritage policy.

Policy D4 (Historic Environment) indicates that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, Scottish Historic Environment Policy (superseded by Historic Environment Policy for Scotland) and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. High quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings and conservation areas will be supported.

Scottish Planning Policy (paragraphs 141 and 143) reflect the legislative requirements in relation to conservation areas and listed buildings set out in the Material Considerations part of the report. SPP requires that, where planning permission is sought for development affecting a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. Proposals for development within conservation areas which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.

Historic Environment Policy for Scotland (HEPS) is the government's national policy statement on built heritage and sits alongside SPP. Historic Environment Scotland's guidance on setting is also relevant.

Built heritage policy aside, the big building guidance states that proposals for big buildings that are considered to detract from their context and/or interfere with an established vista within the city centre will not be supported. Big buildings should maintain and enhance the pattern and arrangement of the street blocks and plots, have a slender vertical emphasis and silhouette that is in proportion and have active uses at ground level to the street. The guidance suggests that big buildings can be composed of a range of complementary uses and be part of a development with smaller scale buildings to reduce any dominating impact within established areas and minimise blank elevations to the street. The CCMP echoes these policies, indicating that any redevelopment

of the site must have an appropriate scale and quality of design, given the site's conservation area setting and Union Street setting. In summary, the key principle that should be considered in this instance is that the proposed development needs to preserve or enhance the character of The Green and the wider conservation area.

### General Design and Materials

The proposed building would be substantial in size and radically alter the character of its immediate surroundings, mainly due to its height and bulk. Concerns were raised with the initial scale and massing of the building, especially in relation to how it relates to The Green. Having considered the proposal, the Council's Senior Conservation Planner considers that a combination of the height, overall volume and average design of the building, results in it being overbearing and jarring to the surrounding historic context of the area (issue #1 in representations) In recognition of these concerns, planning officers and the applicant held a series of discussions to determine how the impact of the building on the surrounding area could be reduced specifically by looking at its form and massing.

The big buildings guidance requires such buildings to have well designed proportions and an interesting silhouette to complement the existing streetscapes and the skyline and to minimise their bulk. To help achieve this here, the building would be formed in several 'tower' elements, which, although in fact one continuous floor plate, are expressed as individual elements separated by recesses finished in glass, as a contrast with the granite and glazing of the main elements. The height of each 'tower' would vary increasing towards The Green.

The guidance explains how high-quality materials and good quality detailing is expected as this adds visual and tactile interest to a building, reinforcing distinctiveness, attractiveness and quality of a place. The use of granite cladding panels at lower level, with increasingly sized areas of curtain wall glazing as the building progresses in height, is considered to be sympathetic to the character of the surrounding area, harmonising with the granite which predominates.

Vertical emphasis would be achieved by the vertical orientation of the granite cladding, which attains different heights on each tower. Above these levels, the upper stories of each tower are setback slightly and finished in curtain wall glazing, reducing the apparent bulk of the building. The top floors of each part of the building would be constructed using structural planar glazing, distinguishing the building as a modern intervention in the area.

Elements enclosing mechanical plant at the top of the building would be finished with glazed screens, which it is considered would help reduce the massing of the building at the upper levels. In conjunction with a lighting strategy for the building (which would be subject of a condition), these areas have the potential to add visual interest to the city centre skyline during the day as well as the evening. The more utilitarian cladding proposed for the service core, is considered acceptable given their secondary and less prominent location on East Green.

Each of the relevant character areas of the conservation area are considered below, including an analysis of the buildings impact on these character areas.

### Market Street Character Area

The element hard up against Market Street would four storeys high, with a setback fifth storey. This allows the building to sit comfortably within the Market Street streetscape, generally being in accordance with the rising building heights as the street progresses northwards. The part of the building sitting back from the street, behind the entrance plaza, would be five storeys with sixth set even further back. This appropriate scale and massing in combination with the enhanced street frontage and public realm discussed earlier and the removal of the unsympathetic existing building

would result in the character of Market Street being enhanced.

### Union Street

Union Street is important, not only as Aberdeen city centre's main commercial thoroughfare but also for its planned layout and classical design. Buildings are generally consistent in height at around four storeys with attic and dressed granite predominates as the finishing material. Several larger key civic buildings are also present such as the Town House and St. Nicholas Kirk. It is therefore important that the building does not interrupt these characteristics.

Due to buildings on Union Street within the intervening space, the building would not be seen from the Castlegate. Closer to the site, between Broad Street and Belmont Street, whilst the change in levels between Union Street and The Green would conceal a large part of the development from Union Street and St. Nicholas Street, the upper stories would be seen above the roofline of the Union Street buildings. To reduce their bulk and massing, the upper storeys would be finished in glass with a structural framework around it. The service core would be finished in aluminium panelling and the upper stories, containing plant, in glass. From the north side of Union Street and St Nicholas Street, the building would be apparent above the generally consistent roofline of the southern side of Union Street. However, due to the setback, the building would read as a modern intervention, separate to the Union Street buildings and sitting behind them. The contrast between modern materials and design and the granite of Union Street would also allow the development to be distinguished from the Union Street buildings, with the latter maintaining their dominance along the street.

Due to the rising incline of Union Street to the east beyond Bridge Street the building would largely sit lower than the roof line of buildings on Union Street which would be in the foreground of any views, resulting in a comfortable relationship.

Overall, it is considered that the character of Union Street would be maintained with the new buildings being less prominent and having less visual impact on the street than, for instance, the new Silver Fin and Capitol office developments further west.

### The Green and Merchant Quarter

The Green and wider Merchant Quarter remains an important architectural and historic focus reminding us of Aberdeen's medieval urban origins through to its nineteenth century expansion. In contrast to the grandeur of Union Street and Market Street, it is characterised by narrower streets and a more intimate environment. Buildings are generally three or four storeys with attic and constructed from granite with slate roofs. Due to the difference in levels, the buildings facing Union Street and backing onto The Green and East Green are up to five storeys and attic. The public realm in the area features predominantly granite sett carriageways, with granite flagstone pavements.

From the area outside Union Square and the railway station the proposed building, especially its highest tower, would be readily visible in medium distance views, sitting comfortably in the background and contributing interest to the skyline which has a varied height and character.

Closer to the site, views along Stirling Street and Exchange Street from Guild Street are currently abruptly terminated by the blank concrete façade of the market building. The introduction of active frontages would enliven these views and provide interest, inviting the pedestrian to utilise these routes when heading towards Union Street. The use of granite at the lower levels of the building would complement the granite in both Stirling Street and Exchange Street. From these views, the building would be considerably taller than those surrounding it.

Following design workshops with the applicants, the northern element facing The Green was lowered in height in order to reduce the impact on The Green and Union Street, creating a greater contrast in height between the lowered element and the adjacent main tower, which would act as a visual focal point and landmark in short, medium and some long distance views. Its position on the south side of the building reduces its visual impact on Union Street and The Green. Notwithstanding, the building would still be substantially taller than immediately surrounding buildings, and for this reason would harm the existing character and appearance of this part of the conservation area that is typified by more modestly scaled buildings.

The street layout of the area would not be altered by the new development. The curved form of the existing building replicates the curve of the original building from the 1840s and so does reflect the historic character of this part of The Green. Notwithstanding, as described previously at present the curved form of the building contributes little in townscape terms to the character of the area whilst also inhibiting connectivity by obstructing north/south pedestrian desire lines. At present the views from Carmelite Street, Carmelite Lane, Stirling Street and Exchange Street are terminated by the largely blank façade of the market building, whereas the new development has been designed so that the tallest tower element terminates the views from these streets creating an architectural focus whilst adding visual interest and vitality at street level.

The opinion of the Senior Conservation Planner is that the building would be an intervention which would adversely harm the character of the conservation area and setting of nearby listed buildings.

Whilst it is acknowledged that there would be a localised harm to the conservation area due to the height and size of the building, this harm is considered to be outweighed by the wider benefits that the development would offer. Most of these have already been outlined above, but include the benefits of removing the existing building which offers little by way of interaction with its surroundings, the provision of active commercial uses at street level, increased areas of public realm and the economic uplift from increased number of workers and visitors in the area and the wider city centre.

### **Access, Parking and Transport**

Policy T2 (Managing the Transport Impact of Development) and Policy T3 (Sustainable and Active Travel) explains that, commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. They must be accessible by a range of transport modes, with an emphasis on active and sustainable transport, and the internal layout of developments must prioritise walking, cycling and public transport.

#### Accessibility

The site is in a highly accessible location, being located within the city centre, with both the bus and railway stations and the ferry terminal less than five minutes walk away. Many of the city's bus routes pass within walking distance or terminate at the bus station.

#### Parking

There is an existing car park within the lower ground floor of the market building, which can accommodate 32 vehicles. The new development would accommodate 126 parking spaces within part of the ground floor and basement, resulting in an overall net gain of 94 spaces.

Project IN02 (City Centre Car Parking) of the City Centre Masterplan proposes stricter parking standards within the city centre boundary to enforce 'zero parking' for new development. Less cars

in the city centre would bring benefits in terms of reducing traffic congestion, noise & air pollution and providing opportunities to increase and enhance city centre public realm by removing the focus on vehicles.

At this point in time the Council's parking standards for the city centre embodied in adopted Transportation Supplementary Guidance that forms part of the Adopted Local Development Plan allow for one parking space per 80sqm of office floor space. This does not reflect the aspirations of the CCMP. Furthermore, the Proposed Aberdeen Local Development Plan, approved for consultation by Council in March 2020, intends to introduce 'zero parking' within the city centre through Policy T3 (Parking).

Given that the policy substantially alters the extant policy position and may be subject to objection through the PLDP consultation process, it is only possible to afford limited weight to this part of the PLDP at this stage. Therefore, whilst it would be preferable in terms of evolving policy that there to be no more than operational parking at the development (for company pool cars, delivery vehicles, servicing and so forth), it is also clear that at this point in time the adopted LDP policy allows for a higher level of car parking provision. The applicant has made it clear that at this point in time they consider a degree of parking to be required to make the development attractive to occupiers and, therefore, render it viable.

Having considered the matter, officers have concluded that, on balance, the proposed 126 spaces (a rate of one space per 131sqm) would be acceptable taking into account the parking standards in the adopted LDP and on the basis that it would represent a continued trend in reducing the number of parking spaces provided within new city centre developments. It should be noted that the level of parking provision proposed is significantly lower than the 207 spaces which the adopted guidance would allow and the ratio of spaces to floor space is lower than the most recently completed comparable development. For example, Marischal Square has a rate of one space per 66sqm (i.e. double the level of provision) and both the Silver Fin and Capitol a rate of one per 108sqm. The proposal would also result in the loss of 32 existing spaces reducing the net additional gain in parking to 94 spaces.

### Vehicular Access and Traffic

Vehicles would enter and exit the car park from two openings onto Hadden Street. The position of these accesses would require the adjustment of the existing taxi rank, which would require to be reduced by two spaces. This is considered acceptable in principle by roads officers; however it would have to be formally approved separately through the traffic regulation order and licensing regimes.

Initial designs proposed one access on Hadden Street and one on East Green. Officers raised concerns with the additional traffic flow which would be placed on The Green in order to access the East Green entrance, diminishing the pedestrian focussed environment in the area. After discussions the developer agreed to remove the East Green access and relocate the car park access to Hadden Street only. This is likely to result in less traffic on The Green than is currently the case, as the existing car park access from East Green would no longer exist with consequent benefits to the amenity of the public realm and safety of pedestrians in The Green area. It is considered there would not be any problem with the safe use of the new public realm in relation to its proximity to the carriageway (*issue #4 in representations*).

An analysis of the traffic impact of the development on the surrounding road network has been undertaken and reviewed by the Council's roads officers. The conclusion was that the impact of traffic associated with the development on the Market Street / Union Street junction and Market Street / Guild Street / Trinity Quay junction would be insignificant during AM and PM peak hours and that both junctions would continue to operate within capacity.

A greater impact would occur on the Market Street / Hadden Street junction, however that is due to the lower background traffic flows currently using the junction. Further detailed analysis was undertaken which indicates that, with the addition of traffic associated with the development, the junction would still operate within capacity and that no mitigation measures would be required.

Taking into account the foregoing the proposed analysis and traffic impact is considered to be acceptable.

## **Amenity and Environment**

### Air Quality

Policy T4 (Air Quality) indicates that development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are implemented. Market Street forms part of the City Centre – an Air Quality Management Area which has been designated due to exceedances of air quality objectives. This means that the applicant has been required to submit an air quality assessment to consider how the development may impact on air quality.

The air quality assessment modelling predicts that road traffic attributable to the development would not be expected to have a significant adverse effect on local air quality, and that the development would not expose new receptors to concentrations of annual mean nitrogen dioxide (NO<sub>2</sub>), or particulate matter (PM<sub>10</sub> or PM<sub>2.5</sub>) exceeding the applicable limits. The assessment and its findings have been reviewed by the Council's Environmental Health officers and both are considered to be acceptable.

Mitigation measures are also recommended to minimise construction related air quality matters, specifically management of dust and construction traffic. These can be secured by appropriate planning conditions on any consent.

### Odours

Class 3 (Food and Drink) or public house use would allow cooking of food on the premises, which brings the risk of nuisance to surrounding properties from associated odours. Any planning approval can impose a condition requiring that an extraction scheme to eliminate such odours is submitted and implemented prior to these uses commencing.

### Control of Substances Hazardous to Health

Environmental Health officers highlight existing problems with inadequate control of fumes from solvents used in nail bars within Aberdeen Market and recommend that should similar activities be carried out at the new development then an assessment be undertaken to ensure exposure limits are met. Whilst it is unknown at this stage whether such activities are likely to take place in any of the commercial units, this matter would be subject to separate health and safety legislation and, if it did occur, it is unlikely to be to such an extent it would affect the amenity of the wider area. It is therefore not a material planning consideration.

### Potential Contamination

A Geo-Environmental Desk Study has been undertaken by the applicant to determine the likelihood and nature of any contamination of the land. The presence of the building on the site prevents intrusive ground investigations being undertaken. The study therefore recommends that, post demolition, a geo-environmental investigation is carried out across the site in order to determine the ground conditions, to inform foundation design and to investigate any potential

contamination. Environmental Health officers agree with this recommendation and a condition is recommended on any consent to secure the submission of a geo-environmental investigation.

The market building is believed to contain asbestos and therefore the study also recommends that an asbestos survey is undertaken prior to any demolition. Any asbestos containing materials would be required to be removed by a specialist contractor to a licensed waste management facility and all waste transfer notes retained for inclusion within a validation report. This is controlled by non-planning legislation and therefore does not require to be subject of a condition (*issue #10 in representations*).

Subject to further investigation through a geo-technical investigation it is concluded that the proposal would comply with Policy R2 (Degraded and Contaminated Land).

### Microclimate

Policy D3 (Big Buildings) requires proposals to carry out an analysis of micro-climatic impacts. The matter was also highlighted in representations (*issue #5*).

A micro-climate assessment has been submitted in support of the application and considers the wind microclimate on and around the site. Modelling software was used to analyse conditions with the site in its current state and after the proposed development, against the 'Lawson' criteria for pedestrian comfort or distress. These relate a wind speed which shouldn't be exceeded for more than a given percentage of the time if the location of interest is to be deemed acceptable for activities such as sitting or strolling.

The assessment found that within the site, the plaza adjacent to Market Street would be well-sheltered and problem-free for seating and location of entrances (the two most stringent of the Lawson criteria). The roof terrace areas are also problem-free for seating and standing. However, whilst the location of the main entrance on Hadden Street is acceptable, the area immediately around this entrance in front of the south west corner of the building exceeds the Lawson acceptability criterion for seating. This is mainly due to acceleration of winds around this corner when the wind is from the south-south-west and to downdraughts when westerly and south-westerly winds impact on the western facade of the building. The former can be mitigated by planting around the south west corner, or location of any seating right under the western face of the building, which is relatively sheltered. The downdraught can be mitigated by the provision of awning or a canopy. The assessment highlights that there are already significant areas of "unacceptable" conditions for various activities and, being close to the sea, the location is already quite windy. The proposed development does give rise to some changes in wind microclimate in its immediate vicinity, with impacts generally moderately adverse, although no significant exceedances of the Lawson acceptability criteria in the surroundings are anticipated as a direct result of the proposed development

The findings of the assessment are considered acceptable and a condition is recommended to secure details of the canopy required to mitigate the downdraught at the south west corner of the building. A condition is also recommended to secure the specification of public realm improvements around the building that would require, amongst other things, to take into account and mitigate the adverse impacts of the wind environment on outdoor activities predicted by the micro-climate assessment.

### Noise

The proposed development is located within a Noise Management Area. Being a city centre location, the existing noise climate is dominated by city centre road traffic and noise associated with nearby commercial premises, including public houses. Policy T5 (Noise) states that there will

be a presumption against noise generating developments, as identified by a noise impact assessment ('NIA'), being located close to noise sensitive developments, such as existing or proposed housing. It goes on to say development within, or near to, Noise Management Areas will not be permitted where this is likely to contribute to a significant increase in exposure to noise, or a deterioration of noise conditions, in these areas.

The uses within the new development, being commercial in nature, are not considered to be noise sensitive in themselves, with the building fabric anticipated to provide sufficient mitigation in terms of the background noise which exists in the area. Conversely, the development itself has the potential to have an adverse noise impact on the amenity of the occupants of existing residential properties, predominately located to the south of the site on Hadden Street, Exchange Street, Carmelite Street and The Green. Therefore, the applicant has carried out a NIA which has been reviewed by Environmental Health officers.

The assessment determined the additional road traffic, mechanical plant and public house use as potential noise source. In terms of the road traffic there is potential for short-term moderate noise impacts on Hadden Street due to the increase in vehicle movements associated with the development. However, this will be limited to the morning and evening peak periods only. This is not considered to be significant.

Mechanical plant would be accommodated mainly within the upper storeys of the building and within the ground floor, facing East Green. Noise limits from plant have been recommended within the NIA. A condition would be attached requiring a further specification to be submitted once detailed designs have been drafted, demonstrating that the noise limits have been achieved.

There is the option for public house use in any of the three ground floor units. The units at The Green end of the building have a higher potential for creating disturbance than the units located at the Market Street end, due to their proximity to residential properties and the general background noise being lower in The Green. Notwithstanding, there are already public house uses in the vicinity including Cheerz Bar & Nightclub, the Market Arms and Old Kings Highway (currently vacant). Café 52 also has an outdoor seating area on The Green. Therefore, the area is not unaccustomed to noise in the evening from such uses. A similar situation exists at the Market Street end of the building, with a variety of licensed premises present, although background noise is higher due to Market Street being a main vehicle route through the city centre.

Considering noise in isolation, there would be the option of restricting public house use to the Market Street end of the building. However, this would restrict the potential to have occupiers which would complement the existing uses (the aforementioned public houses and restaurants) and activities on The Green such as the Inspired Nights street food market and Aberdeen Jazz Festival. Given the noise environment of the area already features public houses and evening activity, it is not considered the noise characteristics would change substantially. It should also be recognised that within the city centre core, the amenity which residents can expect will not be as high as at locations at the edge of the city centre or residential areas. A more reasonable approach in this case, would be the implementation of a range of mitigation measures, such as the provision of double entrance doors, restrictions on the times which external areas can be used, no amplified music to be played externally and restrictions on servicing & deliveries. It should also be noted that licensed premises would require to adhere to licensing requirements with regards to the management of their premises and behaviour of customers. Environmental Health officers agree with the recommendations of the noise impact assessment and it is proposed to attach a condition which would require a site-specific scheme of noise mitigation to be submitted should a public house use emerge for any part of the building.

In summary, it is not considered that the development would significantly alter the noise environment in this part of the city centre and its noise impact is considered acceptable in this

regard.

### Residential Amenity

Concern is raised in representations with the impact on residential properties in the vicinity, specifically in terms of daylight and privacy (*issue #2 in representations*).

The new building would be no closer to any other building than the market building is at the moment, in most cases it would be further away, with the creation of the two areas of public realm. Whilst it is acknowledged that there would be substantially more glazing than the existing situation, there are no private outdoor spaces, such as gardens, which would be overlooked. The ability to see one window from another does not constitute a reduction in privacy, especially within the city centre where buildings are located within close proximity to one another. It is not considered privacy would be unreasonably reduced.

The flats on Market Street and Exchange Street, facing onto the Market Street end of Hadden Street, would see their outlook enhanced, as the blank façade of the market building is removed, and area of public realm provided in its place. There would be no impact upon availability of daylight to these flats. Similarly, as the existing building is closer to the flats at Carmelite Street and Martin's Lane (which look out on to Hadden Street and The Green) than the new building would be, there is not expected to be any detriment to the availability of daylight, despite the substantial increase in the building height at this end. Again, the outlook would be improved as an area of public realm is to be provided opposite. The flats closest to the development are located at Stirling Street and Exchange Street, above the Market Arms and Cheerz Bar & Nightclub, overlooking Hadden Street. The narrow width of Hadden Street at this point is likely to already have an impact on available daylight, due to the proximity and height of the market building. The presence of a taller building is not expected to radically alter the availability of daylight and any change would be negligible. In terms direct sunlight, the building is located to the north of all surrounding residential properties and therefore the availability of direct sunlight to any properties will not be affected.

In summary, it is considered that, for the majority of residential properties in the area, the outlook and environment would improve and there would be no privacy, daylight or sunlight issues. For the Stirling Street and Exchange Street flats which are closest, there may be a negligible reduction in daylight availability.

### **Waste Storage and Collection**

Policy R6 (Waste Management Requirements for New Development) requires that all new developments should have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate. A waste store would be provided at ground floor, accessed from East Green which is considered acceptable. Swept path analysis shows that a refuse collection vehicle would be capable of entering and exiting East Green in a satisfactory manner.

### **Flooding and Drainage**

#### Drainage

Policy NE6 (Flooding, Drainage and Water Quality) states that surface water drainage associated with development must be the most appropriate available and avoid flooding and pollution, both during and after construction. It goes on to say that connection to the public sewer will be a prerequisite of all development where this is not already provided.

Foul water would be discharged via a connection to the existing Scottish Water combined sewer network, which is considered acceptable. It is proposed that surface water from the roof of the building would discharge into the existing surface water sewer on Market Street, whereas the surface water from areas of public realm will discharge to the combined sewer. This represents a betterment over the existing situation because at present all surface water from the site enters the combined sewer. In their response Scottish Water have indicated that no surface water will be permitted into their combined sewer, however it is understood that discussions have taken place between the applicant and Scottish Water and a positive response has been received on the proposal to discharge surface water from the public realm areas into the combined sewer. With the above arrangements being considered appropriate in principle, a condition is proposed requiring detailed drainage proposals to be submitted.

A condition would also be attached requiring details of a construction phase surface water management strategy to be submitted for approval.

### Flooding

In terms of flooding Policy NE6 says development will not be permitted if it would increase the risk of flooding or it would itself be at risk of flooding. A Flood Risk Assessment ('FRA') has been submitted in support of the application and reviewed by the Council's flooding officers and SEPA. The FRA considered the potential risk from coastal flooding, fluvial (river) flooding sewer flooding and surface water flooding.

- In terms of coastal flooding, the Upper Dock of Aberdeen Harbour is around 200m to the south, however due to the difference in levels between the harbour and the site there would be no risk of coastal flooding.
- The Den Burn and another minor water course are culverted beneath the city centre and represent a potential source of flooding. Software modelling has been used to consider the risk but does not show any flooding of the site from these sources.
- Overland flow of surface water has the potential to be an issue during extreme weather events. Whilst the topography of the surrounding area shows that flows would generally avoid the building. Due to the constraints on achievable freeboard between street level and ground floor level of the building, the FRA recommends flood resilient doors/barriers should be used. A condition would be attached requiring details to be submitted.

In summary the flood risk at the site is low, with measures proposed to mitigate any residual risk of surface water flooding.

### **Archaeology**

Policy D4 (Historic Environment) highlights the importance of considering archaeology. An Archaeological Desk Based Assessment has been produced by the applicant and concludes that the remains of the 19th-century Market Building may survive beneath the site. It is, however, considered that any impacts on these assets during the construction of the proposed development would be, at most, of negligible significance. The potential for previously unrecorded cultural heritage assets to survive beneath the present Market Building is considered to be low to medium. This potential will be affected by the extent of ground disturbance during the construction of the present Market Building. The assessment has been considered by the Council's archaeology advisor and it is agreed that a condition should be attached requiring a programme of archaeological works to be agreed and implemented.

## Other Technical Matters

Conditions are attached requiring details to be submitted relating to compliance with water efficiency low and zero carbon building requirements, in accordance with Policy R7 (Low & Zero Carbon Build & Water Efficiency). A further condition relating to submission of a Dust Management Plan to mitigate against any dust problems during construction in accordance with Policy T4 - Air Quality, and Construction Environmental Management Plan (at the request of SEPA) have also been attached.

## Developer Obligations

Policy I1 (Infrastructure Delivery and Planning Obligations) states that where development either individually or cumulatively will place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, the Council will require the developer to meet or contribute to the cost of providing or improving such infrastructure or facilities.

The Council's Developer Obligations officer has determined that a contribution (£14,229) is required towards Core Paths 96 (Castlegate to Anderson Drive), 98 (Union Street to Victoria Bridge) and 102 (The Green). A contribution of £7,000 has also been identified towards improving the quality of nearby open spaces such as Union Terrace Gardens, St Nicholas Street Civic Space and/or the Castlegate, which would see increased use as a result of the development.

## Equalities

Section 149 of the Equalities Act 2010 imposes a duty on the planning authority to have due regard in decision making to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. Being aware of an application for a similar development in England that had equalities implications, officers have considered whether there are any impacts on groups with protected characteristics in this application.

It has been identified that a unit within the market is operated as a support hub by charity Four Pillars, which provide supports to members of the lesbian, gay, bi-sexual and transgender (LGBT) communities. This triggers consideration of the duties under the act, as those with the protected characteristics of gender reassignment or sexual orientation have the potential to be affected.

Should the development proceed, and the applicant comes to an arrangement with the Market Village Company which allows the site to be redeveloped, the LGBT support hub would be displaced from its existing premises. Due regard is therefore required to be had as to the implications on the three general duties identified above in relation to the two groups with protected characteristics.

Whilst the new development would feature commercial premises at ground floor level, their proposed sizes are significantly larger than the space occupied by the charity at present and it would be expected that rents would be significantly more than those in the market, so retention of the support hub at this location in the long term is unlikely. However, at any point in time the city

centre has available a range of premises of varying sizes and cost which would be available for the charity to occupy, on the same terms as any non-protected group. Therefore, it is considered that the redevelopment of the site would not hinder equality of opportunity for the identified protected groups or affect either negatively or positively the ability to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the act. Similarly, there would be no impact either way on the duty to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Therefore, whilst it is acknowledged that the charity would experience disruption to its operation due to being displaced from its premises there is a reasonable likelihood that suitable and affordable alternative accommodation could be obtained. With this in mind it is considered that the impact on the protected group would not be significant enough to outweigh the benefits of allowing the proposed development to proceed that are detailed elsewhere in this report.

Separately from above considerations, the market accommodates occupiers from a range of ethnic backgrounds; however, it has not been identified that there is any significant concentration of any ethnicity or race present which could be disproportionately affected by displacement. Therefore, it is considered that the equality duty is not triggered in terms of race.

### **Other Matters raised by letters of representation**

- Concern is raised that the construction of the development would create disruption to traffic and visitors to the area. (*issue #11 in representations*). Such disruption during construction is inevitable, especially within the city centre where space is at a premium and different uses sit alongside one another. Any road closures and such like would be managed through traffic regulation orders and hours of work through environmental health legislation.
- Any failures in communication between the applicant, building tenant and market traders is not a material planning consideration (*issue #12 in representations*). The applicant has carried out the statutory pre-application consultation and certified that the building tenant (the Market Village Company) was notified of the application submission.

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

In relation to this particular application, other than as discussed above the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan, with Vibrant City policies continuing to promote the city centre and design policies seeking high quality design and protection of built heritage. Other than the change in approach to car parking standards discussed in the 'Access, Parking and Transport' part of the report, other technical policies do not substantially alter the policy position. The proposal is acceptable in terms of both Plans for the reasons previously given.

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

A legal agreement is required to secure the identified developer obligations and the provision of a car club vehicle.

### **Time Limit Direction**

The applicant has requested that a period of five years is granted for the duration of any planning approval instead of the standard three years that is the normal default imposed by legislation. It is considered reasonable to allow this longer period in order to support the development's delivery in recognition of the Council's desire to see this important CCMP project progress.

**RECOMMENDATION**

Approve Conditionally and withhold consent until a legal agreement is secured to deliver the developer obligations towards core paths, open space and provision of a car club vehicle.

**REASON FOR RECOMMENDATION**

National and regional planning policy seeks the regeneration on Aberdeen city centre. At a local level it is considered that the proposal would generally meet the aspirations sought by the City Centre Masterplan (CCMP) and would create an enhanced node within the city centre which would be a focus of activity during daytime and evening. The commercial environment and public realm would also be enhanced. The mix of uses and potential number of people working (800 to 1000 at full capacity) and visiting the building would contribute to the vibrancy, vitality and viability of this part of the city centre. The proposal would contribute to the high-level vision of the CCMP and therefore be compliant with Policy NC1 of the Aberdeen Local Development Plan (ALDP).

The current building contributes little to the character or appearance of the conservation area or amenity and vitality of the surrounding area in general. The closure of the market, whilst regrettable, is a commercial decision to be taken by the applicant as landlord of the building and the Market Village Company who operate the market, rather than a matter which can be controlled through the planning system.

It is acknowledged that the height and size of the building would represent a significant intervention in a sensitive part of the Union Street Conservation Area. In long-distance views across the city the building would sit comfortably on the skyline; complementing the other tall buildings it would sit alongside and those in the background. In medium and short distance views from Market Street and Union Street, the building would generally maintain the character of the area. From The Green and various points within the area known as the Merchant Quarter, it is acknowledged that there would be a localised harm to the conservation area due to the height and size of the building compared to the relatively modest scale of the historic townscape contrary to policy and guidance relating to protection of the historic environment. However, this harm is considered to be outweighed by the wider benefits which the development would offer. These include removing the existing building which offers little by way of interaction with its surroundings, the provision of active commercial uses at street level, increased and enhanced areas of public realm and the economic uplift from increased number of workers and visitors in the area

For the majority of residential properties on close proximity to the site, the outlook would improve and there would be no privacy, daylight or sunlight issues. For the Stirling Street and Exchange Street flats which are closest, there may be a negligible reduction in daylight availability.

In terms of car parking on balance, the proposed 126 spaces would be acceptable taking into account the parking standards in the adopted LDP and on the basis that it would represent a continued trend in reducing the number of parking spaces provided within new city centre developments. The proposal would also result in the loss of 32 existing spaces reducing the net additional gain in parking to 94 spaces, which is considered acceptable. Traffic analysis shows that, with the addition of traffic associated with the development, surrounding junctions would still operate within capacity and that no mitigation measures would be required.

Otherwise, subject to several planning conditions and a legal agreement, the building would meet relevant technical and design criteria relating to accessibility, traffic, air quality, amenity, microclimate, noise, waste, drainage, and flooding.

Due regard has been had to equalities and groups with protected characteristics, with the

identified impact considered minimal and not sufficient to warrant refusal of the application.

## **CONDITIONS**

### PRE-DEMOLITION

#### **(1) GEO-ENVIRONMENTAL INVESTIGATION**

No development (including demolition or site setup) shall take place unless a scheme to deal with any contamination that may exist within the site has been submitted to and approved in writing by the planning authority. The scheme shall follow the procedures outlined in Planning Advice Note 33 (Development of Contaminated Land) and shall be conducted by a suitably qualified person in accordance with best practice as detailed in BS10175 (Investigation of Potentially Contaminated Sites - Code of Practice) and other best practice guidance and include (i) an investigation to determine the nature and extent of contamination; (ii) a site-specific risk assessment; and (iii) a remediation plan to address any significant risks and ensure the site is fit for the use proposed.

Thereafter the development shall not be brought into use unless (i) any long term monitoring and reporting that may be required by the approved scheme of contamination or remediation plan or that otherwise has been required in writing by the planning authority is being undertaken and (ii) a report has been submitted and approved in writing by the planning authority that verifies that remedial works to fully address contamination issues related to the site has been carried out, unless the planning authority has given written consent for a variation.

Reason – to sure that the site is fit for human occupation

#### **(2) ARCHAEOLOGY**

No development (including demolition or site setup) shall take place unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason – to safeguard and record the archaeological potential of the area.

#### **(3) SURFACE WATER MANAGEMENT**

No development (including demolition or site setup) shall take place unless a demolition/construction phase surface water management strategy has been submitted to and approved in writing by the planning authority in consultation with SEPA. SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) must be used as a basis for the strategy. Thereafter demolition/development shall not be undertaken other than in accordance with the approved plan.

Reason – to minimise the impacts of demolition/construction works on the environment.

#### (4) SITE WASTE MANAGEMENT PLAN

No development (including demolition or site setup) shall take place unless a demolition/construction phase site waste management plan (SWMP) has been submitted to and approved in writing by the planning authority in consultation with SEPA. The SWMP must take account of the guidance available at the NetRegs website and specifically the Waste Management Plan template. Thereafter demolition/development shall not be undertaken other than in accordance with the approved plan.

Reason – to improve materials resource efficiency and ensure the appropriate management and disposal of waste from the development.

#### (5) DUST MANAGEMENT PLAN

No development (including demolition or site setup) shall take place unless a Dust Management Plan for the demolition/construction phase of development has been submitted to and approved in writing by the planning authority. The management plan shall specify dust mitigation measures and controls, responsibilities and any proposed monitoring regime. Thereafter demolition/development shall not be undertaken other than in accordance with the approved plan.

Reason – to control air pollution from dust associated with demolition and construction of the development.

#### (6) SUSTAINABILITY MEASURES

No development (including demolition or site setup) shall take place unless a scheme of sustainability measures to be implemented within the development has been submitted to and approved in writing by the planning authority in consultation with SEPA. The scheme should investigate and where appropriate implement the use of rainwater harvesting, bio-retention, green/blue roofs, living green walls, renewable energy sources and other suitable sustainability measures.

Reason – To contribute to and enhance the natural environment and support Policy D1 (Quality Placemaking by Design)

#### (7) NO. 6 MARKET STREET

No development (including demolition or site setup) shall take place unless a scheme detailing the works to 6 Market Street has been submitted to and approved in writing by the planning authority. The scheme shall include detailed specifications featuring –

1. 1:10 elevation and section drawing detailing the proposed alteration to Market Street elevation shopfront including the new column details and positioning of the glazing.
2. Details of the proposed new arched glazing.
3. 1:10 elevation and section showing how the new building will abut 6 Market Street
4. A sample of stone for the stone forming the new columns.
5. Details of the external finishing material for the East Green elevation

Thereafter demolition/development shall not be undertaken other than in accordance with the approved scheme.

Reason – to ensure an appropriately high quality of detailing commensurate with the civic scale and setting of the proposal.

## PRE-CONSTRUCTION

### (8) DRAINAGE

No development shall take place unless a detailed scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by the planning authority. Thereafter development shall not be brought into use unless the development has been implemented in accordance with the approved scheme and is available for use.

Reason – to safeguard water quality and to ensure that the development can be adequately drained.

### (9) FLOOD MITIGATION

No development associated with the construction of the development shall take place unless a scheme for the provision of flood resilient doors has been submitted to and approved in writing by the planning authority. Thereafter the building shall not be brought into use unless the approved scheme has been implemented.

Reason – to mitigate the residual risk to the building of surface water flooding.

### (10) EXTERNAL FINISHING MATERIALS

No development shall take place unless a scheme detailing all external finishing materials of the proposed building has been submitted to and approved in writing by the planning authority. The scheme shall include –

1. Detailed specifications of all materials to be used on the external areas of the building
2. Elevational drawings clearly showing which materials are to be used on each part of the building
3. 1:20 construction drawings, showing the size of granite cladding blocks to be used
4. 1:20 construction drawings, showing the detailing of points where there would be a change in the surface finishes (for example where glazed sections of frontage meet granite-clad sections)
5. Perforated translucent lattice grills to the East Green elevation of the car park.
6. Measures to prevent the nesting of birds on the external areas of the building.

Thereafter the development shall be finished in accordance with the approved scheme unless a written variation has been approved by the planning authority.

Reason – to ensure an appropriately high quality of detailing commensurate with the civic scale and setting of the proposal.

### (11) EXTERNAL LIGHTING STRATEGY

No development associated with the construction of the development shall take place unless a scheme for the external lighting of the building (including the 'lantern tower') and its external areas has been submitted to and approved in writing by the planning authority. Thereafter the building shall not be brought into use unless the approved scheme has been implemented and is operational.

Reason – to integrate the development into the surrounding streetscape and skyline.

**(12) MICRO-CLIMATE**

No development associated with the construction of the development shall take place unless a scheme for the provision of measures to mitigate the impact of the building on the surrounding microclimate (as recommended in Micro-climate study F1879 101 R01 (Rev.A) and addendum by Wilde) has been submitted to and approved in writing by the planning authority. Thereafter the measures shall be implemented as soon as practicably possible during the construction of the building. In any case, the building shall not be brought into use unless the approved measures have been implemented.

Reason – to mitigate the impact of the building on the surrounding micro-climate.

**(13) LOW AND ZERO CARBON GENERATING TECHNOLOGIES**

The building shall not be occupied unless (i) a scheme detailing compliance with Policy R7 (Low and Zero Carbon Buildings, and Water Efficiency) and associated supplementary guidance (or any superseding policy or guidance covering the same matter) of the Aberdeen Local Development Plan with regards to low and zero carbon generating technologies has been submitted to and approved in writing by the planning authority; and (ii) thereafter the approved scheme has been implemented and measures are available for use

Reason – to ensure the development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings' or other guidance in force for the same purpose.

**(14) WATER EFFICIENCY**

The building shall not be brought into use unless (i) a scheme detailing compliance with Policy R7 (Low and Zero Carbon Buildings, and Water Efficiency) and associated supplementary guidance (or any superseding policy or guidance covering the same matter) of the Aberdeen Local Development Plan with regards to water efficiency measures has been submitted to and approved in writing by the planning authority. The scheme should consider the advice provided in CIRIA publication C723 (Water sensitive urban design in the UK) and specify the measures proposed to incorporate water saving technology into the development. Thereafter the building shall not be brought into use unless the approved scheme has been fully implemented and identified measures are available for use.

Reason – to help avoid reductions in river water levels, which at times of low flow can have impacts on freshwater pearl mussel, one of the qualifying features of the River Dee Special Area of Conservation (SAC).

**(15) EXTERNAL PUBLIC REALM AND LANDSCAPING**

No development associated with the construction of the development shall take place unless a scheme detailing all hard and soft landscaping has been submitted to and approved in writing by the planning authority. The scheme shall take account of the historic townscape context, functional purpose and micro-climate study and include detailed specifications of –

- a. Proposed finished ground levels and features designed to allow pedestrian movement from different levels, taking account of the changes in levels across the site and surrounding streets.
- b. Location, design and materials of walls, planters, railings and all other street furniture.

- c. Proposed, tree and shrub numbers, densities, locations, species, sizes and stage of maturity at planting (including proposed green walls).
- d. Proposed hard surface finishing materials within the site and on pavements immediately adjacent to the site.
- e. The retention of the existing tree planters located on Hadden Street (unless their removal can be justified as being unavoidable)
- f. Arrangements for the management and maintenance of proposed public realm.

Thereafter the building shall not be brought into use unless the areas of public realm have been constructed and are available for use in accordance with the approved scheme. Such areas will thereafter remain in use as publicly accessible space for the life of the development.

All soft landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of each respective phase of the development or such other date as may be agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of each phase of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason – to integrate the development into the surrounding streetscape and enhance the provision of public realm within the city centre.

#### PRE-OCCUPATION

##### (16) NOISE MITIGATION (MECHANICAL PLANT)

No part of the building shall be brought into use unless a noise assessment considering the impact on nearby residential properties (existing and consented) of noise from mechanical plant associated with the development has been submitted to and approved in writing by the planning authority. This assessment should:

- Be in accordance with Planning Advice Note (PAN) 1/2011 Planning and Noise and its accompanying Technical Advice Note.
- Identify the likely sources of noise associated with the proposed development.
- Detail the noise mitigation measures to reduce noise from the likely noise sources to an acceptable level to reasonably protect the amenity of the occupants of the existing neighbouring residences.
- The methodology for the noise assessment should be submitted and agreed in writing with this Service in advance of the assessment

Thereafter the building shall not be brought into use unless any identified mitigation measures have been implemented and are operational.

Reason – to protect residential properties from noise associated with the development.

##### (17) TAXI RANK

No part of the building shall be brought into use unless a scheme showing an amended taxi rank layout on Hadden Street which takes account of vehicular access and egress points to the development, has been submitted to and approved in writing by the planning authority.

Thereafter, unless otherwise agreed in writing with the planning authority the building shall not be

brought into use unless (i) any markings or signs associated with the taxi rank which require to be amended as a consequence have been implemented; and (ii) any necessary traffic regulation order is in place and licensing requirements are in place to ensure the amended taxi rank has effect.

Reason – to ensure that the impact of the development on the existing taxi rank is appropriately addressed.

#### (18) CAR CLUB PARKING SPACES

No part of the building shall be brought into use unless a scheme showing the location and delivery method of one 'car club only' parking space has been submitted to and approved in writing by the planning authority.

Thereafter, unless otherwise agreed in writing with the planning authority, the building shall not be brought into use unless (i) the car club only parking space has been constructed and/or marked out and is available for use and any associated signs or road markings have been implemented, and (ii) a traffic regulation order (TRO) is in place to restrict the use of the parking spaces to car club vehicles only.

Reason – To encourage modal shift away from the private car.

#### (19) CAR PARKING

No part of the building shall be brought into use unless the car parking area (including motorcycle & bicycle parking, showers and electrical charging points) has been constructed and laid out in accordance with HFM drawings 11131 P(00)18D and 11131 P(00)19D (or other such drawing as agreed for the purpose) and is available for use.

Thereafter the parking spaces shall be used for no purpose other than for the parking of vehicles belonging to those working at or visiting the building.

Reason – in the interests of public safety and the free flow of traffic

#### (20) WASTE STORAGE

No part of the building shall be brought into use unless the waste storage area shown on HFM drawing 11131 P(00)19D (or other such drawing as agreed for the purpose) has been constructed and is available for use.

Waste storage areas shall not thereafter be used for any other purpose other than the purpose of storing waste generated by the development. No waste storage containers shall be stored outside the building at any time.

Reason – to ensure there is sufficient space for the storage of waste and to maintain the amenity of the area.

#### (21) TRAVEL PLAN

No part of the building shall be brought into use unless a detailed Green Transport Plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets has been submitted to and approved in writing by the planning authority.

Reason – to encourage more sustainable forms of travel to the development.

#### PRE-OCCUPATION (SPECIFIC USES)

##### (22) COOKING ODOUR EXTRACTION

No part of the building shall be brought into use for the purposes of Class 3 (Food and Drink) or public house uses unless a scheme showing the proposed means of filtering, extracting and dispersing cooking fumes from that part of the building has been submitted to and approved in writing by the planning authority. Thereafter the use shall not take place unless the approved scheme has been implemented in full and is ready for operation.

Reason – to ensure cooking odours do not adversely affect the amenity of the surrounding area.

##### (23) PUBLIC HOUSE NOISE MITIGATION

No part of the building shall be brought into use for the purposes of public house use unless a detailed assessment of the likely sources and levels of noise arising within, and those audible out with, that part of the building has been submitted to and approved in writing by the planning authority. The noise assessment shall be carried out by a suitably qualified independent noise consultant and where necessary will specify a scheme of mitigation measures to ensure that the impact of the noise on surrounding residential properties is minimised. Thereafter the use shall not take place unless the approved scheme has been implemented in full and is ready for operation.

Reason – to ensure noise does not adversely affect the amenity of the surrounding area.

#### ONGOING CONTROL

##### (24) CONTROL OF USES

Each of the identified areas of the building on Level One and Level Two (as shown on HFM drawings 11131 P(00)19D and 11131 P(00)20D), as well as the entire floor space and terraces at Level Ten and Level Eleven, may be occupied for the purposes of Use Class 1 (Shops), Class 2 (Financial, Professional and Other Services), Class 3 (Food and Drink), Class 11 (Assembly and Leisure) (subject to the restrictions specified in condition 24), public house use; or a mixed-use activity comprising any of these uses.

In the case of Levels Ten and Eleven, this provision is in addition to the underlying Class 4 (Business) use which applies to these floors.

For the avoidance of doubt, once initial occupation of any of the ground floor commercial units or Level Ten or Level Eleven has taken place, unless subject of permitted development rights under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), any further change of use will require planning permission.

Reason – to ensure an appropriate mix of uses which contribute to the vitality and viability of the city centre at ground floor and the opportunity for public uses at the upper floors.

##### (25) RESTRICTION ON CLASS 11 (ASSEMBLY AND LEISURE) USE

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) and the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), the uses permitted within Class 11 (Assembly and Leisure) does not include dance hall or discotheque (better now known as night club) or casino.

Reason – to ensure as far as possible that the building offers an active frontage with daytime activity which contributes to the vitality and viability of the city centre

#### (26) SERVICING HOURS

Unless otherwise agreed in writing by the planning authority, service deliveries or collections at the building by heavy goods vehicles shall be restricted to 0700 to 1900 Monday to Saturday and 0900 to 1900 on Sundays.

Reason – to prevent any adverse impact on amenity as a result of deliveries and servicing occurring at unsociable hours.

### **INFORMATIVE NOTES**

#### (1) HOURS OF DEMOLITION AND CONSTRUCTION WORK

Unless otherwise agreed in writing with Aberdeen City Council Environmental Health Service ([poll@aberdeencity.gov.uk](mailto: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.

#### (2) CONTROL OF STONE CLEANING

For the avoidance of doubt the consent hereby granted does not give or imply the granting of consent for stone cleaning using abrasive, chemical or high-pressure water (above 50 psi) methods. Should stone cleaning be proposed using these methods, a separate application for planning permission and where relevant listed building consent, must be submitted. For further advice please contact the planning authority.

# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



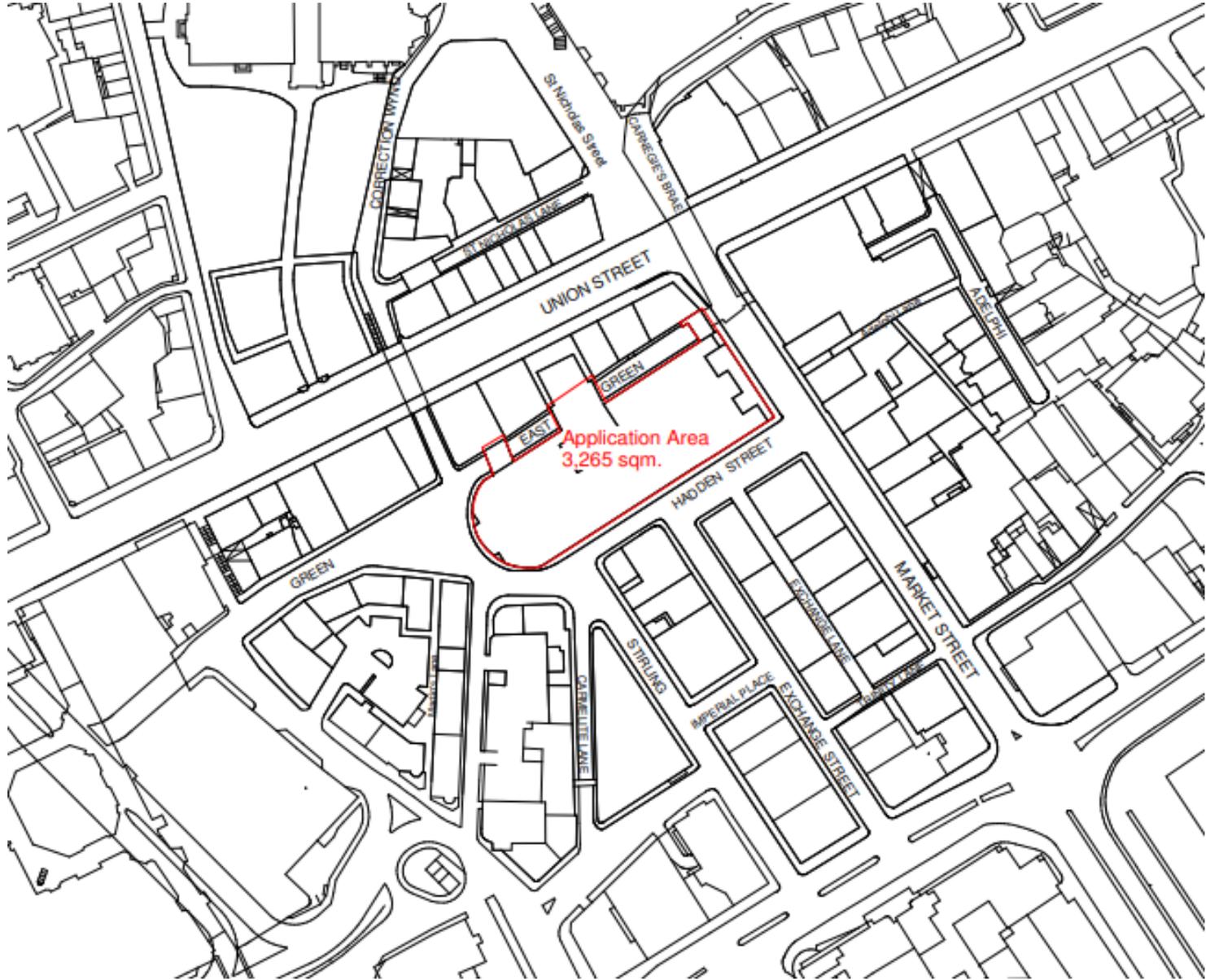
## Item 6.2

Demolition and redevelopment of the existing site to form a mixed use office-led development (Class 4) (circa 18,000 sqm), with retail (Class 1), financial and professional (Class 2), food and drink (Class 3), public house (Sui Generis) and assembly and leisure (Class 11) uses (circa 750sqm), landscaping, public realm, car parking and associated works

Aberdeen Market, Market Street

Detailed Planning Permission  
190312/DPP

# Location



# Existing View of Building



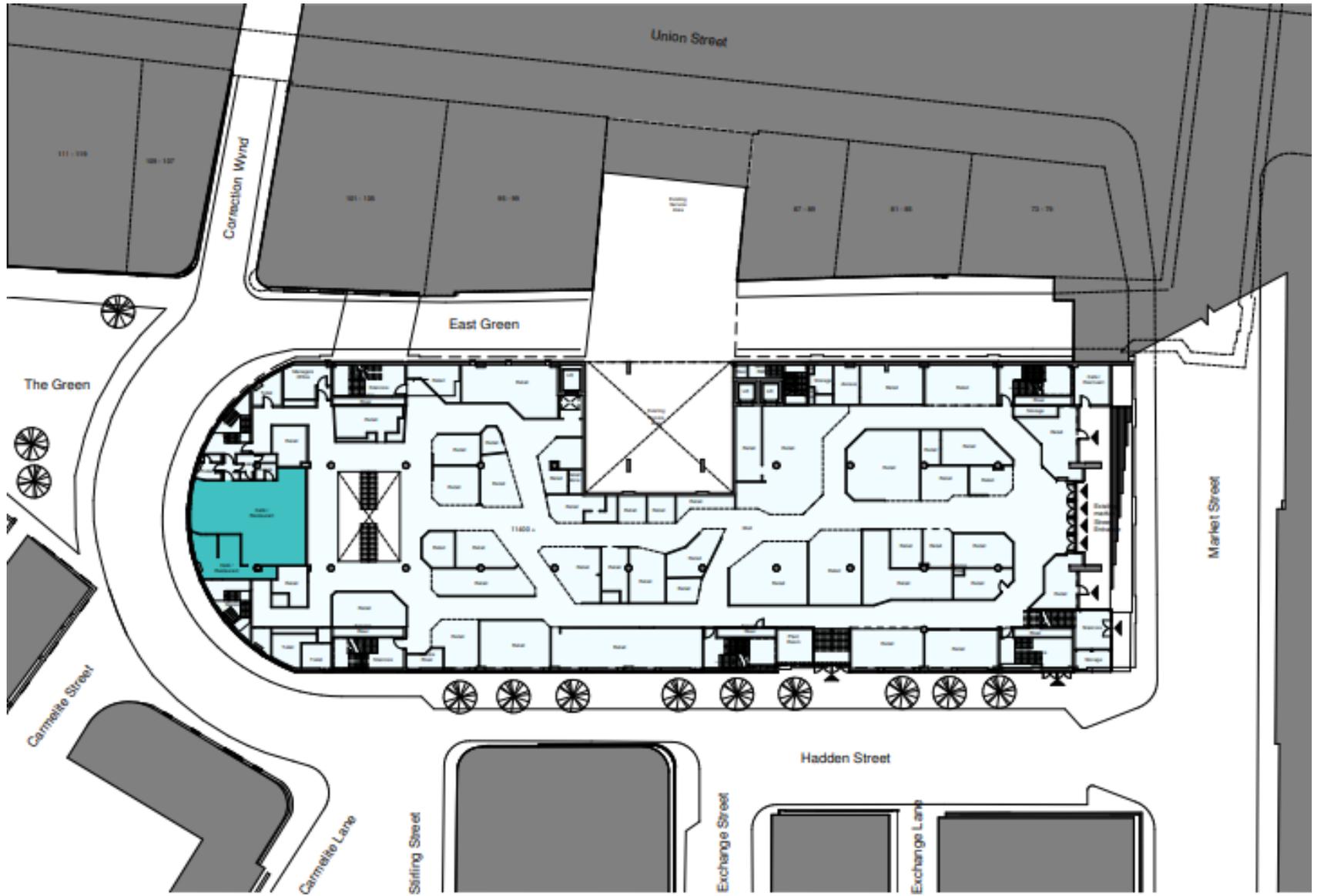
# Existing View of Building



# Existing View of Building



# Existing Ground Floor Plan



# Proposed Market Street (East) Elevation

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Hadden Street

Union Street



1. Model for Planning  
 2. Model for Planning  
 3. Model for Planning  
 4. Model for Planning



**HALLIDAY FRASER MUNRO**  
 CHARTERED ARCHITECTS & PLANNING CONSULTANTS

Project:  
 Proposed Redevelopment of Aberdeen Market

Client:  
 Parkside  
 Date:  
 Proposed East Street Elevation (Market Street)

Reference:  
 11125 - HFM P/20131

Scale:  
 1 : 200  
 Date:  
 Feb 2010

Registered Office:  
 1 York Place  
 Aberdeen, AB10 1YS  
 Tel: 01224 661100  
 Fax: 01224 661101  
 Email: info@hfm.co.uk

- Key:
1. Existing structure: 11 Hadden Street, 11 Union Street
  2. Current Building to be retained
  3. Current Building to be removed
  4. Building to be demolished (including proposed Glass Box, 11/12)
  5. Future Building to be retained
  6. Glass structure to be retained
  7. Glass structure to be removed
  8. Structure to be demolished (to be retained)



# Proposed The Green (West) Elevation

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Union Street

East Green

Hadden Street

- Key
- 1. Existing structure to be demolished, demolished
  - 2. Custom-Welding to be removed
  - 3. Custom-Welding to be removed
  - 4. Custom-Welding to be removed
  - 5. Secondary Super Structure to be removed
  - 6. Glass facade to be removed
  - 7. Metal structure to be removed
  - 8. Vertical metal structure to be removed

11/13/19 - HFM  
11/13/19 - HFM  
11/13/19 - HFM  
11/13/19 - HFM



**HALLIDAY FRASER MUNRO**  
CHARTEDED ARCHITECTS & PLANNING CONSULTANTS

Project: Proposed Redevelopment of Abbotkin Market

Client: Public

View: Proposed West Street Elevation (The Green)

11/13/19 - HFM  
P10033

Scale: 1 : 200  
Date: Feb 2019

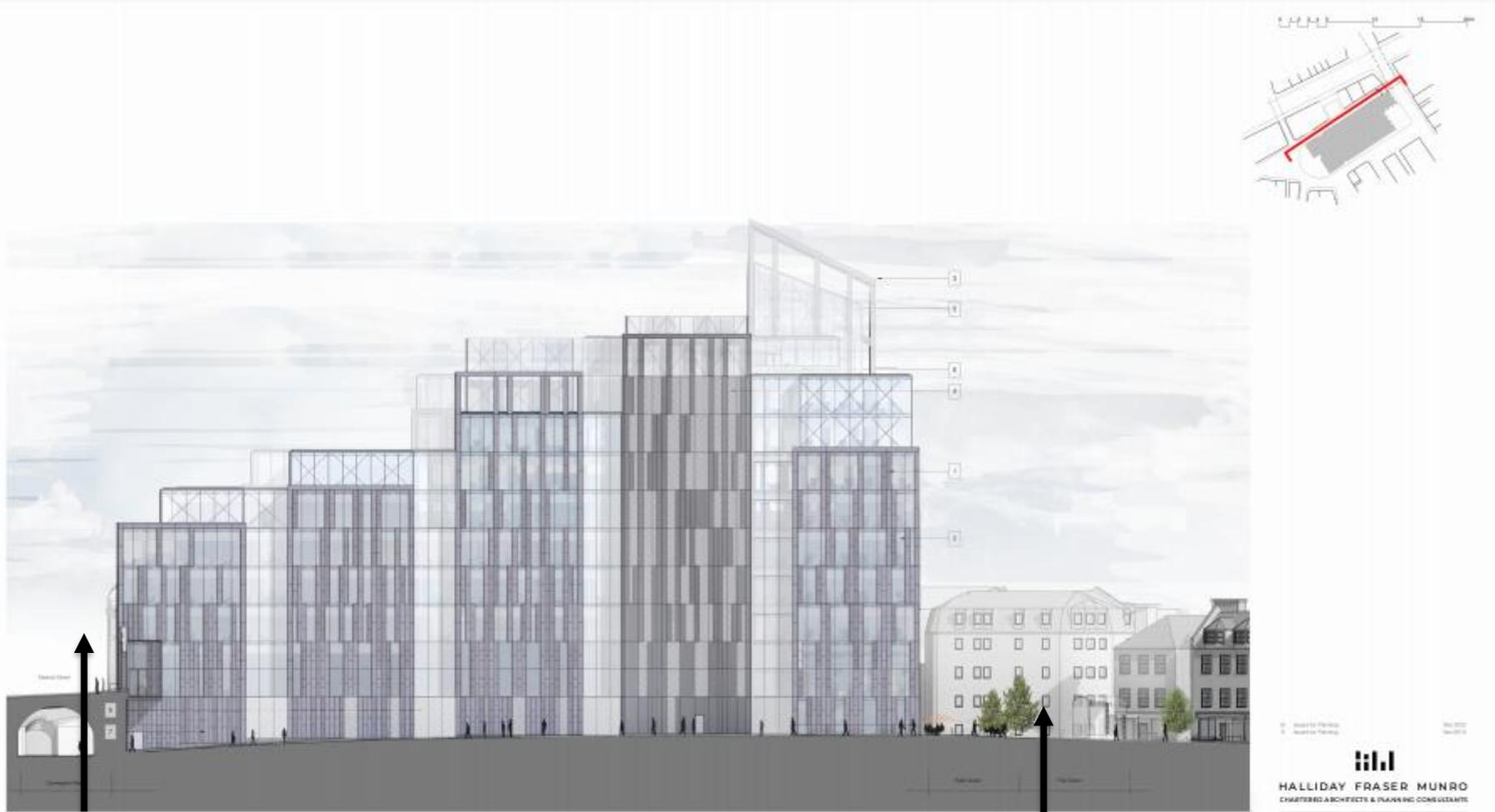
Do not scale the drawing.  
Architectural rendering is not a legal document and should not be used for any legal or financial purposes without the consent of the architect.

The copyright of this drawing remains with Halliday Fraser Munro.

Registered Office: 1 St John Street, Aberdeen, AB10 1JG  
1 St John Street, Aberdeen, AB10 1JG

# Proposed East Green (North) Elevation

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Market Street

The Green

- 1. Greater Glasgow Council (Glasgow Council) - Approved
- 2. Greater Glasgow Council (Glasgow Council) - Approved
- 3. Greater Glasgow Council (Glasgow Council) - Approved
- 4. Greater Glasgow Council (Glasgow Council) - Approved
- 5. Greater Glasgow Council (Glasgow Council) - Approved
- 6. Greater Glasgow Council (Glasgow Council) - Approved
- 7. Greater Glasgow Council (Glasgow Council) - Approved
- 8. Greater Glasgow Council (Glasgow Council) - Approved

11131 - HFM P/0034

**HALLIDAY FRASER MUNRO**  
 CHARTERED ARCHITECTS & PLANNING CONSULTANTS

PROJECT: Proposed Redevelopment of Aberdeen Market

Client: Patricia  
 Title: Proposed North Street Elevation East Green

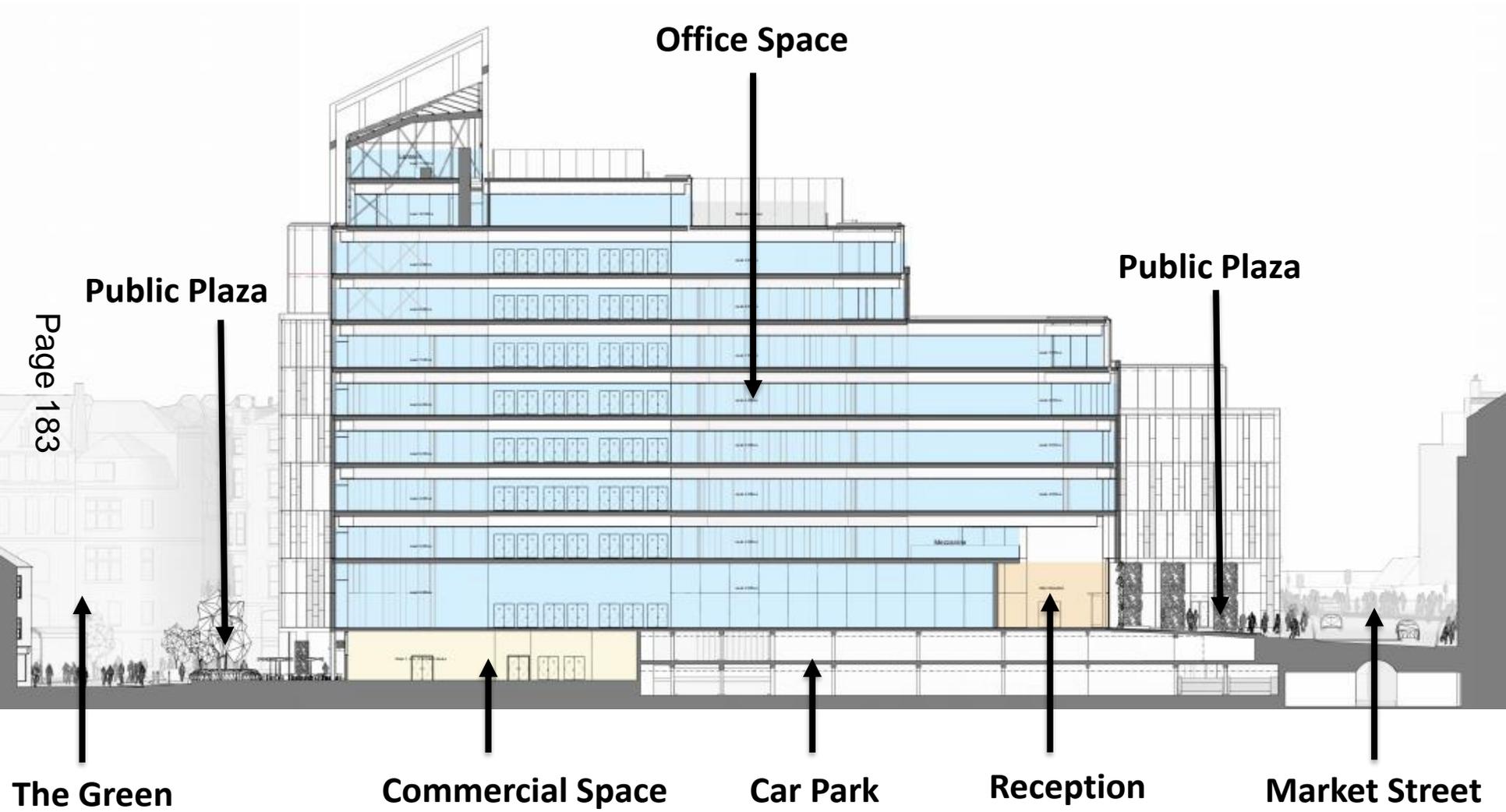
11131 - HFM P/0034

Scale: 1:200 Date: Feb 2019

Author: [Name]  
 Checked: [Name]  
 Approved: [Name]

# Proposed Cross Section – Market Street to the Green

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Public Plaza

Office Space

Public Plaza

The Green

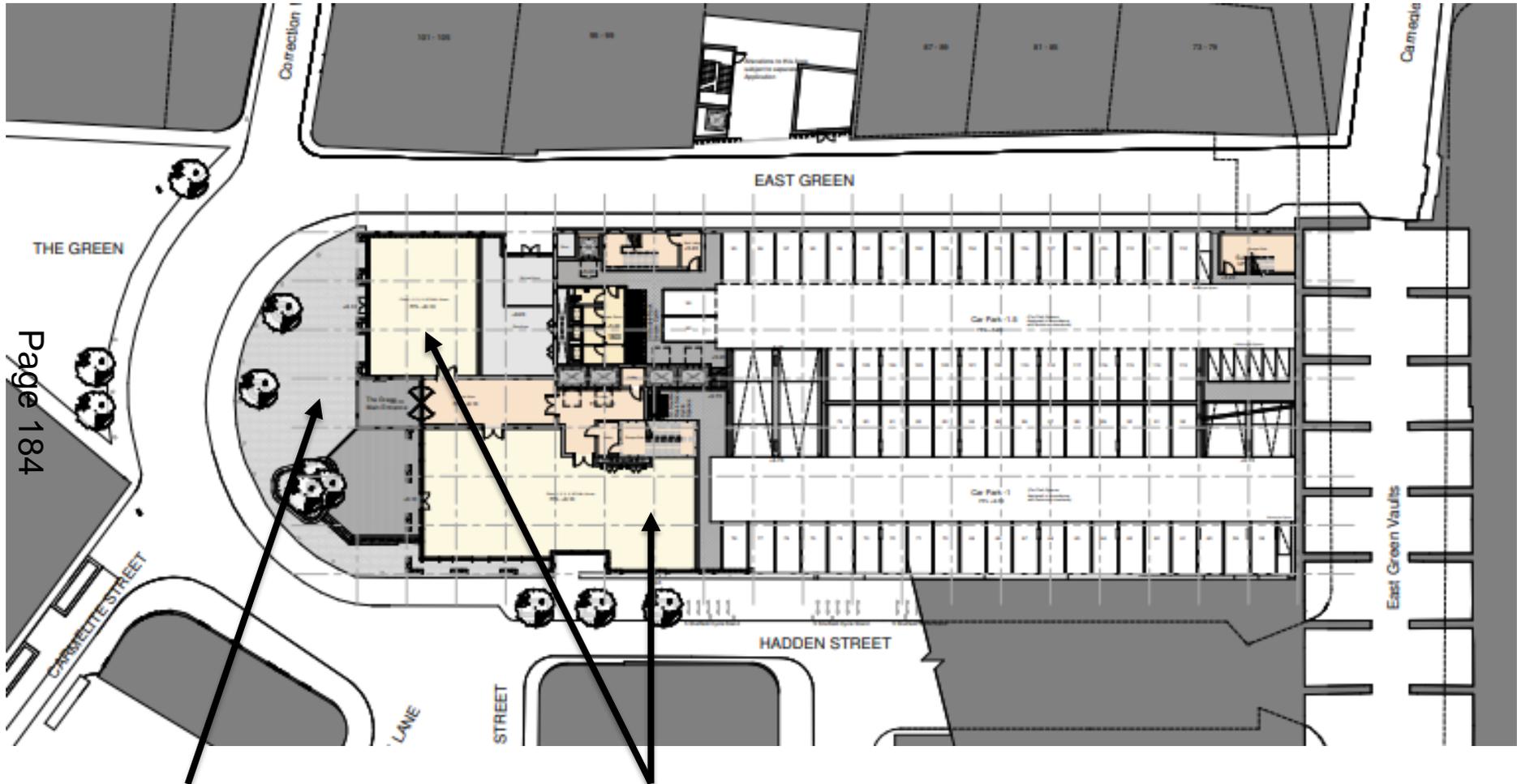
Commercial Space

Car Park

Reception

Market Street

# Proposed Level 0 (Commercial Space @ The Green (Double Height) and Car Park Levels -1.5 and -1)

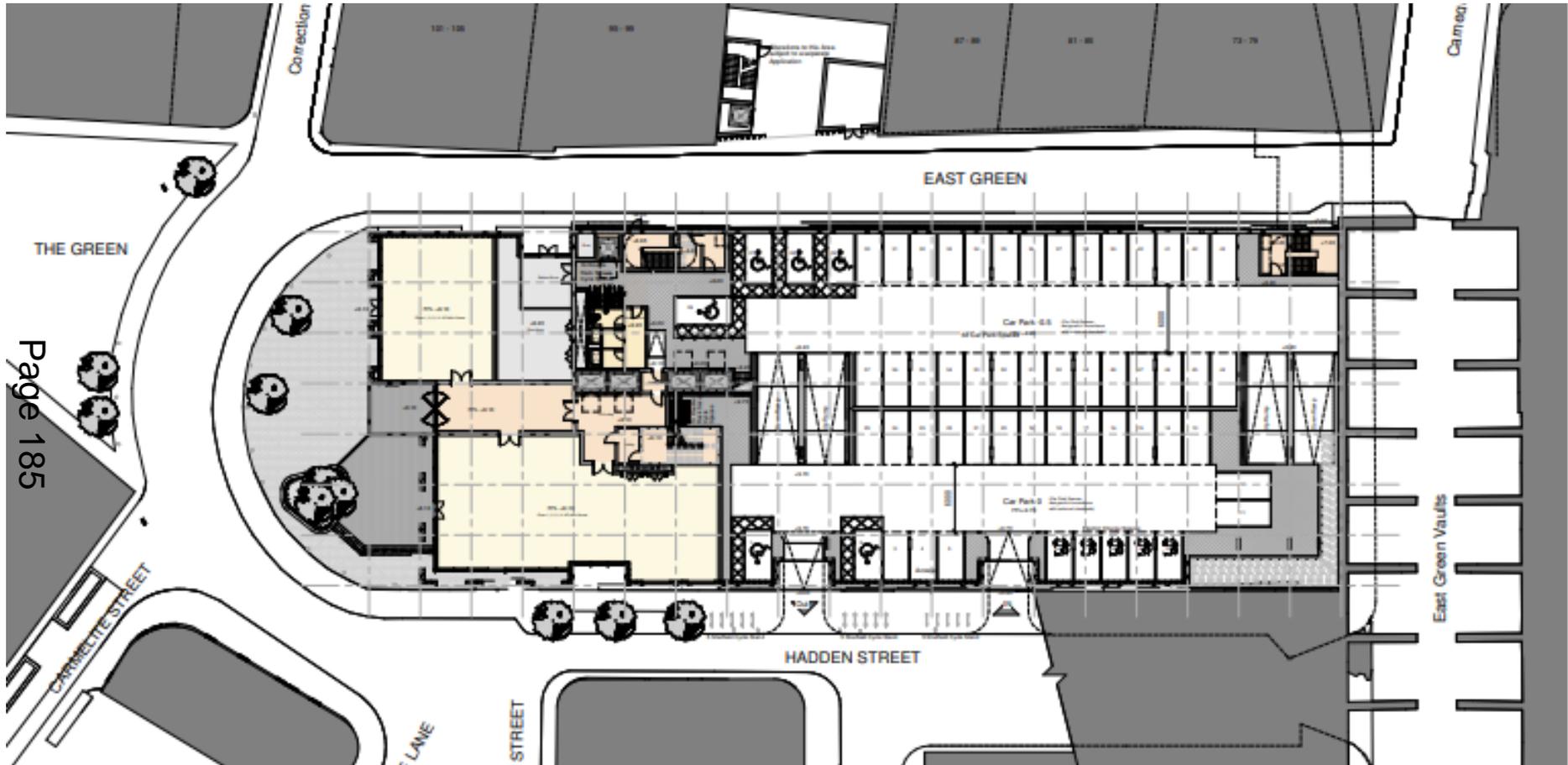


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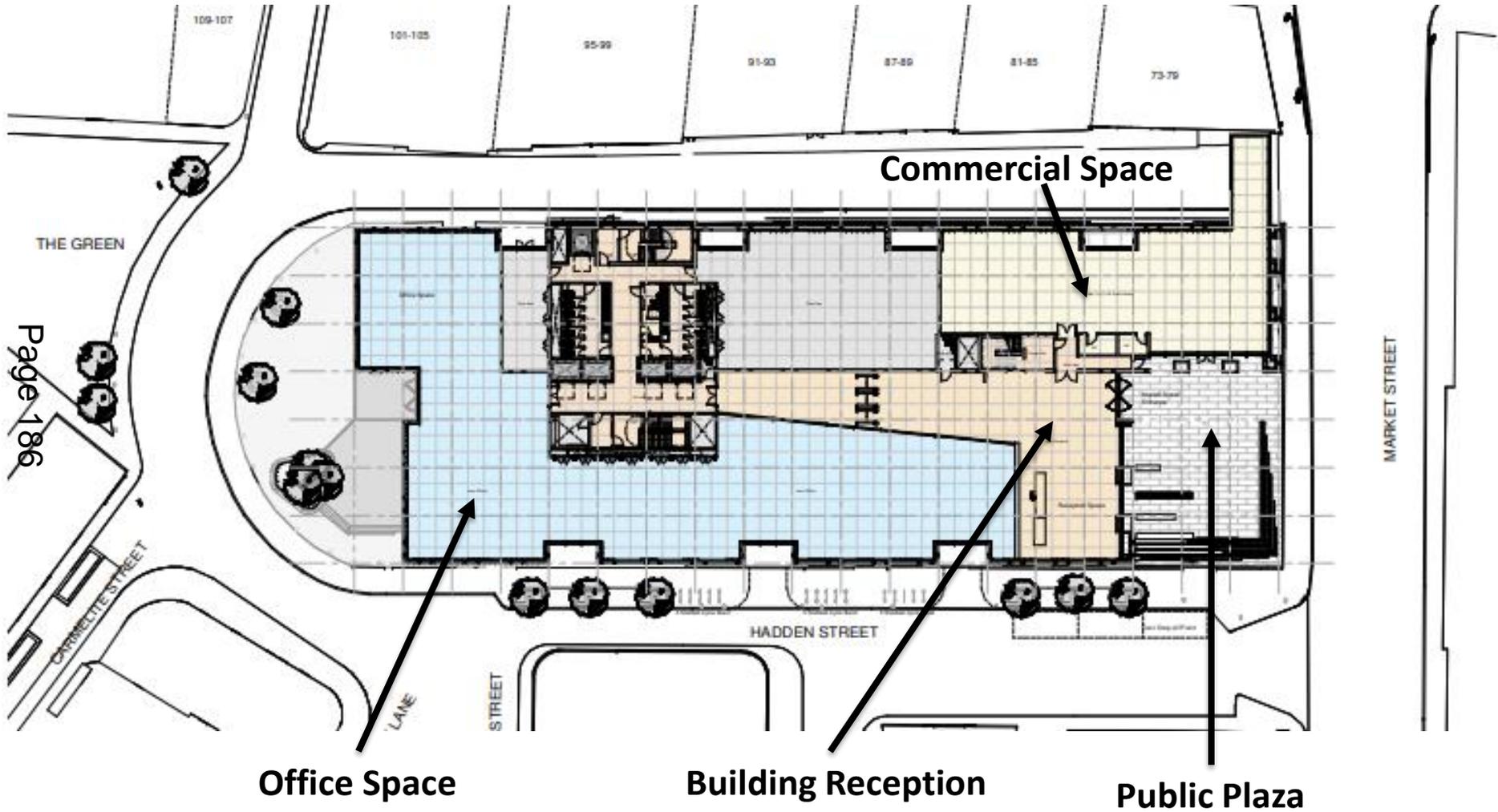
Public Plaza

Commercial Space

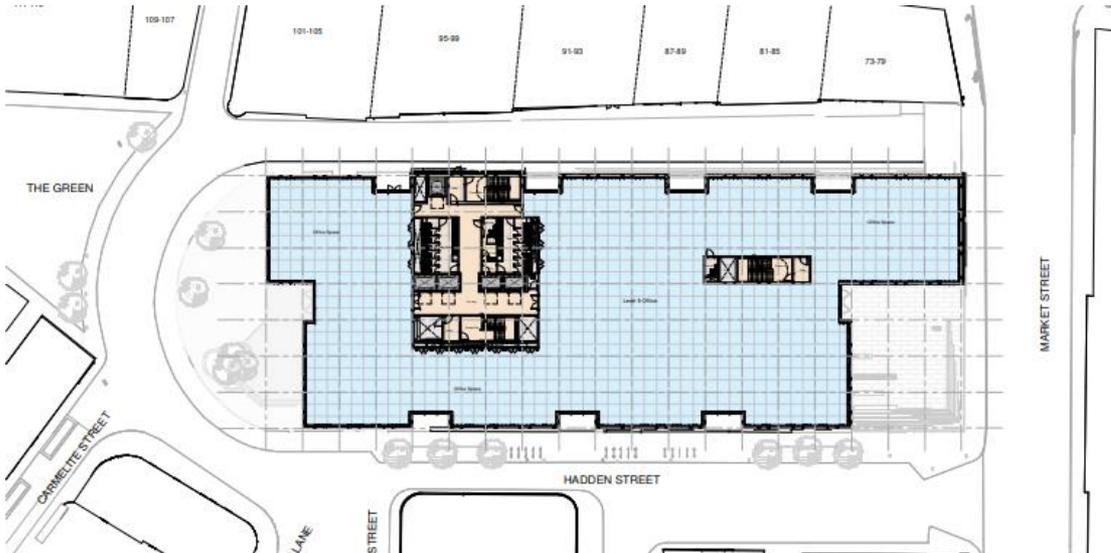
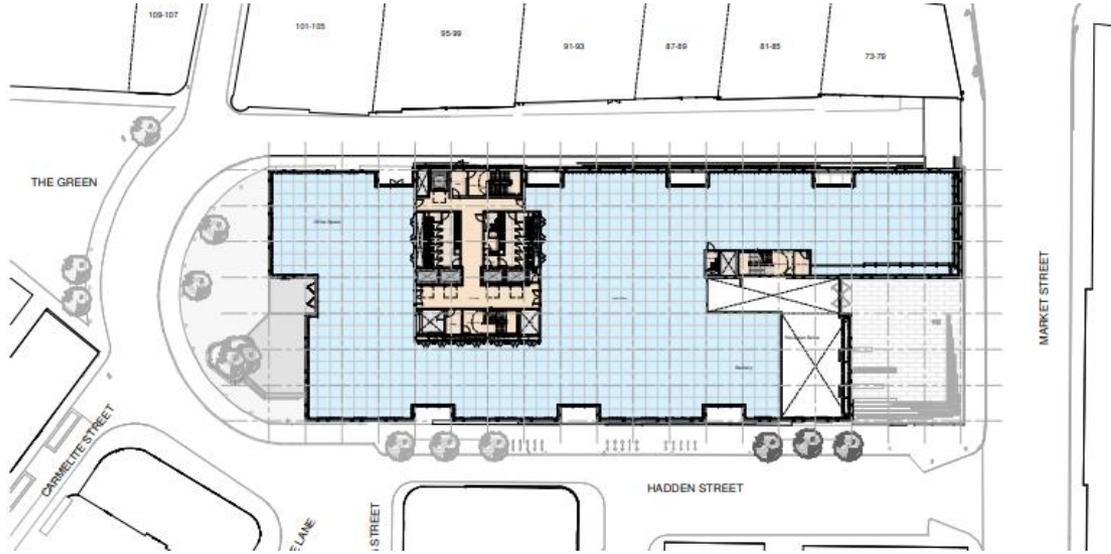
# Proposed Level 1 (Commercial Space @ The Green (Double Height) and Car Park Level -0.5 and 0)



# Proposed Level 2 (Commercial Space @ Market Street, Building Reception and Office Space)



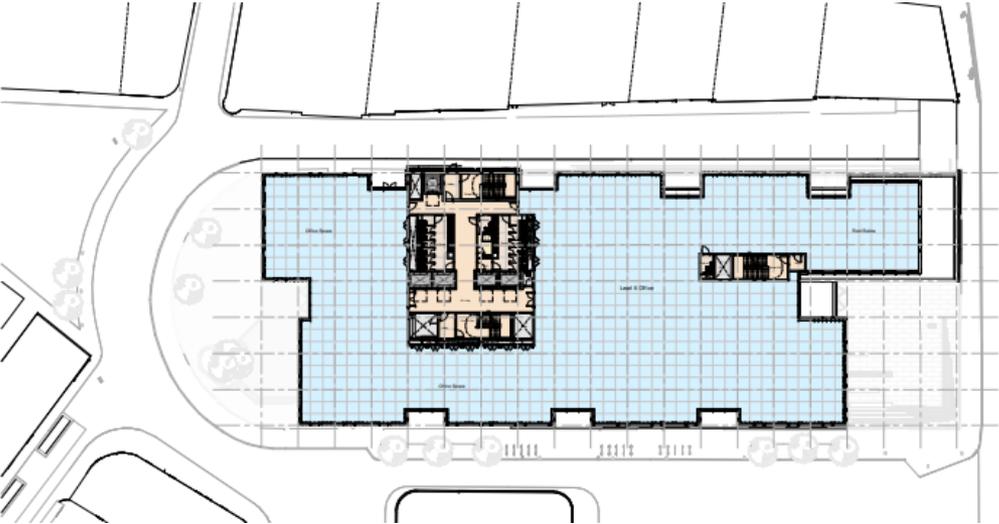
# Proposed Levels 3 and 4 (Office Space)



# Proposed Levels 5 and 6 (Office Space)



5

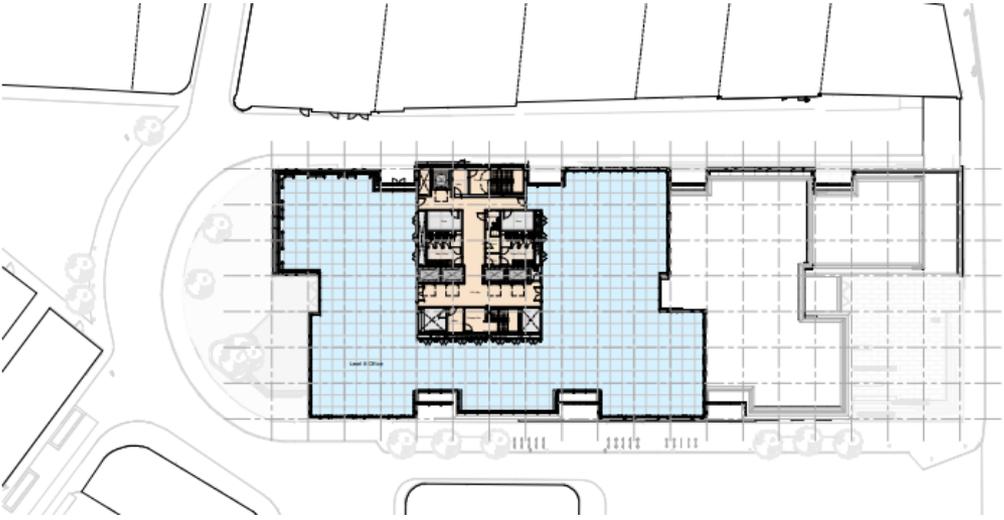


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# Proposed Levels 7 and 8 (Office Space)



7



8

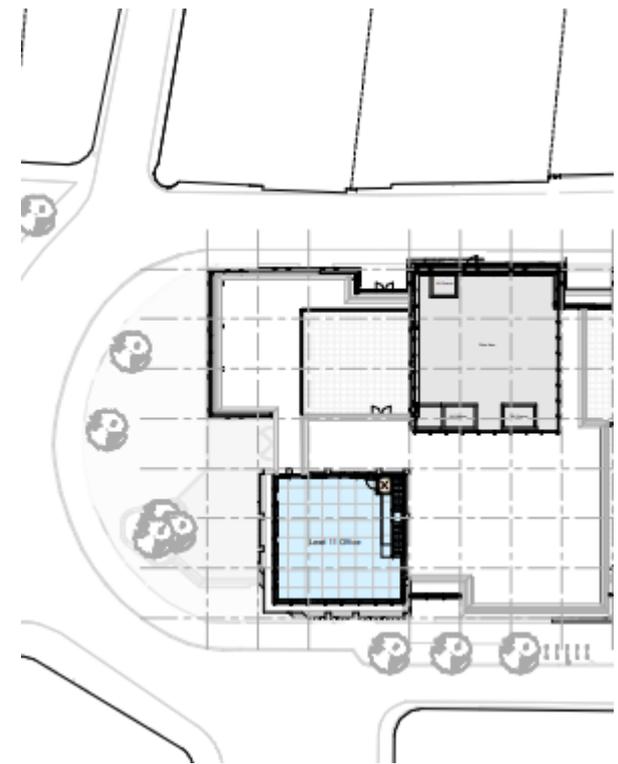
# Proposed Levels 9, 10 and 11 (Office Space)



9



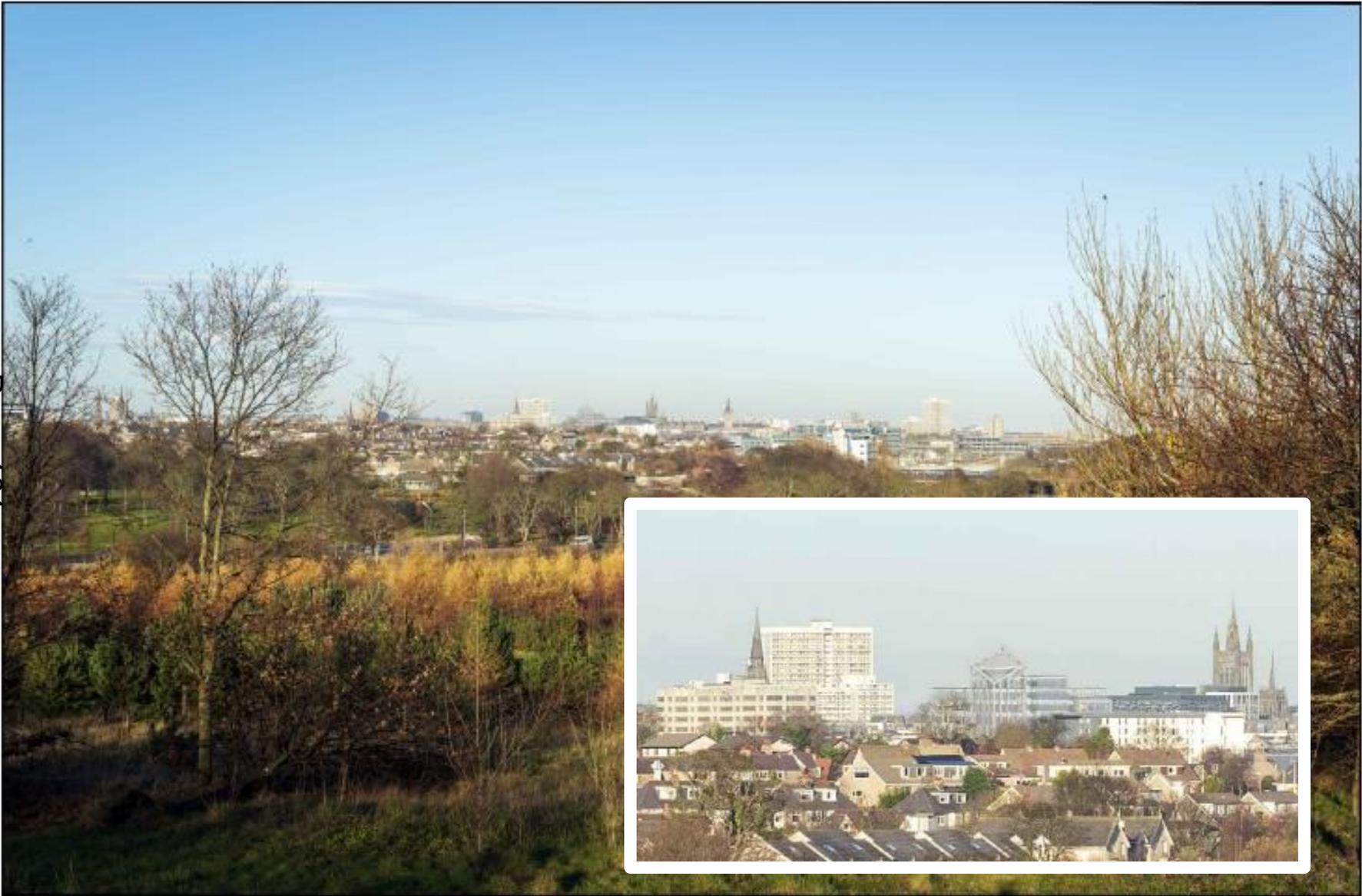
10



11

# View from West Tullos Road/Abbotswell Road

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Verified View 3.

# View from Guild Street – Outside Union Square



# View from Guild Street – Looking Up Market Street



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Verified View 8.

# View from Union Street/Bridge Street



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Verified View 11a.

# View from Union Street – Near Junction with Crown Street

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Verified View 11b.

# View from St Nicholas Street – Looking South

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Verified View 10.

# View from Union Street – Looking Down Market Street



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Verified View 9.

# View from Union Street



View from Union Street looking towards Market Street

# View from Market Street (1)



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View from Market Street

# View from Market Street (2)



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View from Market Street

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Mar 2020  
Nov 2019

# View from The Green (1)

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Close View of The Green

# View from The Green (2)



View from The Green

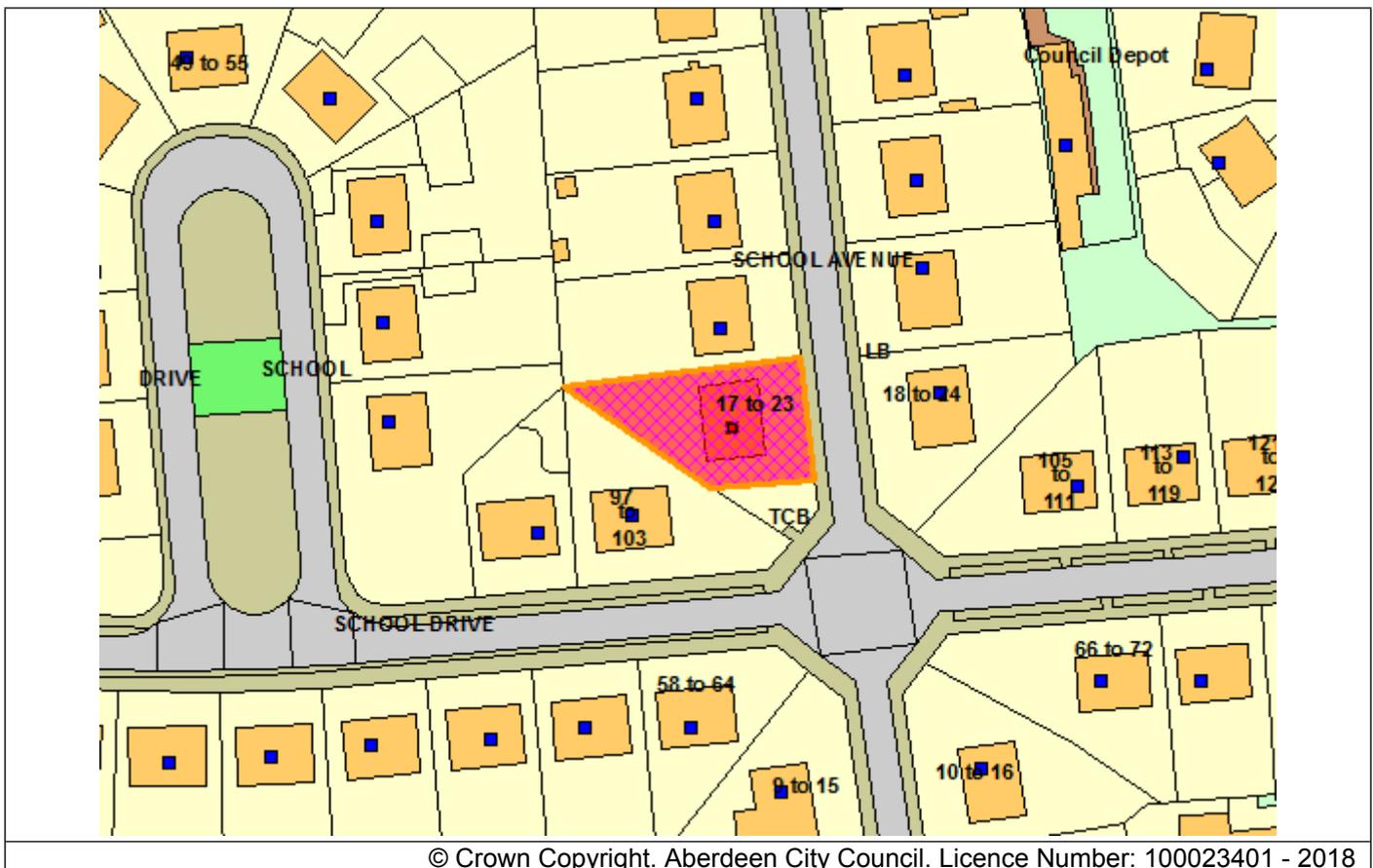


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 30 April 2020

<b>Site Address:</b>	17 School Avenue, Aberdeen, AB24 1TJ,
<b>Application Description:</b>	Erection of shed
<b>Application Ref:</b>	200344/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	13 March 2020
<b>Applicant:</b>	Aberdeen City Council
<b>Ward:</b>	Tillydrone/Seaton/Old Aberdeen
<b>Community Council:</b>	Seaton And Linkfield
<b>Case Officer:</b>	Alex Ferguson



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### RECOMMENDATION

Approve Unconditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site comprises the curtilage of no's 17, 19, 21 and 23 School Avenue, four residential flats within a 2-storey 'four-in-a-block' building situated on the northwestern corner of School Avenue's junction with School Drive. Although the application site covers the full curtilage of all four properties within the block, the area of proposed development relates to a section of grass adjacent to the southern gable of the building. That gable incorporates the front entrance door to no. 17, the ground floor flat occupying the southern half of the building and the property to which this application relates.

The site lies within a residential area and is bound to the north and west by neighbouring four-in-a-block properties and by the School Avenue pavement and road carriageway to the east. Immediately to the south of the application site lies a small (c. 250sqm) area of public open space comprising an area of grass and several trees, as well as a bench for outdoor seating. The open space is fenced off from the street and accessed via a gate on the School Avenue / School Drive junction. A public telephone box is situated at the back of the pavement adjacent to the gate.

### **Relevant Planning History**

None.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought for the erection of a garden shed, to be utilised by the occupants of no. 17 School Avenue, the ground floor flat within the southern half of the building.

The shed would be sited on the existing grassed area, 1.7m to the south of the building, with its rear (west) elevation in line with the rear elevation of the flatted building. The shed would measure 3m long by 2.4m wide, resulting in a rectangular footprint of 7.2sqm and it would have a pitched roof with a ridge height of 2.3m and an eaves height of 1.8m. The shed would be finished with timber linings and a green felt roof and would incorporate a window on its northern side elevation and a timber door on its eastern elevation.

### **Amendments made since submission of application**

Initially the shed was proposed to be sited a distance of 1.2m to the south of the flatted block's southern elevation. In order to increase the size of the gap between the shed and the building to improve ease of accessibility to the rear garden, the proposed siting of the shed was altered slightly to increase the separation distance to 1.7m.

### **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=Q72RT4BZGML00>

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

The application has been referred to the Planning Development Management Committee because

a total of seven objections to the application have been received. Thus, the application cannot be determined under Delegated Powers, in accordance with the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Seaton and Linksfield Community Council** – No response.

## **REPRESENTATIONS**

Seven representations have been received from members of the public: all objecting to the proposals. The material points raised in the representations received can be summarised as follows:

- The shed would detract from the character and appearance of the street;
- No other shed or outhouse in the area is located to the side of a building - sheds should always be located to the rear of properties;
- The shed would be excessively large – more than double the size of a standard shed (“if it was any bigger it would be a garage”);
- The shed would be sited too close to a communal path leading to the rear of the building, making the transport of items to the rear garden by other residents difficult;
- The shed would result in the loss of green open space which is in short supply;
- The shed would result in a loss of light for the kitchen window of the adjacent ground floor flat at no. 17 School Avenue;

### **Non-material considerations**

In addition to the above comments, the following non-material considerations were also raised:

- A large container has been sited on the area of public open space immediately to the south of the application site. The container detracts from the character and amenity of the area.
- The shed could provide a hiding place for drug deals to take place;
- The shed could be vandalised or broken into and crime rates could increase;
- The applicant has already positioned other items of garden furniture in the area of public open space to the south;
- The shed represents a potential fire hazard;
- The adjacent area of open space is used by the public and kids alike;
- Previous planning consent / request for a driveway was rejected because it is too close to the School Avenue / School Drive junction.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

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

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

communities and improving accessibility.

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

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP may also be a material consideration. The Proposed SDP constitutes the settled view of the Strategic Development Planning Authority (and both partner Councils) as to what should be the final content of the next approved Strategic Development Plan. The Proposed SDP was submitted for Examination by Scottish Ministers in Spring 2019, and the Reporter has now reported back. The Scottish Ministers will consider the Reporter's Report and decide whether or not to approve or modify the Proposed SDP. The exact weight to be given to matters contained in the Proposed SDP in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

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

- H1: Residential Areas
- D1: Quality Placemaking by Design
- NE5: Trees and Woodland

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

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies of the Proposed ALDP are relevant to this application:

- H1 (Residential Areas)
- D1 (Quality Placemaking)
- NE5 (Trees and Woodland)

### **Supplementary Guidance**

- Householder Development Guide

### **EVALUATION**

## Design, Character and Amenity

The application site is situated in Seaton, a residential area as zoned in the Aberdeen Local Development Plan (ALDP) and as such, Policy H1 Residential Areas of the ALDP is applicable. Policy H1 states:

*Within existing residential areas, proposals for new development and householder development will be approved in principle if it:*

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

### Overdevelopment

Whilst not defined in the ALDP, in Planning terms 'overdevelopment' refers, in a residential sense, to the point at which the level of development within a particular plot begins to harm the character and amenity of an area. In this regard, the Council's Householder Development Guide (General Principles 4 & 5) states that no more than 50% of the front or rear curtilage shall be covered by development.

Whilst applicable to dwellings rather than flats, for the purposes of defining a residential property's front and rear curtilage, the Scottish Government Circular 1/2012: 'Guidance on Householder Permitted Development Rights' is of use. It defines the front curtilage as 'all the land forward of the principal elevation' and the rear curtilage as the remainder of the curtilage.

Whilst the front door to 17 School Avenue is sited on the building's southern gable, architecturally the building fronts east onto School Avenue and the eastern elevation is considered to be the principal elevation of the building.

In this regard, the shed would be sited within the 'rear' curtilage of the flat, although due to open nature of the southern boundary, immediately adjoining an area of public open space, the section of the rear curtilage to the south of the building is visible from the street, unlike most traditional rear garden areas. The rear curtilage of the building extends to approximately 310sqm.

The shed would have a footprint of 7.2sqm and would cover just 2.5% of the rear curtilage of the building. With only a few other garden sheds present within the rear garden area of the building (belonging to the occupants of the other flats), the total amount of development covering the rear curtilage and the site as a whole would be well below 50% and the proposed works therefore would not result in the overdevelopment of the site.

### Impact on character and amenity

With regard to assessing the impact of the shed on character and amenity, the Householder Development Guide (HDG) section 3.1.6 – Outbuildings, states that:

- *Outbuildings must always be subordinate in scale to the dwellinghouse and two storey outbuildings will generally not be permitted;*
- *Outbuildings should not have a negative impact on the character of the surrounding area;*

- *Proposals will be assessed on their impact on the amenity of the area (e.g. loss of daylight/privacy) in the same way as extensions;*
- *Outbuildings will not usually be acceptable in front gardens because of the damaging impact development forward of a front building line can have on the visual character of an area.*

At just over 2m in height, with a rectangular footprint of just 7.2sqm (3m x 2.4m) and to be finished with timber linings and a felt roof, the shed would have the scale and appearance of a traditional garden shed. The outbuilding would be subordinate in scale to the parent flatted building.

The shed would be located to the south of the building, well behind its front building line and views of the shed from School Avenue and School Drive would be partially obscured by the several existing established trees within both the application site and the area of public open space to the south. The location of the shed is considered satisfactory. Although it would be visible from the street, would not be unduly prominent and would not have a detrimental impact on the character of the area.

The shed would not immediately overlook any private garden ground or the windows of any neighbouring properties. Further, its modest scale and siting would also ensure that it would not have any impact on neighbouring properties in terms of daylight or sunlight receipt. It is thus considered that the proposed development would not affect the character of the area, nor the amenity of any neighbouring properties.

#### Open Space

The application relates to development ancillary to the ongoing residential use of the property and involves works within a residential curtilage. No public open space would be lost as a result of the development.

#### Supplementary guidance

As noted above, the proposed works are considered to comply with the relevant supplementary guidance contained within the Council's Householder Development Guide. No other supplementary guidance is considered to be relevant in this instance.

Thus, for the aforementioned reasons, the proposed works are considered to comply with the criteria for householder development as set out in Policy H1 and the Householder Development Guide supplementary guidance.

The proposed shed would be of a suitable design, scale and siting for a domestic garden shed within the site context, in accordance with Policy D1.

#### **Impact on trees**

Policy NE5 (Trees and Woodland) of the ALDP states that there is a presumption against all development that will result in the loss of, or damage to, trees and woodlands that contribute to landscape character and local amenity.

There are a total of seven established trees both within the application site (to the south of the building) and within the adjacent area of public open space to the south, all of which contribute toward the local amenity and visual character of the area. The proposed shed would be sited in relatively close proximity to two trees. Although the structure may encroach within the root protection areas of those trees, any such encroachment would be minimal. Furthermore, there would be no significant foundations or ground works associated to the construction of the shed. Taking the foregoing into account it is considered that there would not be any detrimental impacts that would

affect the long-term health of either of the two nearby trees. The proposals are therefore considered to comply with Policy NE5.

### **Concerns raised by objectors**

The concerns raised by objectors are addressed as follows:

The shed would detract from the character and appearance of the street

*Addressed in the foregoing evaluation.*

No other shed or outhouse in the area is located to the side of a building - sheds should always be located to the rear of properties

*Addressed in the foregoing evaluation. The siting of the shed to the side of the building is considered to be acceptable and would not unduly impact on the character of the area.*

The shed would be excessively large – more than double the size of a ‘standard’ shed

*The Council does not have any prescribed maximum dimensions for sheds/outbuildings. The shed is not considered to be excessively large for a domestic outbuilding and is considered to be a suitable size for its context, thus preserving the character of the area, as noted in the foregoing evaluation.*

The shed would be sited too close to a communal path leading to the rear of the building, making the transport of items to the rear garden by other residents difficult

*Initially it was proposed to site the shed a distance of approximately 1.2m away from the southern elevation of the parent flatted building. It was acknowledged that this distance would have resulted in a relatively narrow passage which is used by the occupants of neighbouring properties within the block to access the rear garden. As such, an amendment was requested and made to the proposals in order to increase the separation distance to c. 1.7m, which is considered to be sufficient to allow unhindered pedestrian movement and the reasonable movement of garden furniture and other items between the two buildings.*

The shed would result in the loss of green open space which is in short supply

*Although there is no physical structure to demarcate the mutual boundary line between the domestic curtilage of the application site and the adjacent area of public open space, the Council's Housing service has indicated that the application site is wholly within the residential curtilage of the flatted building. Thus, there would be no loss of, nor impact upon, the existing area of open space.*

The shed would result in a loss of light for the kitchen window of the adjacent ground floor flat at no. 17 School Avenue

*The shed would not be significantly tall (2.3m total) and would be set 1.7m away from the flatted building. The shed would have a pitched roof, sloping down toward the building and it is considered that there would not be any significant impact on daylight receipt of the nearest window, which is nevertheless associated to the flat occupied by the applicant and serves a non-habitable room (a kitchen). Thus the amenity of the flat at no. 17 would not be adversely affected by the erection of the shed.*

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

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.

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

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given.

### **RECOMMENDATION**

Approve Unconditionally

### **REASON FOR RECOMMENDATION**

The proposed shed would be of an appropriate design, scale and siting for its context, such that it would not harm the character of the area or the amenity of any neighbouring properties, would not constitute overdevelopment and would not result in the loss of any areas of open space. Thus, the proposals are considered to comply with Aberdeen Local Development Plan (ALDP) Policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and the Council's Householder Development Guide supplementary guidance. The works would not result in the loss, nor hinder the long-term health, of any existing trees in accordance with ALDP Policy NE5 (Trees and Woodland). In relation to this application, the policies in the Proposed ALDP (2020) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given.

### **ADVISORY NOTES FOR APPLICANT**

#### **REMOVAL OF TEMPORARY CONTAINER ON ADJACENT LAND**

The applicant is advised that the storage container currently in situ on the adjacent area of public open space does not have planning permission and is thus unauthorised. Should the application be approved by the Planning Development Management Committee, the shed should be erected as soon as possible following the granting of this consent, thus allowing the unauthorised container to be removed from the adjacent site shortly thereafter. Should the container remain on the site after a period of 2 months from the date of this approval, then planning enforcement action will be initiated to have the container removed due to its detrimental impact on the character of the area.

# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



## Item 6.3

Erection of shed

17 School Avenue

200344/DPP

# Location Plan

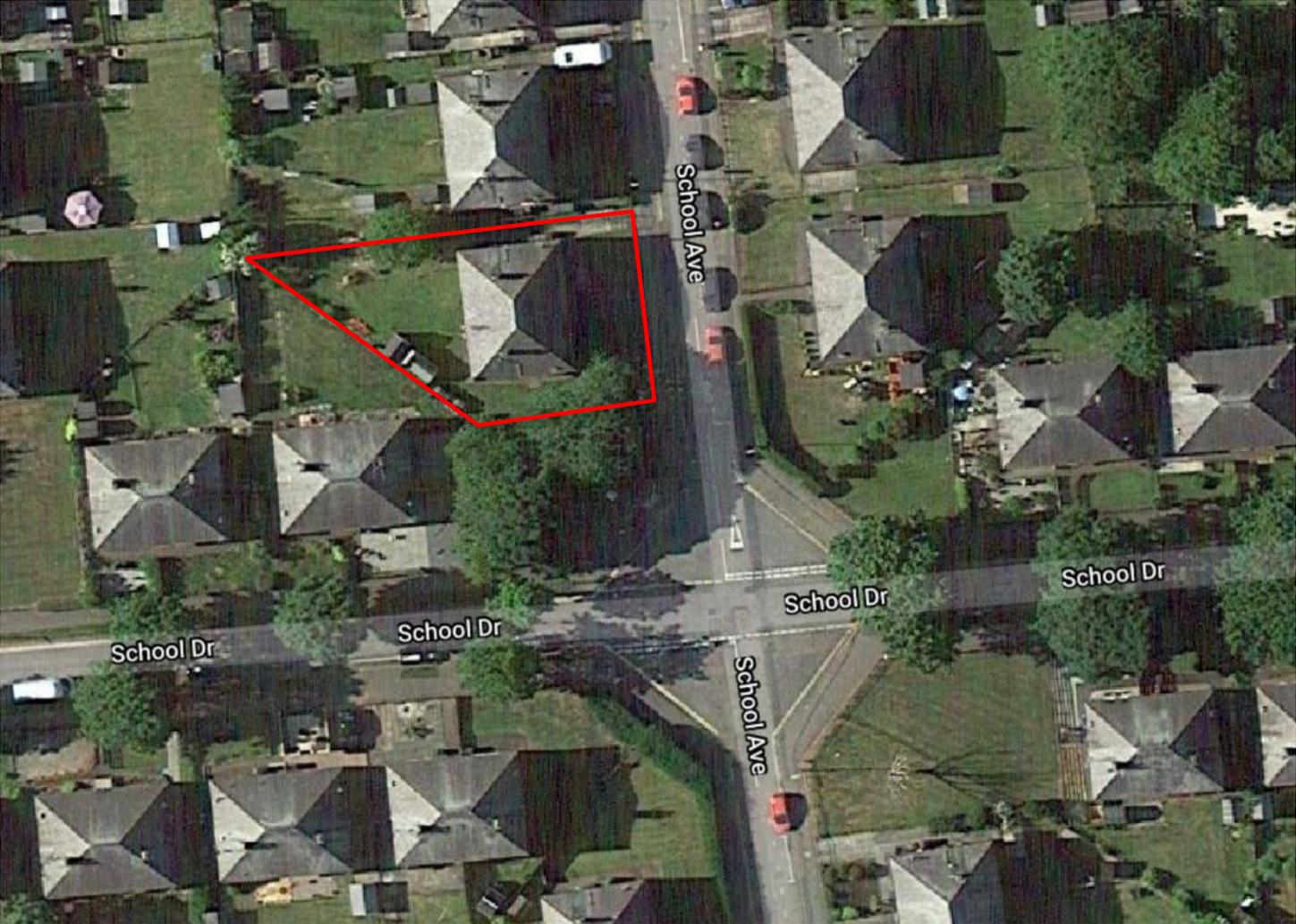


LOCATION PLAN  
1:1250

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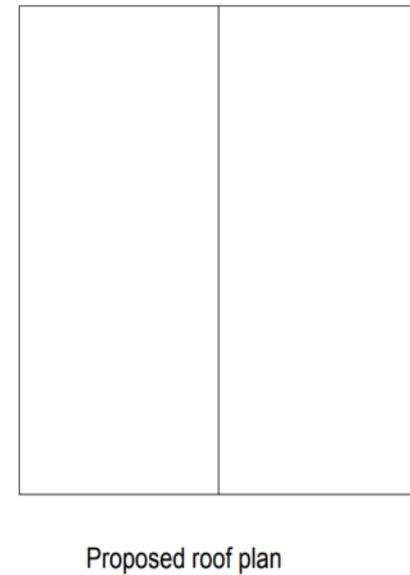
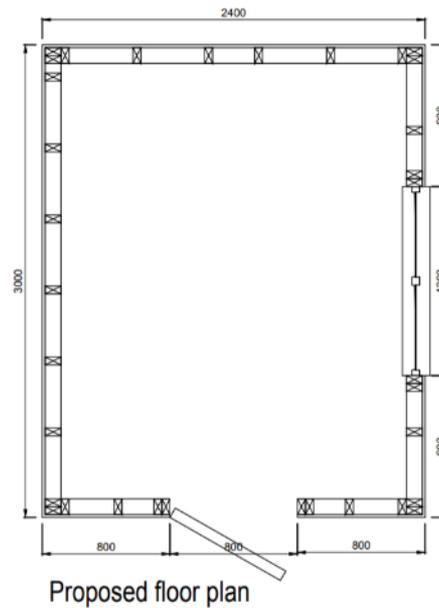
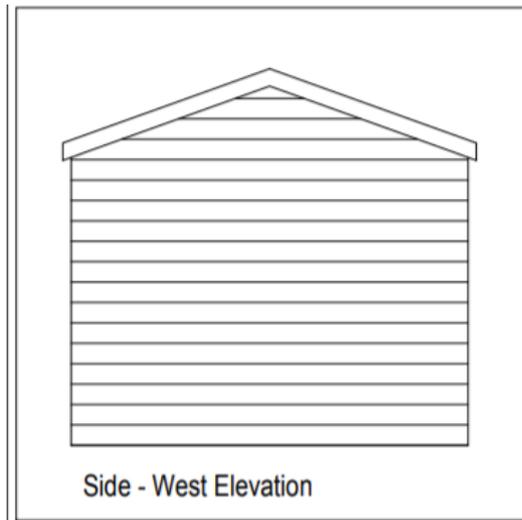
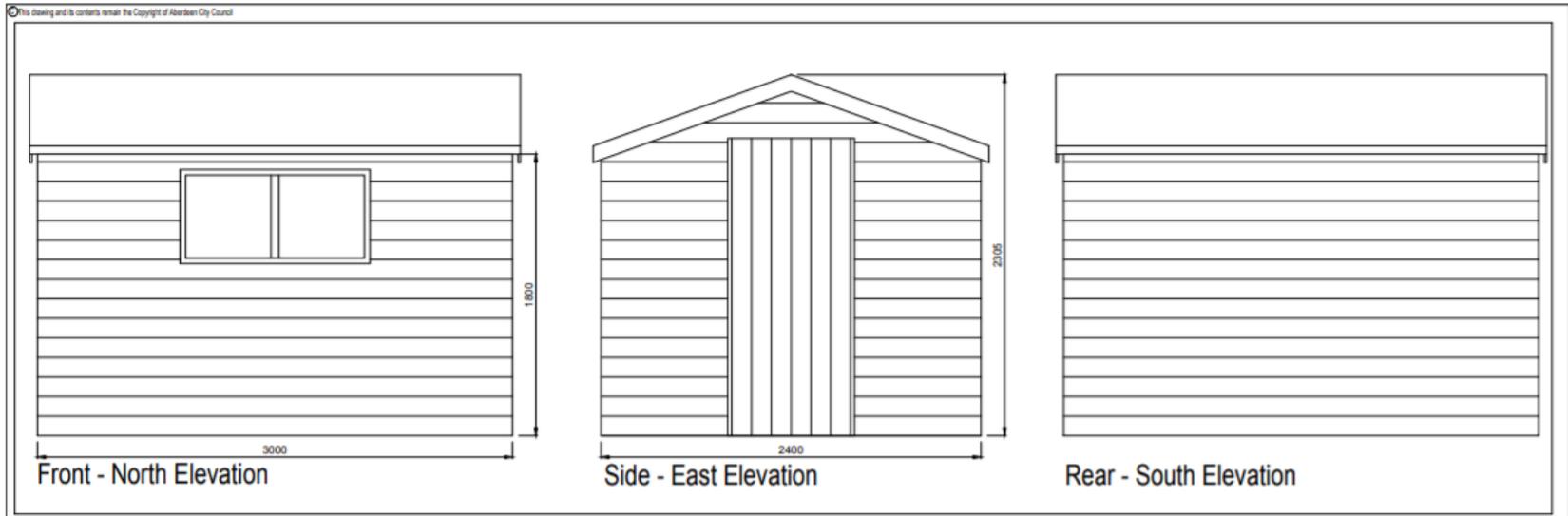
# Aerial Photo



# Proposed Site Plan



# Proposed Shed – Elevations & Floor Plan



# Site Photo

Page 216



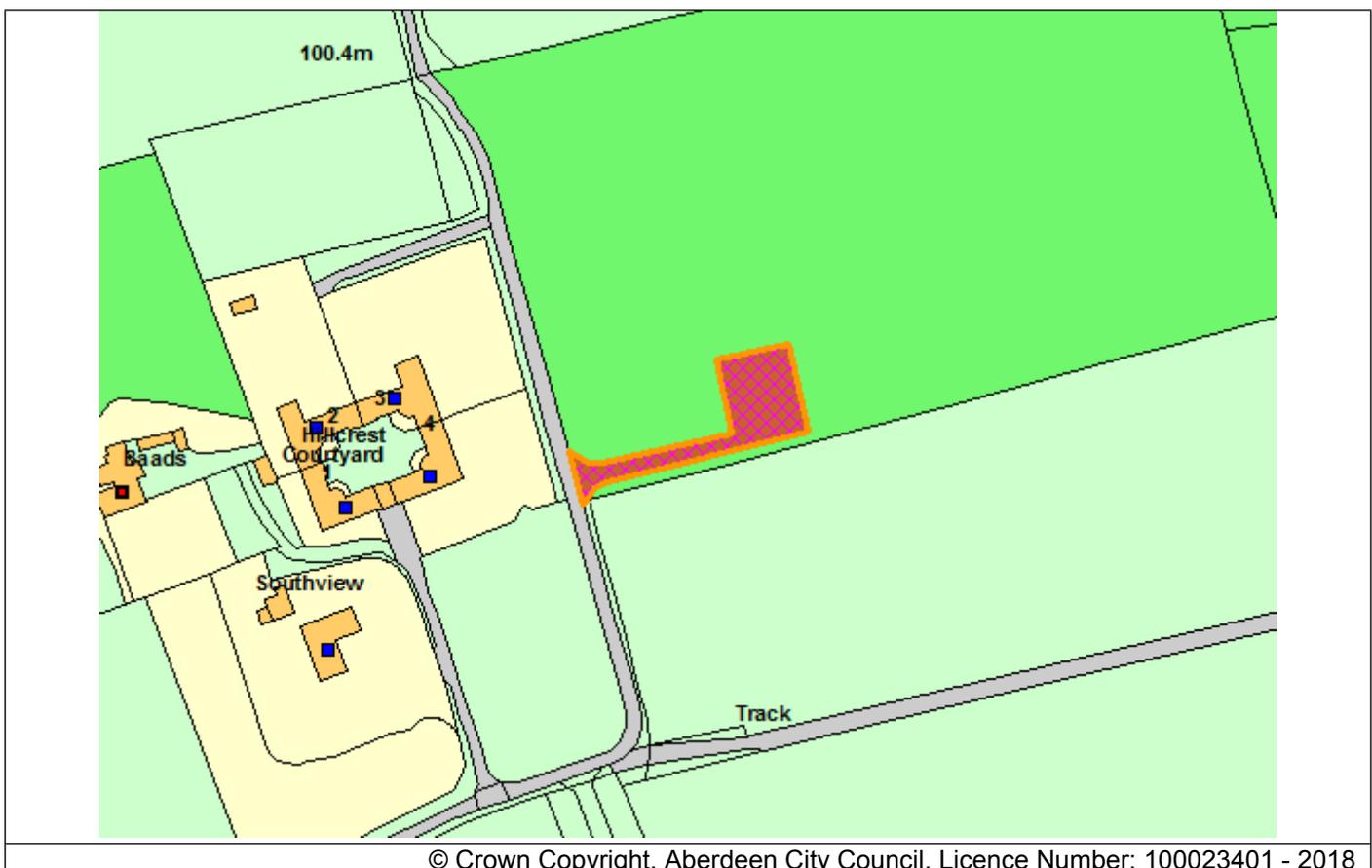
# Site Photos



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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:</b> 30 April 2020

<b>Site Address:</b>	Baads Farm, Anguston Road, Aberdeen, AB14 0PP
<b>Application Description:</b>	Change of use of land for the erection of a chalet/mobile home
<b>Application Ref:</b>	200040/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	20 January 2020
<b>Applicant:</b>	Mrs Alison Stewart
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Culter
<b>Case Officer:</b>	Jane Forbes



**RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The site is located in the countryside some 3.5km to the north west of Peterculter, to the east of Baads and a group of houses known as Hillcrest Courtyard. The site extends to an area of some 734m<sup>2</sup> and forms part of a wider area of uncultivated and unused agricultural land extending to 2.3 hectares, located to the east of Hillcrest Courtyard. The application site extends along the southern boundary of the wider area of agricultural land, where there is a gradual rise in ground level from south to north, with the northern boundary of the wider site forming the crest of the hill. To the south of the application site are fields, whilst to the west and across an access track are six houses. Access to the site is initially via a 350 metre long tarred, single track, private road which serves the neighbouring houses, followed by an unsurfaced track for a further 80 metres.

### **Relevant Planning History**

Planning permission (Ref: P110648) was approved by Planning Committee, against officer recommendation, on the 11th October 2011 for the erection of a residential dwelling, garage and associated stud farm. Conditions applied to the planning permission included restriction on the occupancy of the house to a person employed full time in the stud farm business and the dependants, widow or widower of such a person; ensuring that the stables and associated infrastructure are constructed and available for use prior to the commencement of the construction of the house and garage; restricting the hours of construction; requiring the submission of schemes of all external lighting and drainage/sewage facilities, and of samples of all external finishing materials; and the provision of landscaping and tree planting on site.

Planning permission (Ref: P120873) was approved under delegated powers on the 27th July 2012 for a variation to condition 7 to allow for the disposal of sewage effluent by means of a suitable primary and secondary treatment system as designed by a qualified engineer.

Two applications for planning permission (Ref: P140187 & Ref P141149) were refused under delegated powers in March and September 2014 for the removal of Condition 1 (Control of Occupancy) from Planning Permission Ref: P120873, the latter of these decisions being upheld by the Local Review Body on 15<sup>th</sup> December 2014.

A subsequent application for planning permission (Ref P150074), again seeking removal of Condition 1 (Control of Occupancy) was submitted in January 2015, however the Planning Authority declined to determine this application, as permitted under Section 39(1)(b) of the Town and Country Planning (Scotland (Act) 1997, on the basis that within the previous two years, two similar applications had already been refused and there had been no significant change in the development plan or in any other material consideration since the third application was submitted in January 2015.

Finally, a further application for planning permission (Ref 181084/S42), once again seeking removal of Condition 1 (Control of Occupancy) of Planning Permission Reference P120873 was submitted in June 2018 and refused under delegated powers on 30 August 2018.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought for the change of use of land to a caravan site for the erection of a 2 bedroom residential chalet/mobile home. The drawings submitted with the application indicate the chalet/mobile home, which the applicant has stated would be located within the site for a period of up to 5 years, has a footprint of 73m<sup>2</sup> (12.2 metres x 6 metres), and a ridge height of 4.25 metres. No details of the material finish of the chalet/mobile home have been provided, but it has been identified as a 2 bedroom, 'Westfield' style Omar Park Homes type, which is of residential standard and considered suitable for permanent residence. It would be situated within a site of some 734m<sup>2</sup>,

and accessed off an existing unsurfaced track. The application site forms part of a wider development site for which conditional planning consent was granted in 2011 for a stud farm, residential dwelling and garage, with limited works relating to that consent having been carried out, including fencing and clearing of overgrowth.

### **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=Q41E0IBZMKF00>

- Planning Policy & Design Statement
- Correspondence from the Agent, on behalf of the Applicant, dated 3<sup>rd</sup>, 18<sup>th</sup> and 26<sup>th</sup> February 2020.

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

The application has been referred to the Planning Development Management Committee because the proposal has attracted six or more objections from the public and an objection from Culter Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection on the basis that the proposed development would be a temporary feature with adequate parking, and access provided via a private road with no through access.

**ACC - Environmental Health** – No objection. Recommend that, due to the public health risks associated with inadequate private water supply sources, associated sampling, treatment and system maintenance costs and the risk of insufficient supply during dry periods, suitable demonstration is given that the mains water supply as proposed by the applicant is established at the property.

**Culter Community Council** – Object to the application for the following reasons:

1. The proposal and Change of Use is not consistent with Policy NE2 (Green Belt)
  - there is no commitment to - only an indication of a wish to start - an agricultural business, if indeed a stud farm or livery business can be construed as 'agricultural'
  - there is no existing activity with which this proposal could be associated
  - the proposal does not deliver what anyone could describe as the required "highest quality" on siting (a very prominent position is proposed), nor on design and materials (the proposed mobile home appears to be a standard commercial product)
2. It is crucial for the current application to be refused, in order for the Planning Authority to avoid unrestrained development of new residential buildings in the Green Belt.
3. All of the City's Green Belt is within easy (car-based) commuting distance of Aberdeen's businesses, and is therefore "in danger of suburbanisation of the countryside" quoted by the Scottish Government's Chief Planner; this justifies a more-restrictive approach on planning than would be appropriate in the wider countryside.
4. Granting permission for this or any similar application without an agricultural tie on occupation of the proposed dwelling would set a clear precedent making Policy NE2 Green Belt effectively unenforceable from this point on.

5. From any future applicant's perspective, there are already precedents whereby there has been no evidence to show that there is a financially robust agricultural business requiring daily attendance to justify a new residence in the Green Belt.
6. If permission were to be granted in this case, on what grounds could the Planning Authority realistically resist a request for extension of the permission, or conversion into permission for a permanent house, in each case without any restriction on occupation?
7. The present case must either be refused, or granted only on the same basis as P110648, that is, with a binding commitment to start an agricultural business before putting in the mobile home, and with an agricultural tie on occupation having exactly the same effect as Condition 1 attached to the permission for P110648.

## **REPRESENTATIONS**

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6 letters of objection have been received. The matters raised can be summarised as follows:

1. The proposed land use (chalet/caravan) constitutes a change of use of the land and is not consistent with policy NE2 (green belt) of the Aberdeen Local Development Plan and is also not consistent with the previous planning consents (P110648 and P120873), which require that the stud farm becomes operational before the associated dwelling is constructed;
2. The proposed design and material finish of the chalet/caravan is not 'high quality' as required by policy NE2;
3. Approval of the proposal would set a precedent for further housing in the green belt;
4. Ownership of the site changed hands in October 2019 and there is concern the new owner has different ideas for the site;
5. Conditions of occupancy for the chalet need to remain the same as those imposed on the main dwelling i.e the stables and associated infrastructure shall be built and in use prior to building a residence, that any associated dwelling is occupied by someone working full time at the stables;
6. The chosen location of the chalet is in a very prominent position, highly visible from the Anguston Road and with the potential to become an eyesore;
7. The proposed hardstanding damages the agreed Landscape Plan. There is adequate permanent hardstanding proposed for the site which could accommodate the chalet;
8. The proposed temporary septic tank is not in compliance with the approved Drainage Impact Assessment. The permanent Sewage Treatment System should be installed and made operational for the use of the chalet, as per conditions of planning;
9. In the nine years since planning was granted, for an urgent stud farm, there have been block and fences, and at no point have they required security;
10. Believe this latest application to be a flagrant attempt to circumvent planning regulations, and that the request to erect a chalet/mobile home signals plans to apply in the future for permission to erect a house/houses, without the current stipulation that a livery must be built and established as a business before the house is built;
11. The existing approved planning consent is subject to the successful setting up of a viable business on the site ahead of construction of the dwelling. Since this was granted in 2011 there has been no effort made to prepare the land for equestrian use, and the proposal for this temporary dwelling gives no information as to what work is to be undertaken with the land to make it suitable for an equestrian business, (Fences, land remediation, stables etc);
12. The existing planning permission was granted on conditions that a viable stud farming business was to be established. The house (now a proposed mobile home) was supposed to be tied to the business for accommodation of the business applicants and their employees. There is no viable stud farm business operating;
13. There have been unsuccessful attempts in the past to remove the business use from the planning application, it is believed this is just another way of trying to remove the restrictions on the original consent;

14. The proposed duration, five years, which it notes may need to be extended is not a temporary arrangement but a clear attempt to circumvent the previous planning restrictions;
15. It should take no more than 2 years to build the livery and then house, and therefore planning permission should reflect this more reasonable timescale to minimise the impact on the local community;
16. If this is to be approved it should require the stables to be built within six months and the house within a further six. Occupation should be restricted to the applicant;
17. The temporary septic tank does not comply with the approved drainage assessment. The soil type at Baads is not suitable for a soakaway for a septic tank, and therefore an alternative type of sewage treatment system is required. Clause 7 of the conditional planning permission states that a suitable secondary treatment system has to be constructed to provide adequate sewage facilities and to safeguard public health. This is required before any residential use can be built;
18. The private road leading to The Baads is single track, has no passing places, no turning points and has a hazardous blind corner. It is unsuitable for additional traffic especially horse boxes and horse transporters on a commercial scale;
19. Anguston Road is a dangerous road, and any moves which will add to the traffic should not be supported without substantial upgrading work to the road which is in pressing need of sustainable repair and even widening in areas. The level of traffic on the road has compounded problems of potholes, narrow sections of road leading to eroded verges (often into deep ditches) and blind corners;
20. Approval of this application would not support parity of process with recent approval for the erection of a domestic garage subjected to very intense scrutiny because of the green belt location and compliance with detailed and very strict stipulations about the materials and suitable screening in order to preserve the local environment and landscape. It seems preposterous therefore, that consideration could even be given to allowing the erection of a chalet or mobile home with none of the provisions for use of sympathetic building materials or screening;
21. The field where the chalet/mobile home is to be erected is in a dreadful state of neglect. It has been left to seed for over 20 years and has large piles of stones and building waste on it and will require considerable effort and expenditure to restore to any kind of workable area for the accommodation of horses. Clearing this area and erecting the livery first should be the priority to establish whether the livery is actually feasible prior to any accommodation/house being built;
22. The original application from 2011 states that the applicant was intending to relocate their stud farm and living accommodation on site due to problems with extending their lease at that time. Due to the time period of almost nine years that has elapsed since the original application, the planning board should establish if this situation still exists as valid grounds for the application at all;
23. Believe that this application is simply yet another outright attempt to subvert due process and to bypass previous planning decisions by establishing a footprint for a future build for which permission will be sought down the line.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

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

Scottish Planning Policy

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

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable

economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

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

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP may also be a material consideration. The Proposed SDP constitutes the settled view of the Strategic Development Planning Authority (and both partner Councils) as to what should be the final content of the next approved Strategic Development Plan. The Proposed SDP was submitted for Examination by Scottish Ministers in Spring 2019, and the Reporter has now reported back. The Scottish Ministers will consider the Reporter's Report and decide whether or not to approve or modify the Proposed SDP. The exact weight to be given to matters contained in the Proposed SDP in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

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

Policy NE2 (Green Belt)

Policy D1 (Quality Placemaking by Design)

Policy T2 (Managing the Transport Impact of Development)

Policy NE6 (Flooding, Drainage & Water Quality)

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

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be, and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies of the Proposed ALDP are relevant to this application:

Policy NE1 (Green Belt)

Policy D1 (Quality Placemaking)

Policy T2 (Sustainable Transport)

Policy NE4 (Water Infrastructure)

## **EVALUATION**

### **Background**

Planning permission was granted on the 11<sup>th</sup> October 2011 for the erection of a dwellinghouse, garage and associated stud farm at Baads Farm. Whilst the site was located within the Green Belt,

where policies are generally restrictive, it was judged that a house was required to support the proposed stud farm business, which was relocating from another site outwith the city boundary. The application was approved against officer recommendation on the basis *“that the application was not contrary to Policy 28 of the Local Plan as the proposed buildings would not be higher than the others in the landscape and the proposed business was an agricultural activity within Policy 28”*.

Conditions were applied to the planning permission which included restricting the occupancy of the dwellinghouse to a person employed full time in the stud farm business and the dependants, widow or widower of such a person; phasing the development to ensure that the stables and associated infrastructure are constructed and available for use prior to the commencement of the construction of the house and garage; restricting the hours of construction; requiring the submission of schemes of all external lighting and drainage/sewage facilities, samples of all external finishing materials, the provision of landscaping and tree planting on the site.

An application to remove Condition 1 (control of occupancy) was submitted and subsequently refused in March 2014, as the deletion of the condition would mean that the proposal would be contrary to Policy NE2 (Green Belt) of the ALDP as well as Scottish Planning Policy. The reasoning for this refusal was as follows:

*“The proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, is contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen Local Development Plan, which seek to protect the integrity of Green Belts and, in particular, seek to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business the house would not have complied with planning policy and ultimately refused. The removal of this condition would undermine the policies which seek to protect the integrity of the Green Belt which seeks to safeguard against unsustainable development and suburbanisation of the area. It was judged necessary to impose Condition 1 to ensure that the development complied with planning policies. It is judged that Condition 1 meets the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (04.11.2011) has been considered. The proposal to delete Condition 1 is considered unacceptable in planning policy terms.”*

A second application to remove Condition 1 was submitted and refused under delegated powers in September 2014, and the decision upheld by the Aberdeen City Local Review Body on 15 December 2014.

The reason given by the LRB for refusing the application and upholding the decision of the appointed officer was:

*“The proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, is contrary to Scottish Planning Policy and NE2 (Green Belt) of the Aberdeen Local Development Plan which seek to protect the integrity of Green Belts and, in particular, seek to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business the house would not have complied with planning policy and ultimately refused. The removal of this condition would undermine the policies which seek to protect the integrity of the Green Belt which seeks to safeguard against unsustainable development and suburbanisation of the area. It was judged necessary to impose condition 1 to ensure that the development complied with planning policies. It is judged that condition 1 meets the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (04.11.2011) has been considered. The proposal to delete condition 1 is considered unacceptable in planning policy terms and no sufficient justification has been submitted from the previous refusal (P140187) in order to justify the removal of the condition”*.

A third application to remove condition 1 was submitted under planning application P150074. The

Planning Authority exercised its power to decline to determine this application under Section 39(1)(b) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, which provides planning authorities with discretionary powers to decline to determine planning applications in circumstances where more than one similar application has been refused without an appeal to the Scottish Ministers within the previous two years and where there has been no significant change to the development plan or in any other material considerations.

Finally, a fourth application to remove condition 1 was submitted under planning application 181084/S42 in June 2018 and refused under delegated powers in August 2018. The reasoning for this refusal was as follows:

*“The proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, is contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan, which seek to protect the integrity of Green Belts and, in particular, seek to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business, the dwellinghouse would not have complied with planning policy and would ultimately have been refused. The removal of Condition 1 would undermine the policies which seek to protect the integrity of the Green Belt, and safeguard against unsustainable development and suburbanisation of the area. It was deemed necessary to apply Condition 1 in order to ensure that the development complied with planning policies. It is judged that Condition 1 meets the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (dated 4 November 2011) has been considered. The proposal to delete Condition 1 remains unacceptable in planning policy terms and there has been no additional supporting information submitted from either of the previous refusals (Ref: P140187 & P141149) which would justify its removal.”*

Excavation work was carried out on site in September 2014 in order to secure ‘initiation of development’, and as such, planning permission for the stud farm, dwelling house and garage is now retained in perpetuity. In support of the original application which was granted consent in October 2011, it had been stated that there was an urgent need for the applicant to relocate the stud farm business which was already in operation, because at that time the lease for land from where the business was operating was not being renewed. The statement submitted in support of the 2018 application outlined above (Ref 18/1084/S42) advised that the site had been on the market since April 2014. From the information submitted in support of this current application it would appear that the site has indeed changed hands since that 2018 application was determined.

### **Supporting Document**

The agent has submitted a Planning Policy & Design Statement on behalf of the applicant, and in support of the application. This supporting document states that: *“the applicant has purchased the application site at Baads Farm for the purposes of developing the equestrian business [stud farm] and building the dwellinghouse as approved under the terms of planning permission.”* The document acknowledges that the dwellinghouse approved under planning permission P110648 (and subsequently P120873) cannot be built until such time as the stud farm is established and states that in order to allow the applicant and family to oversee the development of the stud farm and thereafter the dwellinghouse, for on-site security and to avoid unnecessary travel, temporary residential accommodation is required in the form of a chalet/mobile home, for a period of 5 years.

The supporting document states that *“the proposed change of use of land to accommodate the chalet (caravan) is an appropriate form of development.”* and that *“A temporary permission is sought for a period of 5 years. This will allow ample time for the applicant to establish the stud farm business and build the dwellinghouse approved. Thereafter, the chalet and associated infrastructure will be removed unless a further application to extend the lifetime of the development is submitted.”* The supporting document also states that the chalet (caravan), being located within the curtilage of the

2011 permission *“is in accordance with the terms of Policy NE2 and is not contrary to any other policy in the LDP”*.

### **Principle of Development**

The site lies within an area which is designated as green belt, as supported by Scottish Planning Policy, and is therefore zoned under Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan (ALDP). Policy NE2 states: ‘No development will be permitted in the Green Belt for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration; or landscape renewal’.

The following exceptions apply to this policy:

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

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

2 Essential infrastructure (such as electronic communications infrastructure, electricity grid connections, transport proposals identified in the LDP or roads planned through the masterplanning of opportunity sites) will only be permitted if it cannot be accommodated anywhere other than the Green Belt.

3 Buildings in the Green Belt which have a historic or architectural interest, or a valuable traditional character, will be permitted to undergo an appropriate change of use which makes a worthwhile contribution to the visual character of the Green Belt.

4 Proposals for extensions of existing buildings, as part of a conversion or rehabilitation scheme, will be permitted in the Green Belt provided:

- a) The original building remains visually dominant;
- b) The design of the extension is sympathetic to the original building in terms of massing, detailing and materials, and
- c) The siting of the extension relates well to the setting of the original building.

5 Replacement on a one-for-one basis of existing permanent houses currently in occupation will normally be permitted provided:

- a) It can be demonstrated to the Council that they have been in continuous occupation for at least 5 of the seven years immediately prior to the date of the application;
- b) The replacement house, except in exceptional circumstances (e.g. to improve a dangerous access), occupies the same site as the building it would replace, does not permit development for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration, or landscape renewal.

Approval of this application would see a change of use of the land to a caravan site. The proposal indicates that one chalet/mobile home would be located on the site, and for a period of up to 5 years. Whilst accepting that the principle of erecting a dwellinghouse within the wider site was supported under planning application Ref P110648 (and subsequently P120873), it is of particular relevance in the assessment of this current application to note that in granting consent in 2011, the Planning Development Management Committee deemed the residential element of the application at that time acceptable on the provision that the stud farm business, which was to be relocating from another location, is constructed, completed and operational prior to the approved dwellinghouse and

associated domestic garage being constructed and occupied, and a condition was applied by the Committee to this effect.

The stated purpose for the the proposed chalet/mobile home, as explained in the Planning Policy & Design Statement submitted by the applicant's agent, and bearing in mind that the approved dwellinghouse cannot be built until the stud farm has be constructed and brought into use, is "*To allow the Applicant and her family to oversee the development of the stud farm...*". Whilst that may be the case, it is important to note and to take in to consideration that if planning permssion was to be granted for the change of use of land to a caravan site to allow for a chalet/mobile home to be located within the site, it could be implemented without the stud farm or any part of the 2011 permission, or subsequent 2012 permission, being progressed. This is a stand-alone application, and as such, it would be feasible that only the change of use to caravan site and subsequent residential occupancy of the site could occur. Similarly, the original application for the stud farm, dwellinghouse and garage could be implemented alongside this current permission for the caravan site, with the resulting cumulative impact of both consents being delivered also a relevant consideration. Finally, it would also be possible for those occupying the chalet to have no link to the applicant or the future stud farm and dwellinghouse.

It is also pertinent to note that planning permisison is required solely for the change of use of the land to a caravan site, and although a separate caravan site licence would be required to allow for the chalet/mobile home to be located on the site, the erection of the chalet/mobile home in itself would not require planning permission. Whilst information has been submitted specifically relating to the type and style of chalet/mobile home to be located on the site, this level of detail is actually outwith the control of the planning authority. Furthermore, if consent were to be granted for the change of use of the land as proposed, the applicant would be under no obligation to install the specific chalet/mobile home which has been identified as part of the proposal, and could potentially install any style/colour/scale of caravan/mobile home/chalet falling within the definition of a caravan (under Section 29(1) of the Caravan Sites and Control of Development Act 1960; modified by Section 13(1) of the Caravan Sites Acts 1968 and by the Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019).

It was at the time of the original permission being granted, and remains to be the considered opinion of the planning authority, that provision of any form of residential accommodation on the site in advance of the stud farm being conctructed and brought into use, would by contrary to the terms of Policy NE2 (Green Belt). There have no substantive changes to green belt policy, either in terms of Scottish Planning Policy or the Aberdeen Local Development Plan, that would warrant or justify now taking a different approach. Indeed, the agent's letter of 18 February 2020 appears to acknowledge this, stating "*The terms of the planning permission granted in 2011 are clearly understood by the Applicant and she has bought the land knowing that the equestrian use has to be established before the dwellinghouse is built and occupied*". Whether it's the dwellinghouse granted in 2011 or the change of use of land to caravan site to accommodate a chalet for which permission is now sought, the same principle applies.

As noted above, the Planning Policy & Design Statement states the purpose of the chalet is to allow the applicant to oversee the development of the stud farm. It states also that it "*will allow the applicant...(to have)...direct/ease of access to the land....avoid unnecessary travel. In effect, on-site security will be created*". Notwithstanding, it has not been explained or justified why a permanent on-site presence is necessary during the construction of the stud farm. It is acknowledged, however, that a case potentially could be made following the construction of the stud farm and business and it having become operational for allowing on-site temporary accommodation whilst the permanent dwellinghouse is being built. However, that is not what is being sought in this application and thus it is not directly relevant to this assessment and determination.

This is a new and totally separate planning application which is being considered. Planning permission is being sought solely for a change of use of land to caravan site to allow for the erection of a chalet/mobile home, and the proposal must therefore be assessed on that basis. As such, and contrary to what is stated in the Planning Policy & Design Statement submitted in support of the application, the proposal is clearly contrary to Policy NE2 (Green Belt) of the ALDP. Whilst some works, for example the erection of fencing, have been carried out and thus the 2011, or 2012 permission, has been commenced, there is no existing business in operation, and therefore the change of use of land to a caravan site to allow for the siting of a chalet/mobile home is not deemed 'essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration, or landscape renewal' as required in terms of the policy criteria. Whilst the aforementioned supporting document states that the proposal is compliant with Policy NE2 (Green Belt) of the ALDP on the basis that it is ancillary to the main use of the original permission, it is also acknowledged within that same document, that there is no stud farm business operating from the site and therefore the proposed change of use of land to caravan site would not be ancillary to any current use. As such, and contrary to what is stated in the Planning Policy & Design Statement, the proposal clearly fails to comply with Policy NE2 (Green Belt) of the ALDP.

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

In terms of assessment against the Strategic Development Plan, due to the 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.

#### **Design, Scale & Siting**

In considering the proposal against the requirements of Policy D1 (Quality Placemaking by Design) of the ALDP, which highlights the need for development to respond to the site context and be designed with due consideration to siting, scale and massing; for it to reinforce established patterns of development; and to be well planned, with high quality design, materials and craftsmanship, then a change of use of the land to caravan site to allow for the erection of a chalet style residential home within this rural setting would likely fail to fully accord with these requirements.

The very open aspect of the site and its relative prominence within the surrounding area is such that the introduction of any caravan/chalet/mobile home within this location would be clearly visible from well beyond the curtilage of the site. It must be noted that there are certain limitations in suitably addressing the expectations of Policy D1 in the determination of this application, given that the planning authority would be granting consent solely for the proposed change of use to caravan site. However, it nevertheless remains apparent that the consequence of such consent would be the subsequent introduction of a chalet/caravan/mobile home to the site, and with limited ability to restrict the scale/design/colour/finish of the chalet/caravan/mobile home, the potential adverse visual impact on the wider area remains a material consideration in the determination of the application.

#### **Access/Parking**

The site is currently served by a private access road and the Council's Roads Development Management team has raised no objection to the proposal, advising that it is a temporary feature with adequate parking and the proposed access, which would be via a private road, would have no through access.

It is acknowledged that the proposal would not fully address the requirements of Policy T2 (Managing the Transport Impact of Development), largely as a result of the somewhat isolated location of the site which limits the measures which can feasibly be put in place to minimise traffic and maximise opportunities for sustainable and active travel. Notwithstanding this, taking into account the limited site area, partial compliance with the expectations of Policy T2 (Managing the

Transport Impact of Development) would be unlikely to raise any significant concerns.

### **Drainage/Water Supply**

The Planning Policy & Design Statement submitted on behalf of the applicant states that drainage will be provided “in the form of a septic tank”, and subsequent correspondence submitted by the agent, again on behalf of the applicant, advises that a mains water supply will serve the proposed development. ACC Environmental Health officers have raised no objection to the proposal but advise that suitable demonstration is given that the mains water supply as proposed by the applicant is established at the property. Servicing arrangements would appear adequate for the proposed change of use of the land to caravan site for the erection of a chalet/mobile home, and as such the expectations of Policy NE6 (Flooding, Drainage & Water Quality) would be suitably addressed.

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

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is therefore deemed unacceptable in terms of both Plans for the reasons previously given.

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

The majority of the concerns raised by the local Community Council have been addressed in the foregoing evaluation. The remainder of the concerns are addressed as follows:

1. *If permission were to be granted in this case, on what grounds could the Planning Authority realistically resist a request for extension of the permission, or conversion into permission for a permanent house, in each case without any restriction on occupation?* Notwithstanding that each application is assessed on its own merits, previous consent granted for the same or a similar development proposal on the same application site would be a material consideration in the determination of any future application.

Correspondence was submitted by the Agent on behalf of the Applicant, refuting a number of the concerns raised by the Community Council. The issues raised have been largely addressed in the foregoing evaluation, however the letter also maintains that the objection submitted by the Community Council has breached the Council’s Code of Conduct for Community Council’s on a number of points, including that the Community Council’s response “Does not embrace social inclusion for a family who have the right to build a business and dwellinghouse” and it “Appears to display discrimination towards the Stewart family instead of challenging it”. The Agent requested within the correspondence that the Community Council comments be withdrawn and that a modified response be submitted by the Community Council Planning Liaison Officer demonstrating “a better understanding of the planning process, the Equalities Act 2010 and the Code of Conduct”.

Taking the above into account, it should be noted that the planning authority is of the opinion that a number of the issues and concerns raised by the community council are relevant and legitimate planning matters, which the community council, as a statutory consultee, is entitled to raise. The planning authority does not believe that the Community Council is either guilty of discrimination or of failing to uphold the terms of the Equalities Act.

### **Matters raised in representations**

The majority of the material concerns raised by objectors in representations have been addressed in the foregoing evaluation. The remainder of the concerns are addressed as follows:

4. *Ownership of the site changed hands in October 2019 and there is concern the new owner has different ideas for the site;* This is not a material consideration in the determination of this application which seeks a change of use of land for the erection of a chalet/mobile home.
7. *The proposed hardstanding damages the agreed Landscape Plan. There is adequate permanent hardstanding proposed for the site which could accommodate the chalet;* The

proposal relates to a change of use of land for the erection of a chalet/mobile home. The landscape plan which is referred to relates to a separate planning consent. However, it is acknowledged that it may not be possible to fully implement the landscaping scheme whilst the land is used as a caravan site, but could be fully complied with thereafter.

8. *The proposed temporary septic tank is not in compliance with the approved Drainage Impact Assessment. The permanent Sewage Treatment System should be installed and made operational for the use of the chalet, as per conditions of planning;* The proposal, if approved, would need to be designed to meet the appropriate requirements.
9. *In the nine years since planning was granted, for an urgent stud farm, there have been block and fences, and at no point have they required security;* This is not a material planning consideration in the determination of this application.
10. *Believe this latest application to be a flagrant attempt to circumvent planning regulations, and that the request to erect a chalet/mobile home signals plans to apply in the future for permission to erect a house/houses, without the current stipulation that a livery must be built and established as a business before the house is built;* This is not a material planning consideration. The applicant is within her rights to apply for the change of use of land for the erection of a chalet/mobile home at this site. The application is thereafter assessed against relevant planning policy and any other material consideration.
11. *The existing approved planning consent is subject to the successful setting up of a viable business on the site ahead of construction of the dwelling. Since this was granted in 2011 there has been no effort made to prepare the land for equestrian use, and the proposal for this temporary dwelling gives no information as to what work is to be undertaken with the land to make it suitable for an equestrian business, (Fences, land remediation, stables etc);* The proposal seeks a change of use of land for the erection of a chalet/mobile home and as such does not require the submission of the detailed works or site preparation for the delivery of a stud farm.
14. *The proposed duration, five years, which it notes may need to be extended is not a temporary arrangement but a clear attempt to circumvent the previous planning restrictions;* The applicant is within her rights to apply for planning permission for a period of 5 years, and for the acceptability of this period of time to be considered by the planning authority in the assessment of the application.
15. *It should take no more than 2 years to build the livery and then house, and therefore planning permission should reflect this more reasonable timescale to minimise the impact on the local community;* The applicant has applied for a change of use of land for the erection of a temporary chalet/mobile home at this site. The application is assessed against relevant planning policy and any other material consideration relating to such a proposal, and this would include considering any relevant time period for which permission could be granted.
17. *The temporary septic tank does not comply with the approved drainage assessment. The soil type at Baads is not suitable for a soakaway for a septic tank, and therefore an alternative type of sewage treatment system is required. Clause 7 of the conditional planning permission states that a suitable secondary treatment system has to be constructed to provide adequate sewage facilities and to safeguard public health. This is required before any residential use can be built;* The proposal, if approved, would need to be designed to meet the appropriate requirements.
19. *Anguston Road is a dangerous road, and any moves which will add to the traffic should not be supported without substantial upgrading work to the road which is in pressing need of sustainable repair and even widening in areas. The level of traffic on the road has compounded problems of potholes, narrow sections of road leading to eroded verges (often into deep ditches) and blind corners;* The Council's Roads Development Management team has assessed the proposal and raised no concerns with regards any increased level of traffic which would result from the proposed development.
21. *The field where the chalet/mobile home is to be erected is in a dreadful state of neglect. It has been left to seed for over 20 years and has large piles of stones and building waste on it and will require considerable effort and expenditure to restore to any kind of workable area for the accommodation of horses. Clearing this area and erecting the livery first should be the priority to*

*establish whether the livery is actually feasible prior to any accommodation/house being built;*  
The applicant has applied for a change of use of land for the erection of a chalet/mobile home at this site and the application is thereafter assessed against relevant planning policy and any other material consideration relating to such a proposal. The state of neglect of land within or outwith the application site is not a material consideration.

### **Other remaining matters to consider**

The Planning Policy & Design Statement submitted by the agent on behalf of the applicant, and in support of the application, refers to the proposed development as falling within the definition of a caravan in the Caravan Sites and Control of Development Act 1960, as supplemented by the Caravan Sites Act 1968, and therefore that the application “should be assessed as a change of use of the land on which the caravans would be sited”. The Statement also refers to the recent Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019 and concludes that the proposed chalet/mobile home falls within the definition of a caravan and as such would not be classed as operational development.

### **Conclusion**

Both national and local planning policies seek to protect the integrity of the Green Belt and the granting of individual planning permissions which lead to the cumulative erosion of the green belt are therefore deemed contrary to such policy. If it had not been for the specific individual requirements of an existing stud farm business which was granted consent at Baads Farm in 2011, the associated dwellinghouse would not have complied with planning policy and consent would not have been granted at that time.

The same condition which was applied in 2011 and subsequently under planning application Ref P120873 continues to be valid and relevant today, under current Green Belt policy, namely that the stud farm that was granted planning permission and all associated infrastructure had to be constructed, completed and brought into use prior to construction starting on the dwellinghouse and garage. The condition was applied to ensure that the dwellinghouse and garage were only constructed in association with an operational business, in accordance with Green Belt policy.

This current application seeks permission for a change of use of the land to caravan site for the erection of a chalet/mobile home for residential purposes for a period of up to 5 years. The Planning Policy & Design Statement submitted in support of the application states that the chalet/mobile home and infrastructure would be removed after the 5 year period, unless a further application to extend the lifetime of the development is submitted. There is therefore clearly a risk that an extension could be sought to retain the chalet/mobile home beyond the 5 year period if the stud farm business is not operational within that time and thus could become a more permanent place of residence.

There has been no reasonable justification provided which would support the introduction of a residential use at this location. Furthermore, there is no guarantee of the previous permission being implemented, nor any means of ensuring that the caravan site is only occupied if the previously approved stud farm is constructed and brought into use. Taking all of this into account it is apparent that such a proposal is contrary to Green Belt Policy.

In the event that members are minded to grant the change of use, conditions limiting the number of caravans/chalets/mobile homes on site (in order to protect the landscape character and setting of the green belt) and the duration of permission are recommended, with 3 years deemed sufficient to allow for the previously approved stud farm to be built and become operational and for the construction of the dwellinghouse.

### **RECOMMENDATION**

Refuse

## **REASON FOR RECOMMENDATION**

1. The proposed development comprises a change of use of land to caravan site for the erection of a residential chalet/mobile home for a period of up to 5 years. This is a stand-alone application, which if approved, would allow for the change of use to caravan site and subsequent residential occupancy of that site to occur without any obligation for the construction of the previously approved stud farm being progressed.

It is the considered opinion of the planning authority that provision of any form of residential accommodation on the application site in advance of the aforementioned stud farm being constructed and brought into use would undermine the policies which seek to protect the integrity of the Green Belt, and safeguard against unsustainable development and suburbanisation of the area. Such development would have an adverse effect on the character of the area and the landscape setting within which the site lies.

The proposed development would be clearly contrary to the expectations of Scottish Planning Policy (SPP) and to the requirements of Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan, and would only partially address the expectations of Policy D1 (Quality Placemaking by Design) and Policy T2 (Managing the Transport Impact of Development).

2. That the proposal, if approved, would set an undesirable precedent for applications of a similar nature which would result in the proliferation of sporadic, temporary residential accommodation in the Green Belt, and in turn lead to the erosion of the character of the Green Belt and adversely affecting the landscape setting of the City.

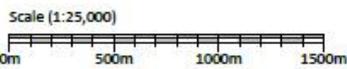
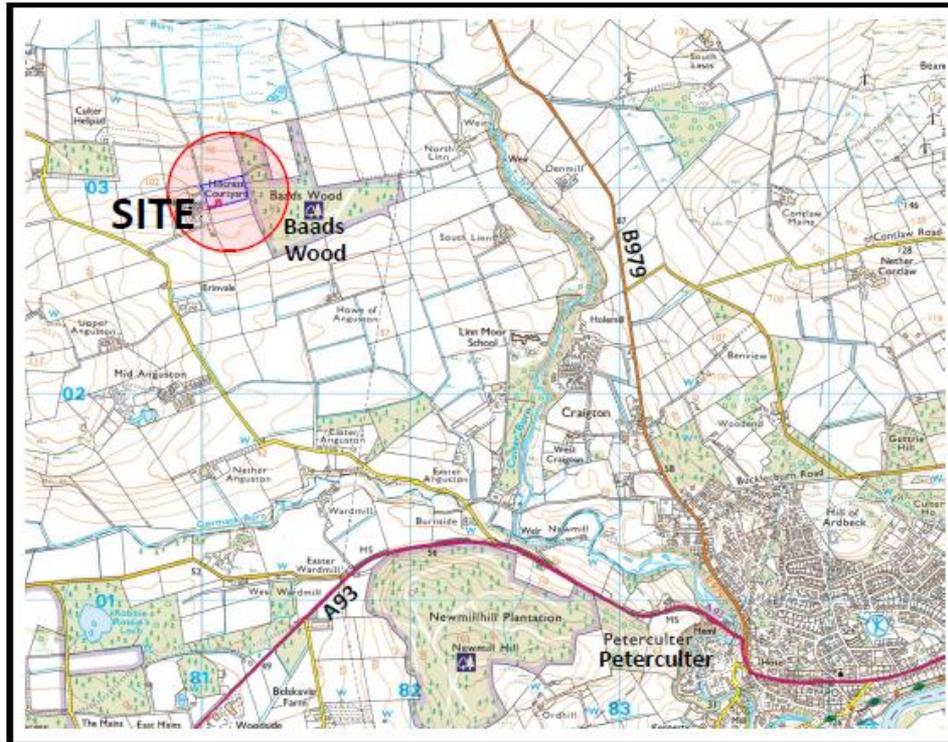
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## Item 7.1

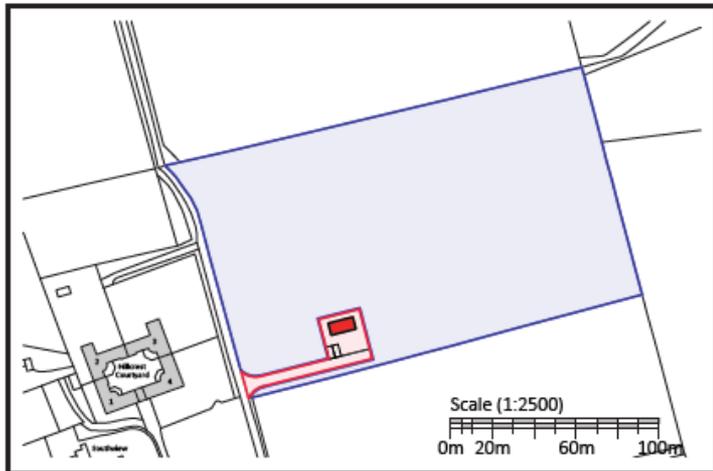
**Change of use of land for the  
erection of a chalet/mobile home at  
Baads Farm, Anguston Road,  
Peterculter**

**200040/DPP**

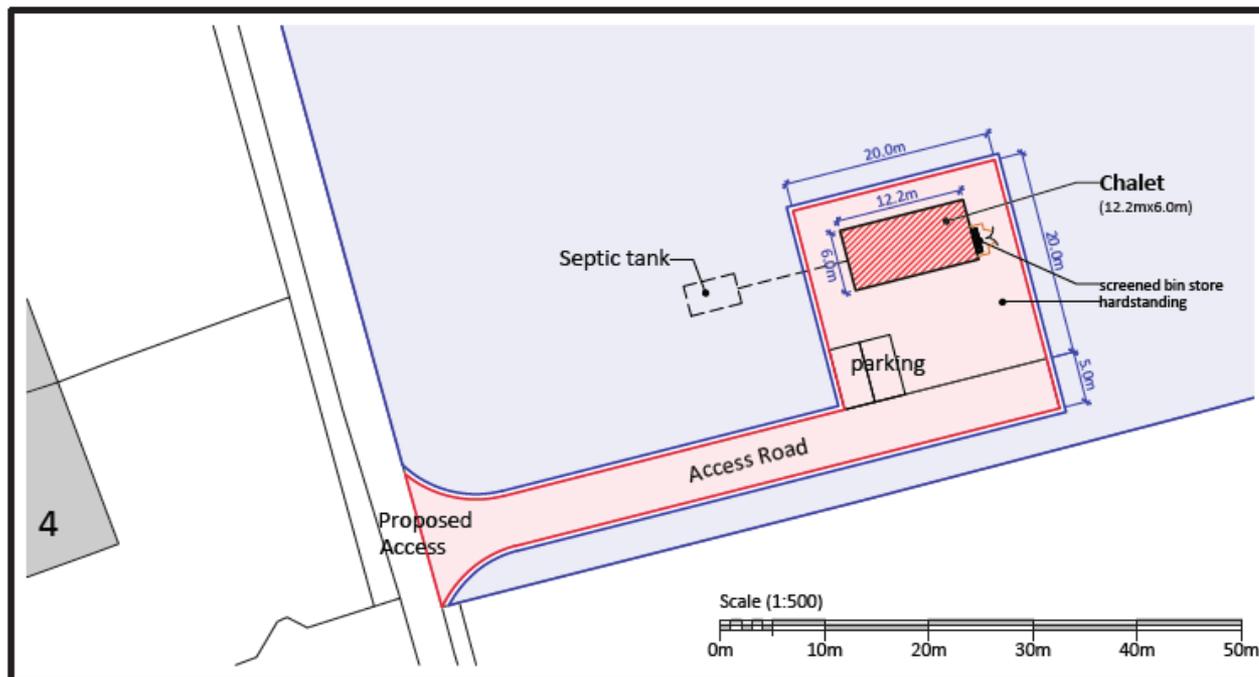




### Location Plan



### Block Plan







**FACING SOUTH**



**FACING WEST**



**FACING NORTH**



**FACING SOUTH-EAST**



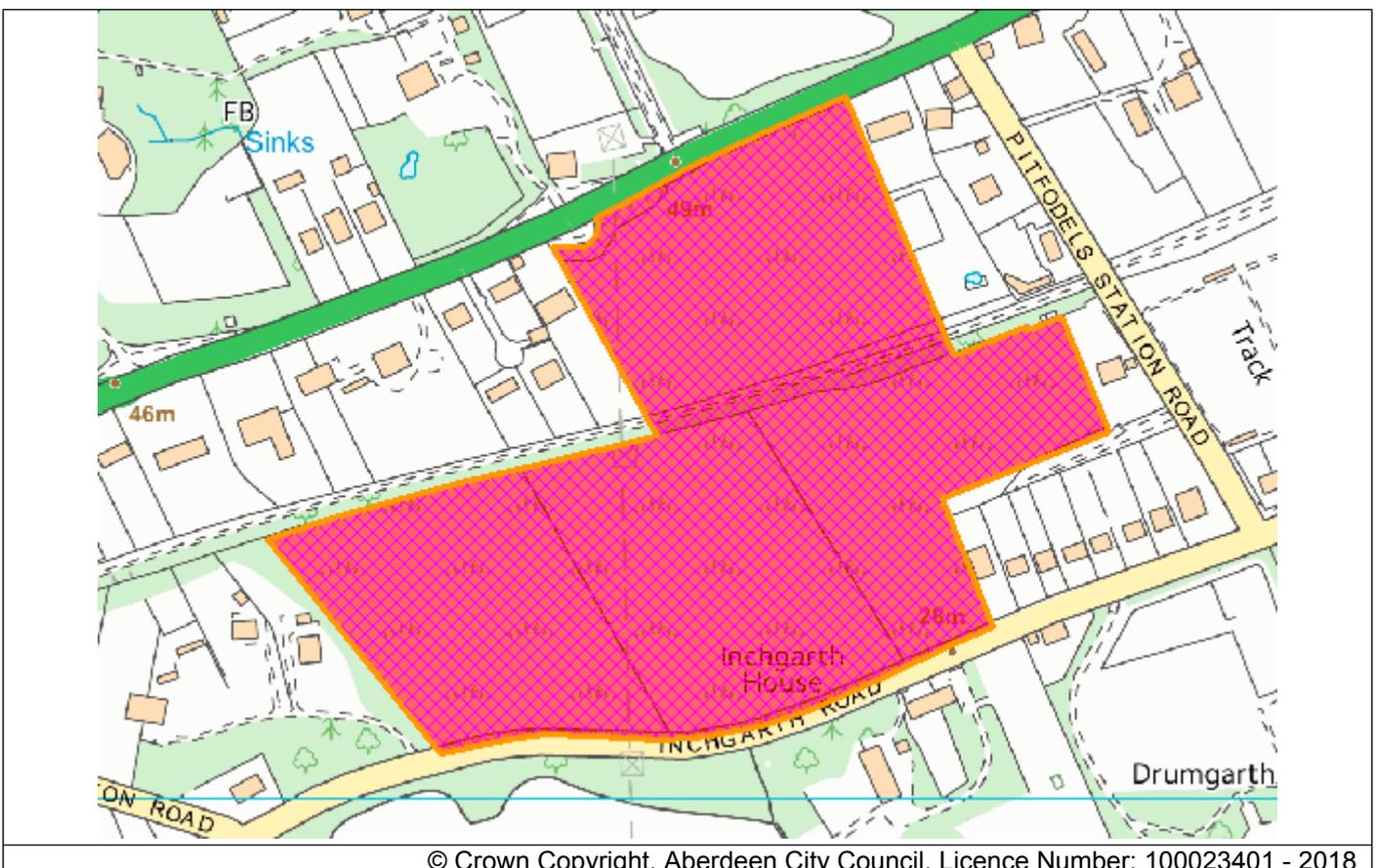
**FACING SOUTH-EAST**

# Key Issues

- This is a stand alone application seeking a change of use to caravan site for the erection of a chalet/mobile home;
- If granted permission, the change of use to caravan site could be implemented with no obligation to progress the previously approved stud farm and dwellinghouse;
- Similarly, both permissions could also be implemented concurrently;
- Occupation of the chalet/mobile home cannot be tied to the applicant or to the previously approved stud farm and dwellinghouse.

 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2>Planning Development Management Committee</h2>
	<p>Report by Development Management Manager</p>
	<p><b>Committee Date: 30<sup>th</sup> April 2020</b></p>

<b>Site Address:</b>	Land at Inchgarth Road, Cults, Aberdeen,
<b>Application Description:</b>	Residential led development for the retired/elderly (including affordable housing), a 50 bedroom care home and approximately 500sqm of ancillary retail/community use, together with public open space and associated infrastructure including a link road
<b>Application Ref:</b>	181224/PPP
<b>Application Type</b>	Planning Permission in Principle
<b>Application Date:</b>	12 July 2018
<b>Applicant:</b>	Cults Property Development Company Limited
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bieldside And Milltimber
<b>Case Officer:</b>	Lucy Greene



### RECOMMENDATION

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The 9.87 hectare site lies between Pitfodels, to the west, and Garthdee, to the east, with North Deeside Road along the northern site boundary and Inchgarth Road along the southern boundary. The Deeside Way (public Core Path 66) cuts across the middle of the site from East to West. There is a significant change in levels across the site, with the northern boundary being approximately 21 metres higher than the southern. The site consists of fields with their dry stone dykes still in evidence. It is covered by a Tree Preservation Order (TPO No 237), with the larger trees located in particular along North Deeside Road, on land to the north side of the Deeside Way land and close to the site boundary to the east. The land now consists of rough grassland that has been heavily colonised by self-seeded trees and plants, especially across the southern area. Rear gardens to properties along North Deeside Road, Pitfodels Station Road and Inchgarth Road abut the site to the east and west. A significant power line also crosses the site, with a pylon close to the Deeside Way.

The site lies within the Pitfodels Conservation Area and the Category 'C' listed Inchgarth House lies immediately to the south, on the opposite side of Inchgarth Road. The Deeside Way is a Local Nature Conservation Site (Site No. 29). The designation describes the banks of this former railway line as a mixture of grassland, tall ruderal, small pockets of woodland, scattered trees and shrubs and a valuable green corridor in the west of the city. The footpath along the line begins at Duthie Park and passes alongside Cults, Bielside, Milltimber and Peterculter.

Pitfodels Station Road and Westerton Road are relatively narrow streets to either side of the site, Pitfodels Station Road has traffic light controls on the section crossing the Deeside Way bridge. Westerton Road has traffic calming build outs.

### **Relevant Planning History**

171259/ESP - Request for EIA Scoping Opinion in relation to proposed development including mixed of retirement housing; care home; local retail units and associated landscaping;

161620/ESC - Development comprising (retirement village for over 55s), care home, leisure and community facilities and construction of a relief road

Decision: EIA Required 15/12/2016

161227/PAN – Proposal of Application Notice for Sports facility (including all weather pitch, sports pavilion and changing facilities), small development of a mix of housing (including retirement village) and creation of relief road between Inchgarth Road and North Deeside Road

Decision: Further Consultation Required 12/09/2016.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

The application seeks planning permission in principle (PPP) for a residential led development for the retired / elderly, which would include affordable housing, a 50 bed care home and approximately 500m<sup>2</sup> of ancillary retail and / or community use space, public open space and associated infrastructure and a link road between Inchgarth Road and North Deeside Road (A93). The link road would involve bridging over the Deeside Way and indicative plans show that embankments would require to be formed in order to achieve this and to provide the junction with North Deeside Road. There would be a disabled access path between North Deeside Road and Inchgarth Road, via the Deeside Walkway. A cyclepath would be laid out along the length of the link road. To the west of the proposed link road plans show the existing open green space being retained and enhanced as part of the development.

An indicative Masterplan includes 95no. residential units as well as a 50 bed care home and 500m<sup>2</sup> retail / community uses. The residential units are as follows: 6 no. detached buildings each containing 4/5 x 2 bed room apartments, these would be in the area to the north of the Deeside Way; 16 x 2 bed semi-detached apartments, in the area to the east to the north of houses on Inchgarth Road; 6 no. 'houses' each containing 4/5 x 2 bed room apartments, these are in the area fronting Inchgarth Road; 14 x 1 bed amenity houses – these are affordable units designed for the elderly, shown on the plan to the north of the flatted houses fronting on to Inchgarth Road; 12 x 2 bed apartments, to the south of the Deeside Way, between the retail / community units and the semi-detached apartments.

The proposed link road is shown with a T junction onto Inchgarth Road and in order to create an acceptable gradient, it follows a curved line to join North Deeside Road opposite Bairds Brae. From approximately a mid point within the southern site area, the link road would be on an embankment of increasing height resulting in the road surface being approximately 4.5 metres above the surface of the Deeside Way.

Development platforms are indicated as being proposed to be created across the site. These would result in significant changes in levels, in particular in the northern area of the site between the Deeside Way and North Deeside Road, where there is an approximately 12 metre level change between the two.

The proposals indicate a retained green space to the west of the link road, with surface water drainage ponds in indicative positions close to the road.

The Environmental Report includes an assessment of the visual and landscape impact of the development, from both the roads and Deeside Way immediately adjacent to the site, and from further afield from public vantage points to the south and north. These take into account, within technical constraints, the general impact of the removal of vegetation and tree cover, and replacement planting to the extent that is envisaged by the applicant.

## **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=PBSYAXBZ00D00>

Tree Survey Report by Astell Associates dated 24 February 2020  
Landscape and Visual Impact Assessment by DWA Landscape Architects Ltd Version 4 and including photomontages dated October 2019  
Lepidoptera Survey by Astell Associates of 8<sup>th</sup> August 2019

Environmental Report dated July 2019 (NB, some sections have been updated by the above)  
Appendices to the above:

Archaeology Desk -based Assessment by Cameron Archaeology;  
Transportation Assessment by Fairhursts, July 2019;  
Drainage Assessment by Fairhursts;  
Geo-Environmental Desk Study by Fairhursts, May 2018;  
Noise Assessment Report by Sandy Brown Version D 21 September 2018;  
Environmental Walkover Survey by Astell Associates 11 July 2019;  
Survey of trees for Bats by Astell Associates, dated 3<sup>rd</sup> June 2019;  
Tree Survey report by Astell Associates;

Design and Access Statement – by Fitzgerald Associates, May 2018.

### **Details of Pre-Application Consultation**

Following the submission of a Proposal of Application Notice to agree consultation measures with the planning authority, two public consultation events were held on 14<sup>th</sup> September and 9 November 2016 at the Marcliffe Hotel, Pittfodells. Around 100 people attended these events, with initial comments being provided on the proposals.

### **Requirement for a Pre-Determination Hearing and Determination of Application**

The proposed development is classed a 'major development' in terms of The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The proposal is considered to be a significant departure from the Development Plan by virtue of it being a major development located on an undeveloped and unallocated site within the Green Belt, wherein Policy NE2 'Green Belt' of the Aberdeen Local Development Plan applies, but does not allow for development of this type within its stated exceptions.

Until 1 March 2020, under Regulation 27 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 the planning authority was required to give those who make representations an opportunity to appear before and be heard by a committee of the authority at a Pre-Determination Hearing. In addition, any planning application which was the subject of a pre-determination hearing under S38A of the Town and Country Planning (Scotland) Act had to be determined by Full Council as per the Local Government (Scotland) Act 1973.

The Planning (Scotland) Act 2019 was passed by the Scottish Parliament in June 2019 and makes substantial changes to the 1997 Act. The implementation of the Act is underway and some of its provisions are now in force. Provisions were brought into force in Quarter 1 2020 removing the requirement for full Council to make decisions on applications where there has been a pre-determination hearing. Therefore, this application may be determined by Planning Development Management Committee.

The Pre-Determination Hearing took place on 13th January. The purpose of such hearings is to afford both the applicant and those who have made written representation on the proposed development the opportunity to present their views directly to the members of the Council.

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

The application has been referred to the Planning Development Management Committee because this is a major application, as it is a significant departure from the development plan and there have been 301 no. representations.

## **CONSULTATIONS**

**Developer Obligations** – Contributions would be due for core paths and open space where insufficient is provided on site. Affordable housing would be required at 25% in accordance with the Supplementary Guidance. The nature of the housing for the retired / elderly would be required to be controlled by Section 75 agreement.

Contribution to health service provision would be due. Based on information from the NHS, the proposed development is served by a number of medical practices which are operating at or over capacity.

The nearest facilities – the Cults Medical Group and the Camphill Medical Practice – are operating with less space than required based on existing patient numbers. The Cults Medical Group is operating at approximately 3% below and the Camphill Medical Practice approximately 61% below the General Medical Services (GMS) space standards of 836m<sup>2</sup> and 483m<sup>2</sup> respectively (based on

the existing number of patients).

Although the proposed development does not require to address existing healthcare shortfalls, it will place further pressure on healthcare facilities through the creation of additional patients. In order for the development to be made acceptable if a healthcare facility is not provided on site, a contribution will be required towards extension works to create additional capacity at existing healthcare facilities serving the development, as advised by the NHS. The healthcare contribution is calculated in accordance with the methodology in section 4.5.2 of the Developer Obligations Supplementary Guidance, based on the Standard House Unit Equivalent (SHUE) for the proposed development and using the extension rate outlined in the Supplementary Guidance.

It is understood that the proposed development indicatively comprises 81 x 2 bed units and 64 x 1 bed units (including the proposed 50 bed care home). This equates to a SHUE of 103.2. The healthcare contribution is therefore:  $103.2 \times \pounds 1,023.57 = \pounds 105,632$ .

**Contaminated Land Team** – No objections or concerns. If the works involve digging into ground immediately adjacent to former Deeside line, then the contamination issue will need to be reconsidered.

**Environmental Health** – Noise impact assessment report is accepted. It was agreed that an Air Quality Impact Assessment was not required. Conditions would be required relating to construction period.

**Environmental Policy Team** – In terms of trees, concerns remain that changes to levels across the site would be within root protection areas of trees to on the eastern boundary, would alter hydrology within areas around trees and would result in the loss of trees either immediately or cause damage that would cause loss in the medium term.

In terms of the lepidoptera survey for moths and butterflies, the survey is acceptable. It is concerning that 5 Biodiversity Action Plan (BAP) species were found to be present. The proposed road would create a barrier to dispersal of protected species and during construction there is a risk that the larval stage of species is lost. Mitigation measures would need to include retention of existing habitat and robust exclusion of retained habitat from construction activities.

**Environmental Services Team** – there are no play areas in the area, to the south of Deeside Road and it would be beneficial if this could be provided in the development, in particular if it is environmental in nature.

**Structures, Flooding and Coastal Engineering** – It is noted that there is a second surface water sewer running within the proposed site. It is confirmed that no development should be placed above the surface water culvert unless it is demonstrated that the sewer is no longer live or does not exist. If the culvert exists and is live, appropriate works shall be undertaken to either divert the route of the culvert away from any proposed development or full access should be considered for future inspections and maintenance.

**Roads Development Management Team** – The proposed link road would include 3m footway / cycleway on the west side, with 2m footway on the east side, which is an improvement on the existing situation on Pitfodels Station Road and Westerton Road.

In terms of public transport, North Deeside Road has regularly serviced bus stops within 400m of the site, although these may require upgrade by the applicant. There are bus stops within 900m on Garthdee Road and Auchinyell Road. The applicant has indicated that the link road would be designed to accommodate bus travel and further details would be required at detailed design stage.

Although there was an over provision of visitor parking, the applicant has indicated a willingness to reduce this. Cycle and motorcycle parking should also be provided.

The concept of a link road, in conjunction with one of the options for 'Access from the South' was considered through the Scottish Transport Appraisal Guidance (STAG) stage 1 and stage 2 process, it was acknowledged that the option required further consideration to make a comprehensive judgement.

It is logically concluded that local traffic would be channelled onto the proposed link road, and this has been included in an analysis, which shows that in this scenario, both junctions operate within capacity at the peak hours.

Due to the gradient, the meandering route is required, which would result in traffic being slowed. Detailed design of the road would not be required until detailed stage.

Condition should be attached to any permission, relating to access for waste collection.

There are various comments relating to the internal roads providing access to residential and other uses, however, it is considered that these would be capable of addressing at detailed stage.

The speed limit on Inchgarth Road should be reduced from 40mph to 30mph.

Due to the method of calculating trips, it is considered that the use of the site for retirement accommodation should be conditioned on any permission granted.

It is concluded that the link road could feasibly be implemented without impacting the surrounding road network negatively. It is unclear how the North Deeside Road 'ghost lane' (which would be for right turning vehicles heading into the site) would be implemented without impacting on-road cycle facilities, however, it is considered that this could be confirmed at a later stage.

The framework travel plan is adequate, and details could be conditioned.

In response to the points made in the Community Council additional comments of 6<sup>th</sup> December:

It is not considered appropriate to request a further analysis of the traffic west of the site on Deevie Road South etc, as sufficient analysis has been carried out for the purposes of the assessing the proposal – ie, traffic entering the site. The proposed link would replace two less suitable links.

In terms of potential changes to existing streets to reduce traffic, for example, by one-way restrictions, this would be addressing a problem that already exists, and as such, is it not appropriate to request that the applicant do this.

In terms of the cycle route joining the Deeside Way, there would be routes through the site to the Deeside Way. This could be dealt with at a detailed stage.

The accident statistics covering the period January 2014 to end of 2018 for the surrounding roads are as follows:

- There were 8no. accidents reported to police;
- Seven accidents were slight in severity, and one was serious;
- The serious accident was at the junction was Westerton Road and North Deeside Road, when a car driver turned right into Westerton Road, hitting two cyclists heading west on North Deeside Road.
- There was a minor accident involving a car waiting to turn right into Westerton Road being shunted.
- Further minor accident on North Deeside Road at the junction with Pitfodels Station Road.
- The other accidents were on North Deeside Road not immediately adjacent to the site.

**Drainage** – Some clarification is required on SUDS measures, however, the principle is acceptable given that an engineering solution is feasible. This matter would need to be covered by condition.

**Scottish Environment Protection Agency** – Note that plans show an existing culvert through the site and two possible diversions. A condition is requested requiring details of this to be submitted.

Conditions also requested requiring

- details of site surface water drainage.
- an assessment of soil conditions and if peat is found, a Peat Management Plan
- Site waste management plan
- Japanese knotweed management plan.

It is noted that the developer would require a Construction Site Licence from SEPA under the Controlled Activities Regulations (CAR Licence), for the management of surface water run-off through a Pollution Prevention Plan, this is not therefore required to be covered by planning condition.

**Scottish Water** – No objection; there is currently capacity in water supply and foul sewage, although there is no guarantee that this would be the case in the future.

Scottish Water assets exist within the footprint of the development, this will require protection during any works. Stand off distances will also apply, which may affect development layout.

The site falls within a drinking water catchment, where it is essential that water quality and quantity are protected. However, it is a large catchment and the site is at sufficient distance from the intake to be low risk. This will need to be taken into account during construction and included within site induction.

Surface water will not be permitted to enter the combined sewer.

**Waste Strategy Team** – Provides details of waste and recycling containers. Requests conditions covering details such as swept path analysis to ensure that refuse collection vehicles can safely access the development; and, location of bin stores.

**Scottish Natural Heritage** – In response to the initial consultation it is confirmed that the proposal is unlikely to have significant effect on qualifying interests of the River Dee, Special Area of Conservation (SAC) and appropriate assessment is therefore not required.

SNH confirm their role in commenting on surveys of protected species and that these need to be requested by the planning authority where relevant (updated bat survey was submitted by the applicant).

SNH highlight that in the summary of likely effects in the Environmental Statement the magnitude of impact on the ecology of the area is considered 'significant beneficial'. The area to the west that will be retained is capable of improvement in terms of biodiversity, however, given that approximately two thirds of the development will result in the loss of semi-natural vegetated areas, SNH disagree with the significant beneficial conclusion.

In response to the consultation on further information, SNH explain that they are currently providing detailed landscape and visual advice only in the highest priority cases, where the effects of proposals approach or surpass levels that raise issues of national interests. It is advised that the proposals do not raise issues of national interests in terms of:

1. significant adverse effects on the integrity and objectives of designation of a National Scenic Area;
2. significant adverse effects on Special Landscape Qualities of a National Park;
3. significant adverse effects on the qualities of a Wild Land Area;
4. landscape issues in the wider countryside.

**Archaeology Service (Aberdeenshire Council)** – condition is required, this would require a programme of archaeological works.

**Historic Environment Scotland** – Proposals have the potential to effect Pitfodels Castle, motte 30m E of Norwood. HES have no comments based on the information received.

### **Cults, Bieldside and Milltimber Community Council –**

The Community Council offer conditional support to the proposal based on the supportive community feedback for the link road and retirement - friendly housing. The Community Council also commented on the potential for improved access to the Deeside Way, public open space, provision of a wildlife corridor and possibility of local retail and health services.

Understanding for the views of objectors was expressed, together with the view that these could be balanced against potential overall benefit to the community.

The following points were made:

- There is strong public support for an improved road connection between Pitfodels Station Road and Inchgarth Road, to relieve the existing roads, open up the possibility of public transport and to cope with traffic increase from continued housing development to the west.
- The Community Council were not consulted by the developer on the current proposal, which has changed considerably since the previous iteration;
- Whilst it is understood that this is an application in principle, the design lacks imagination:
  - density is too high and out of keeping with the area;
  - A greater variety of house types could be provided;
  - The layout is too linear;
  - Parking should be next to properties to assist those with poor mobility;
  - A small parking area should be provided in the green space, to allow non-residents to visit the open space.
- Although there is support for retirement-friendly housing, age diversity would be welcomed;
- It is important that there is some green space to maintain separation from the existing built up area and to character of North Deeside Road;
- Disappointment is expressed that the re-positioning of the link road in the application makes it impossible to create a sports facility.
- It is suggested that Aberdeen City Council should contribute to the development, in order to alleviate traffic problems and allow a lower density development to be provided.

In terms of the Transport Assessment, the Community Council comment that:

- base case network diagrams at Appendix F indicate peak hour flows on Deeside Road South and Inchgarth Road (West of Westerton Road) in excess of 100 vehicles per hour. This is significant as it is a very difficult section of road with blind bends and it appears that this would remain after the link road is introduced. It would be preferred that there is a wider analysis of the area west of Westerton Road , including Deeside Road South and St Devenick's Place and South Avenue, to better understand this traffic flow, as it would appear that drivers use this route to bypass Cults village centre;
- There should be wider assessment of the neighbouring roads, for example, the possibility of making Westerton Road and Pitfodels Station Road one-way. It is also assumed that the 7.5 ton weight limit on Inchgarth Road would only apply west of the junction with the new link road;
- The cycleway along the Link Road should have access onto Deeside Way;
- There should be a much wider tree belt between North Deeside Way and the development.
- There should be firm arrangements in place for the continuing management of the greenspaces in the development.

### **REPRESENTATIONS**

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301 no. representations have been made, consisting of 22no. letters of objection, 278no. letters of

support and 1no. neutral.

The following matters were raised:

1. Although the application makes great play of the support for sustainable development within Scottish Planning Policy, the SPP makes clear that this does not override the primacy of the development plan. The proposal is contrary to the Local Development Plan. This is the starting point for decision making.
2. The proposals for Access from the South offer three options, only one of these includes the link road on this application site. It is not therefore necessarily 'essential infrastructure' as mentioned in Green Belt policy.
3. Lack of evidence that the road is needed. Easier access would encourage more usage.
4. There is no mention of the link road in the Local Development Plan.
5. The new road would increase noise and pollution. Policy T5 states a presumption against noise generating development.
6. Nearest bus stop is on Inchgarth Road, at some distance from the site and where there are narrow and uneven footpaths
7. Objection due to the proposal being contrary to Green Belt Policy. The proposal does not fall within any of the exceptions to the general presumption against development.
8. Objection due to the proposal being contrary to Green Space Network Policy. It would result in approximately two thirds of the semi natural habitat being lost and would erode the character and function of the network of open green spaces.
9. This is the first area of natural scenery along the Deeside Way heading out of the City. It is beautiful and should be retained.
10. The site provides ready access to nature, which enhances well-being.
11. The site is home to many species and types of wildlife and is a local asset.
12. That a Right of Way may have been created across the site by regular use over the last more than 20 years, between the rear of houses on Inchgarth Road and the east side of the site. This needs to be taken into account.
13. The supporting statement makes reference to the SPP stating that where a need is identified, then the LDP should consider allocating sites and provide policies to meet such a need. However, there is insufficient evidence of a need for care and retirement accommodation in Aberdeen, the evidence is national.
14. Proposal would result in an adverse impact on the environment in the Pitfodels Conservation Area.
15. The area has been subject to aggressive development over the recent years, with development setting a precedent for further development, until no green space is left.
16. That the bat survey contains incorrect references and prior to authorising commencement of development the planning authority must ascertain whether there is a presence of protected species on the site, and what the effect of this might be.
17. That owls, pine marten and red squirrel are also present on the site, as well as a significant variety of birds, insects, bumblebees and butterflies.
18. The ecosystem on the site should be left for future generations.
19. The proposal is proximate to several well studied badger setts, which have not been taken into account. The proposal would result in the loss of foraging resources.
20. That the link road provides only another route onto Inchgarth Road. It would create a new rat run and bring traffic into the Conservation Area.
21. That the proposal is within the Conservation Area and would destroy beautiful countryside.
22. That there was an application for over 50s living at the Marcliffe Hotel and the objector queries how much of this the community facilities can cope with.
23. There are already several retirement homes in the area and they create a burden on caring services.
24. Objector queries whether there is really demand for retirement homes, and that this site is steeply sloping, with no easy access to shops and services.

25. Objector considers that affordable housing in this area is not a serious suggestion.
26. There is no guarantee that the shops, including pharmacy would be provided and occupied. There are already two pharmacies in the area.
27. There is a lack of GPs to run surgeries. It is reportedly very difficult to get an appointment at Cults medical practice, the proposal would put more strain on that facility.

The following matters were raised in support, or are neutral comments:

28. The owner of land to the south of the application site confirms that their land is available to provide enhanced and integrated roads and access, incorporating existing access to their own land.
29. The owner of land to the south confirms that their land is also available to help deliver an enhanced and integrated north – south wildlife corridor.
30. Owner of land to south highlights the two developer bids to the proposed Local Development Plan, reference B0944 relates to the application site, whilst reference B0917 relates to the land to the south, both are currently green belt and green space network. The application that is the subject of this report incorrectly refers to the land to the south as 'urban green space'. The writer supports the allocation of both sites in the new LDP.
31. That the proposal will benefit the local community by the provision of a link road that would improve traffic flow in the area and is needed, including to assist with the problem of rat running in the area. Existing roads are narrow with narrow pavements and vehicles speed along them, resulting in a dangerous situation.
32. T junction at Inchgarth Road would be better than a roundabout, and traffic should be directed preferentially onto the link road, with Inchgarth Road to the west becoming a minor road.
33. Provision of a bus service along the proposed link road to provide access to the shops at Garthdee, would be a good idea.
34. That the proposal is sympathetic and would also provide benefits with the residential and community facilities of a pharmacy, café and doctors surgery. The housing would allow people to downsize whilst remaining within the area, it would take pressure off the NHS and social care provision. There is demand for this sort of housing within the area and the proposal for a care home is supported due to need for the facility.
35. The site is currently unkempt and contributes little to the character and amenity of the area, as it is not available to the public and is therefore a wasted space.
36. Scale of development would hardly be visible from North Deeside Road.
37. Improvement of land, for wildlife, is a great idea.
38. Access to the Deeside Way would be improved, especially for disabled people.

### Pre-Determination Site Visit and Hearing

A Hearing site visit was held on Monday 13<sup>th</sup> January 2020 to familiarise members with the context of the site and the positioning, scale, changes in ground levels and means of access to the proposed development.

A Pre-Determination Hearing took place following the site visit on 13<sup>th</sup> January. The Hearing afforded the applicant and those people who submitted written representations on the proposed development the opportunity to verbally present their arguments/case directly to the Planning Development Management Committee, which on this occasion, was open to all Members of the Council. The minute from that hearing can be found on the Council website along with the agenda pack

– <https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=7307&Ver=4>

The hearing was addressed:

- by officers from the City Council on the planning and roads considerations pertinent to deciding the planning application,
- by the applicants and applicants' representatives in terms of the merits of the proposed

development;

- by organisations and individuals speaking for and against the proposal including Cults Milltimber and Bieldside Community Council and local residents for and against the proposal.

Members asked questions of many of the speakers.

The minute of the hearing has been scrutinised to make sure that any material planning issues and points raised in the hearing have been addressed in the evaluation of the application.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

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

#### Scottish Planning Policy

Scottish Ministers, through SPP, expect the planning system, amongst other things, to focus on outcomes, maximising benefits and balancing competing interests; play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities; and be plan-led, with plans being up-to-date and relevant.

SPP's identified outcomes include achieving 1. *'A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places'*; 2. *'A low carbon place – reducing our carbon emissions and adapting to climate change'*; and 3. *'A natural, resilient place – helping to protect and enhance our natural and cultural assets and facilitating their sustainable use.'*

Paragraph 15 highlights the role of SPP to set out how these outcomes should be delivered on the ground. By locating the right development in the right place planning can provide opportunities for people to make sustainable choices and improve their quality of life.

Paragraph 28 states, as a policy principle, that the planning system should *'support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost'*.

As regards green belts, paragraph 49 sets out in the context of development planning that these will not be appropriate to all settlements, however, where planning authorities consider it appropriate, the development plan may *'designate a green belt around a city or town to support the spatial strategy by:*

- directing development to the most appropriate locations and supporting regeneration;*
- protecting and enhancing the character, landscape setting and identity of the settlement; and*
- protecting and providing access to open space.'*

Again in the context of development planning, para 52 sets out that local development plans should describe the types and scales of development which would be appropriate within a green belt. These may include:

- development associated with agriculture, including the reuse of historic agricultural buildings;*

- development associated with woodland and forestry, including community woodlands;*
- horticulture, including market gardening and directly connected retailing;*
- recreational uses that are compatible with an agricultural or natural setting;*
- essential infrastructure such as digital communications infrastructure and electricity grid connections;*
- development meeting a national requirement or established need, if no other suitable site is available; and*
- intensification of established uses subject to the new development being of a suitable scale and form.*

Paras 193 & 202-204 address the policy 'Valuing the Natural Environment':

Paragraph 193 notes the importance of planning in '*protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use*'.

Paragraph 202, in the context of development management, states that '*The siting and design of development should take account of local landscape character*', and that '*developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement*'.

Paragraph 203 states that '*Planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment*'.

#### National Planning Framework (NPF3)

This is currently under review and its replacement (NPF4) will set out Scotland's vision for the future as well as introducing national policies on various topics.

NPF3's key vision for Scotland's spatial development is to create:

- a successful, sustainable place;
- a low carbon place;
- a natural, resilient place; and
- a connected place.
- 

NPF3 contains a number of large infrastructure projects, many of which are either completed or under way.

#### Historic Environment Policy Statement (HESPS) 2016

Key to managing change within the historic environment is understanding its significance, the attributes that form its character; manage change in a way that protects the historic environment and minimise change where it is unavoidable. Alternatives should be explored and mitigation measures put in place. It is stated that the historic environment should be managed in a sustainable way to ensure that it benefits everyone now and in the future.

#### Local Transport Strategy (2016-2021)

The vision for the Local Transport Strategy is to develop "*A sustainable transport system that is fit for the 21st Century, accessible to all, supports a vibrant economy, facilitates healthy living and minimises the impact on our environment*". Its five associated high-level aims are:

1. A transport system that enables the efficient movement of people and goods.
2. A safe and more secure transport system.
3. A cleaner, greener transport system.
4. An integrated, accessible and socially inclusive transport system.
5. A transport system that facilitates healthy and sustainable living.

These are underpinned by five identified outcomes. By 2021 Aberdeen's transport system should have:

- A. Increased modal share for public transport and active travel;
- B. Reduced the need to travel and reduced dependence on the private car;
- C. Improved journey time reliability for all modes;
- D. Improved road safety within the City;
- E. Improved air quality and the environment; and,
- F. Improved accessibility to transport for all.

#### Strategic Infrastructure Plan (2013)

Aberdeen City Council's Strategic Infrastructure Plan (SIP) focuses on the delivery of key strategic priorities. One of the Key Goals was better local transport and one of the criteria for this Goal is improving cross-city connections.

Fourteen priority projects are identified in the SIP and one of these is 'Access from the South'.

The results from the initial stage of a study, completed in 2011, found that in the long-term increasing levels of development south of the River Dee will lead to further problems at bridge crossings. The study identified the long term need for additional capacity across the River Dee and investigation of these capacity issues is now the focus of an ongoing study.

The SIP states that "included in this project is exploring the merits of a link road between Inchgarth Road and North Deeside Road as part of a wider solution combined with the proposals for the Bridge of Dee."

There was a report on the Scottish Transport Appraisal Guidance (STAG) Part 1 Appraisal of Access from the South to the Enterprise, Planning and Infrastructure Committee in March 2014, which referred to the option including link road through this site as 'Concept 6B'. The conclusions from comparative assessment of the various concepts concluded that Concept 6B be rejected for further consideration on the basis that the link had been demonstrated not to be necessary as part of the wider solution combined with the proposals for the Bridge of Dee. However, the A93/Inchgarth Road link had not been progressed and scrutinised to the same level of detail as other concepts, therefore, to enable a consistent comparison between all concepts to be fully explored, it was considered appropriate to take the '6B' concept, including an Inchgarth / A93 link road forward for further consideration to enable it to be progressed to a comparable level of detail. As such, the link road proposed through this planning application is not a material planning consideration.

There was a further report (STAG Part 2 Appraisal) to Communities, Housing and Infrastructure Committee in January 2017. The Key Findings in respect of the link road (which is part of Concept 6B) were that the link road did not make Concept 6B materially better than Concept 6 (same Concept, but without the link road), and that the link road element resulted in additional cost and environmental impact.

The next step in the consideration of the 'Access from the South' study is a post Aberdeen Western Peripheral Route (AWPR) review which will commence later this year. A likely timescale would be that the review is completed by late 2021 and will be followed by Committee reporting.

This matter is discussed later in the Evaluation section, however, in summary, at present the Access from the South study has not resulted in an agreed option and accordingly [it is not](#) possible on the basis of the SIP to draw support for the link road proposal that forms part of this planning application.

#### City Region Deal

Access from the South is not part of the City Region Deal.

## 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 may also be a material consideration. The Proposed SDP constitutes the settled view of the Strategic Development Planning Authority (and both partner Councils) as to what should be the final content of the next approved Strategic Development Plan. The Proposed SDP was submitted for Examination by Scottish Ministers in Spring 2019, and the Reporter has now reported back. The Scottish Ministers will consider the Reporter's Report and decide whether or not to approve or modify the Proposed SDP. The exact weight to be given to matters contained in the Proposed SDP in relation to specific applications will depend on whether:

- these matters have been subject to comment by the Reporter; and
- the relevance of these matters to the application under consideration.

The Vision of the Proposed SDP includes recognition of the City Region's unique built, historic and natural environment, which will be protected and where appropriate, enhanced as a key asset in underpinning a high quality of life and place.

The PSDP contains a number of Aims, in order to make the Vision a reality, these are to:

- provide a strong framework for investment decisions which will help to grow and diversify the regional economy in a sustainable manner;
- promote the need to use resources more efficiently and effectively whilst protecting our assets; and,
- take on the urgent challenges of climate change.
- 

In assessing proposals for development, Policy states that the importance given to each Aim will be balanced, taking into account the Vision, Spatial Strategy, Objectives and Targets of the Plan.

In supporting the Aims, the Plan identifies a number of needs, including:

- protect and enhance valued assts including biodiversity, the historic and natural environment
- help create sustainable mixed communities, with high quality urban design and catering for the needs of the whole population
- 

The PSDP continues the Spatial Strategy from the SDP 2014. The whole of ACC area is a Strategic Growth Area. Within this multifunctional green networks and green spaces are seen as a key focus of providing sustainable mixed communities.

Figure 2 in the PSDP shows key features in the Aberdeen City Strategic Growth Area and includes the Deeside Way and the Movement Intervention – River Dee Link (indicating the river crossing).

Paragraphs 6.8 – 6.12 deal with the Green Belt and Green Networks. Protection of designated sites

is identified as important. It is stated that the green belt will continue to protect the character and landscape setting of the City and ensure that development is directed to appropriate locations. Green infrastructure and networks are seen as key for the environment, creation and health and well-being.

The Reporters' recommendations to the Scottish Ministers do not alter the principles as far as the paragraphs above relate to the development.

### Aberdeen Local Development Plan (2017)

#### **D1: Quality Placemaking by Design**

All development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials.

Proposals will be considered against six essential qualities: distinctive; welcoming; safe and pleasant; easy to move around; adaptable; resource efficient.

#### **D2: Landscape**

Developments will have a strong landscape framework which improves and enhances the setting and visual impact of the development, unifies urban form, provides shelter, creates local identity and promotes biodiversity. Quality development will:

- be informed by the existing landscape character, topography and existing features to sustain local diversity and distinctiveness, including natural and built features such as existing boundary walls, hedges, copses and other features of interest;
- conserve, enhance or restore existing landscape features and should incorporate them into a spatial landscape design hierarchy that provides structure to the site layout;
- create new landscapes where none exist and where there are few existing features;
- protect and enhance important views of the City's townscape, landmarks and features when seen from busy and important publicly accessible vantage points such as roads, railways, recreation areas and pathways and particularly from the main city approaches;
- provide hard and soft landscape proposals that is appropriate to the scale and character of the overall development.

#### **D4: Historic Environment**

The Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy (SPP), SHEP and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. High quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings, conservation areas ... will be supported.

#### **NC8: Retail Development Serving New Development Areas**

Masterplans for sites allocated for major greenfield residential development should allocate land for retail and related uses at an appropriate scale to serve the convenience shopping needs of the expanded local community. Sites should be in accessible locations for walking, cycling and public transport. Masterplans should indicate the delivery mechanism and timescale for the provision of retail uses.

Proposals for retail development which serves a wider catchment area will be subject to a sequential test and retail impact assessment in accordance with Policy NC4.

#### **I1: Infrastructure Delivery & Planning Obligations**

Development must be accompanied by the infrastructure, services and facilities required to support new or expanded communities and the scale and type of developments proposed. Where development either individually or cumulatively will place additional demands on community facilities

or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, the Council will require the developer to meet or contribute to the cost of providing or improving such infrastructure or facilities.

### **T1: Land for Transport**

Includes a list of transport projects for which land has been safeguarded. None of these include the application site, nor any possible options involving the site.

Paragraph 3.39 in the ALDP states that the plan takes cognisance of the Local Transport Strategy (LTS), the Neustrans Regional Transport Strategy (RTS) and the National Transport Strategy (NTS)

### **T2: Managing the Transport Impact of Development**

Commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. Transport Assessments and Travel Plans will be required for developments which exceed the thresholds set out in Supplementary Guidance. The development of new communities should be accompanied by an increase in local services and employment opportunities that reduce the need to travel and include integrated walking, cycling and public transport infrastructure to ensure that, where travel is necessary, sustainable modes are prioritised. Where sufficient sustainable transport links to and from new developments are not in place, developers will be required to provide such facilities or a suitable contribution towards implementation. Further information is contained in the relevant Supplementary Guidance which should be read in conjunction with this policy.

### **T3: Sustainable and Active Travel**

New developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport, and the internal layout of developments must prioritise walking, cycling and public transport penetration. Links between residential, employment, recreation and other facilities must be protected or improved for non-motorised transport users, making it quick, convenient and safe for people to travel by walking and cycling. Existing access rights, including core paths, rights of way and paths within the wider network will be protected and enhanced. Where development proposals impact on the access network, the principle of access must be maintained at all times by the developer through the provision of suitable alternative routes. Recognising that there will still be instances in which people will require to travel by car, initiatives such as like car sharing, alternative fuel vehicles and Car Clubs will also be supported where appropriate.

### **T4: Air Quality**

Development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed with the Planning Authority.

### **T5: Noise**

In cases where significant exposure to noise is likely to arise from development, a Noise Impact Assessment (NIA) will be required as part of a planning application. There will be a presumption against noise generating developments, as identified by a NIA, being located close to noise sensitive developments, such as existing or proposed housing, while housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses without suitable mitigation measures in place to reduce the impact of noise.

### **H3: Density**

The City Council will seek an appropriate density of development on all housing allocations and windfall sites. All residential development over one hectare must:

1. Meet a minimum density of 30 dwellings per hectare;
2. Have consideration of the site's characteristics and those of the surrounding area;
3. Create an attractive residential environment and safeguard living conditions within the

development; and,

4. Consider providing higher densities in the City Centre, around local centres, and public transport nodes.

#### **H4: Housing Mix**

Housing developments of larger than 50 units are required to achieve an appropriate mix of dwelling types and sizes, in line with a masterplan, reflecting the accommodation requirements of specific groups, in particular families, older people and people with particular needs. This mix should include smaller 1 and 2 bedroom units and should be reflected in both the market and affordable housing contributions.

#### **H5: Affordable Housing**

Housing developments of five units or more are required to contribute no less than 25% of the total number of units as affordable housing.

#### **CF2: New Community Facilities**

Proposals for new community facilities shall be supported, in principle, provided they are in locations convenient to the community they serve and are readily accessible, particularly to public transport, pedestrians and cyclists.

#### **NE1: Green Space Network**

The Council will protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the Green Space Network (GSN), which is identified on the proposals map. Proposals for development that are likely to erode the character and / or function of the GSN will not be permitted.

Where major infrastructure projects or other developments necessitate crossing the Green Space Network, such development should maintain or enhance the coherence of the network. In doing so, provision should be made for access across roads for wildlife and outdoor recreation.

Masterplanning of new developments should consider the existing areas of GSN and identify new areas incorporating GSN.

Masterplans will determine the location, extent and configuration of the GSN within the area, and its connectivity with the wider network.

#### **NE2: Green Belt**

No development will be permitted in the Green Belt for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration; or landscape renewal. There are exceptions to this policy, including:

1. Proposals for development associated with existing activities in the green belt will be permitted but only if certain criteria are met.
2. Essential infrastructure (such as electronic communications infrastructure, electricity grid connections, transport proposals identified in the LDP or roads planned through the masterplanning of opportunity sites) will only be permitted if it cannot be accommodated anywhere other than the Green Belt.
3. Buildings in the Green Belt which have a historic or architectural interest, or a valuable traditional character, will be permitted to undergo an appropriate change of use which makes a worthwhile contribution to the visual character of the Green Belt.
4. Proposals for extensions of existing buildings, as part of a conversion or rehabilitation scheme, will be permitted in the Green Belt with certain provisos.

5.Replacement on a one-for-one basis of existing permanent houses currently in occupation will normally be permitted (with some provisos).

All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials. All developments in the Green Belt should have regard to other policies of the Local Development Plan in respect of landscape, trees and woodlands, natural heritage and pipelines and control of major accident hazards.

#### **NE4: Open Space Provision in New Development**

The Council will require the provision of at least 2.8ha per 1000 people of meaningful and useful open space in new residential development.

Public or communal space should be provided in all residential developments.

In areas where the Open Space Audit has shown that existing open space is of poor quality, contributions may be sought to enhance existing provision instead of new provision being required.

#### **NE5: Trees and Woodlands**

There is a presumption against all activities and development that will result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees.

Policy states that where appropriate, the Council will promote creation of new woodland and tree planting.

#### **NE6: Flooding, Drainage & Water Quality**

Development will not be permitted if:

1. It would increase the risk of flooding: a) by reducing the ability of the functional flood plain to store and convey water; b) through the discharge of additional surface water; or c) by harming flood defences.

2. It would be at risk itself from flooding;

3. Adequate provision is not made for access to waterbodies for maintenance; or

4. It would require the construction of new or strengthened flood defences that would have a significantly damaging effect on the natural heritage interests within or adjacent to a watercourse.

Drainage Impact Assessment (DIA) will be required for new development proposals comprising 5 or more homes or 250m<sup>2</sup> non-residential floorspace.

Surface water drainage associated with development must: 1. Be the most appropriate available in terms of SuDS; and 2. Avoid flooding and pollution both during and after construction.

There is a presumption against excessive engineering and culverting of waterbodies. There will be a requirement to restore existing culverted or canalised water bodies to a naturalised state where this is possible.

Where the Council agrees that culverts are unavoidable for technical reasons, they should be designed to maintain existing flow conditions and aquatic life. Any proposals for new culverts should have a demonstrably neutral impact on flood risk and be linked to long term maintenance arrangements to ensure they are not the cause of flooding in the future.

#### **NE8: Natural Heritage**

Where local heritage designations are impacted, this should be addressed through design and mitigation. Where there are adverse effects, even with mitigation measures, then development will only be permitted where the effects are outweighed by social, environmental or economic benefits of citywide importance.

This policy highlights requirement for surveys, protection plans and necessary mitigation measures where there is a likelihood of protected species being present.

In all cases of development:

1.No development will be permitted unless steps are taken to mitigate negative development

impacts.

2. An ecological assessment will be required for a development proposal likely to affect a nearby designated site, or where there is evidence of protected species.
3. A Construction Environmental Management Plan may be required to address any potential negative impacts on protected species, waterbodies or local diversity within the construction phase.
4. Natural heritage beyond the confines of the designated sites should be protected and enhanced. Measures will be taken in proportion to the opportunities available to enhance biodiversity through creation and restoration of habitats and incorporating existing habitats where possible,
5. Where feasible, steps to prevent further break up of habitats, and to restore links, will be taken.
6. Natural riparian buffer strips should be created to enhance waterbodies.

### **NE9: Access and Informal Recreation**

New development should not compromise the integrity of existing or potential recreational opportunities including general access rights to land and water, Core Paths, other paths and rights of way. This includes any impacts on access during the construction phase of a development. Wherever possible, developments should include new or improved provision for public access, permeability and/or links to green space for recreation and active travel.

### **R2: Degraded & Contaminated Land**

The City Council will require that all land that is degraded or contaminated, including visually, is either restored, reclaimed or remediated to a level suitable for its proposed use. This may involve undertaking site investigations and risk assessments to identify any actual or possible significant risk to public health or safety, or to the environment, including possible pollution of the water environment, that could arise from the proposals. Where there is potential for pollution of the water environment the City Council will liaise with SEPA. The significance of the benefits of remediating a contaminated site, and the viability of funding this, will be taken into account when considering proposals for the alternative use of such sites.

### **R6: Waste Management Requirements for New Development**

All new developments should have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate. Recycling facilities should be provided in all new superstores or large supermarkets and in other developments where appropriate. Details of storage facilities and means of collection must be included as part of a planning application for any development which would generate waste.

### **R7: Low & Zero Carbon Buildings & Water Efficiency**

All new buildings, must 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.

To reduce the pressure on water abstraction from the River Dee, and the pressure on water infrastructure, all new buildings are required to use water saving technologies and techniques.

### **CI1: Digital Infrastructure**

All new residential and commercial development will be expected to have access to modern, up-to-date high-speed communications infrastructure.

### Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. The Proposed ALDP constitutes the Council's settled view as to what the

final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- these matters have been subject to public consultation through the Main Issues Report; and,
- the level of objection raised in relation these matters as part of the Main Issues Report; and,
- the relevance of these matters to the application under consideration.

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

### **Policies**

Where policies differ or include additional provision that relate to this application, these have been described below, others that largely reiterate policy, as it relates to this application, have been listed without further description. Where there are new policies or new elements within policies, although these issues have been through the Main Issues Report stage, the policies have not been subject to consultation, and the weight they carry is therefore, limited.

The zoning of the land that is the subject of the planning application is not altered by the Proposed LDP, it remains Green Belt / Green Space Network.

### **NE1 – Green Belt**

#### **NE2 – Blue and Green Infrastructure**

In addition to the requirements of the NE1: Green Space Network policy in the ALDP, this policy requires that where infrastructure crosses the GSN, appropriate provision should be made for access across roads for wildlife and outdoor recreation.

Open Space in New Development: requires the provision of biodiverse, usable and appropriate open space in new developments to ensure functionality. SG is referenced for calculation of size and type of provision. Reference is made to the Open Space Audit, stating that where the audit identifies opportunities for enhancement, then contributions may be sought.

In respect of core paths and access rights, this policy includes provisions very similar to Policy NE9: Access and Informal Recreation in the ALDP.

### **Policy NE3 – Our Natural Heritage**

This covers the same requirements as Policy NE8 in the ALDP, with the addition, that there should be an assessment of alternative solutions to avoid adverse impacts (on natural heritage assets); and that the assessment of natural heritage assets should include proposals to achieve overall biodiversity gains for the site.

### **Policy NE4 – Our Water Environment**

#### **Policy NE5 – Trees and Woodland.**

This policy is very similar to NE5 within the ALDP, however, has a stronger emphasis on development proposals seeking to increase tree and woodland cover. It states that where development does not include replacement planting to achieve a net gain in tree cover, it will not be supported.

### **Policy D1 – Quality Placemaking**

This policy contains the same requirements as D1 in the ALDP, with the addition of specific mention, including biodiverse open space and high-quality public realm.

### **Policy D2 – Amenity**

In order to [provide amenity for existing and future occupiers:

- make the most of views and sunlight,
- that adequate levels of amenity are afforded in relation to daylight and sunlight, noise, air quality and immediate outlook, and privacy
- public face to street and active frontages
- ensure that refuse, recycling, cycle storage, renewables, plant and machinery are all sensitively integrated into the design.
- Ensure that neighbouring developments are not adversely affected
- Ensure that external lighting minimises spillage
- Ensure minimum standards for residential indoor and external floor space.
- No less than 50% of private residential courts should be amenity space, where car parking is provided.
- All residents to have access to usable private / semi/ private open spaces and sitting out areas
- Residential development to have a private face to an enclosed garden / court.

#### **Policy D4 - Landscape**

Landscape which contributes to a 'sense of place' will not be adversely affected by development. Development will provide opportunities for conserving or enhancing existing landscape including linear features.

Development should avoid adversely affecting the character of landscapes which are important for the setting of the city and river valleys.

Development should avoid disturbance to, or loss or damage to important recreation, wildlife or natural resources or to the physical and functional links between them.

Green spaces between and around places or communities, and those which can provide opportunities for countryside activities, will not be eroded by development.

Landscape and Visual Impact Assessment (LVIA) to be submitted with proposals.

#### **Policy D5 – Landscape Design**

Development proposals will be designed with effective, functional and attractive landscape frameworks.

#### **Policy D6 – Historic Environment**

#### **Policy R6 – Low and Zero Carbon Buildings, and Water Efficiency**

#### **Policy R8 – Heat Networks**

Major developments will be required to connect to an existing network where available, or provide within the site and independent Heating / Cooling network and plant capable of connecting to the network at a future date, or where it can be proven that provision of an independent heat network or connection to existing are unviable, a network of soft routes will be provided through the development for the future provision of a heat network. Agreed network design will be required.

A chapter of new policies relating to Health and Wellbeing have been introduced to the PLDP. This includes policies on air quality and noise, which are similar to policies T4 and T5 in the ALDP, as they relate to this application.

#### **Policy WB1 – Healthy Developments**

Developments are required to provide healthy environments, reduce environmental stresses, facilitate physical activity and promote physical and mental wellbeing. Major developments, and those requiring EIA will require Health Impact Assessments to enhance health benefits, and mitigate any identified impacts on the wider determinants of health; this may involve planning obligations.

## **Policy WB2 – Air Quality**

## **Policy WB3 – Noise**

## **Policy WB4 – Specialist Care Facilities**

Proposals for new residential care facilities (such as care homes, nursing homes, sheltered living) should:

1. Be well connected; located close to public transport links and community amenities for residents and staff, and provide visitor parking; and,
2. Meet design and amenity standards in line with other types of ‘residential’ developments.

## **Policy H1 – Residential Areas**

## **Policy H3 – Density**

Subject to context, this policy raises the density sought for new residential development, to 50 dwellings per hectare.

## **Policy H4 – Housing Mix and Need**

In addition to the requirements in Policy H4 in the ALDP, this policy states that where possible, housing units should demonstrate a design with accessibility and future adaptability in mind.

## **Policy H5 – Affordable Housing**

## **Policy VC12 – Retail Development Serving New Development Areas**

## **Policy I1 – Infrastructure Delivery and Planning Obligations**

## **Policy T1 – Land for Transport**

Land has been safeguarded for the transport projects listed below and these are highlighted on the Proposals Map. Only development related to the following projects will be accepted in these areas:

- Improved rail services;
- Dyce Railway Station expansion;
- Aberdeen South Harbour and associated infrastructure;
- Berryden Corridor improvements; and
- South College Street improvements.

Page 123 of the Proposed LDP includes a ‘Summary of Transport Intervention Options’. These include Road Junction and operational efficiency enhancements on urban corridors, including the Bridge of Dee corridor. The plan states that the Transport Intervention Options will require further appropriate appraisal and review but are, at this stage, required to assist the delivery of the Plan’s spatial strategy and growth aspirations.

## **Policy T2 – Sustainable Transport**

## **Policy T3 – Parking**

This policy relates to parking levels, and states that low car development is encouraged within conservation areas. It contains requirements for electric vehicle charging points and cycle parking within new developments.

## **Policy CI1 – Digital Infrastructure**

Supplementary Guidance:

## **Planning Obligations**

**Green Space Network and Open Space** – this is relevant to policies including those relating to GSN, Open space in new development and access and informal recreation generally reflects the

provision identified in the NE4 policy in the ALDP.

## **Resources for New Development**

**Trees and Woodlands**

**Flooding, Drainage and Water Quality**

**Landscape**

**Natural Heritage**

**Noise**

**Transport and Accessibility**

**Planning Obligations**

Technical Advice Notes:

**Natural Heritage**

Other Material Considerations

## **Pitfodels Conservation Area Character Appraisal and Management Plan**

The area is characterised by many large houses set in open space with many substantial trees, parkland and formal landscaping. The Area is on a southern slope on the north riverbank of the River Dee.

The Appraisal identifies a number of long-distance views from North Deeside Road looking south across the site to the Deeside Way and beyond. The character of Inchgarth Road is noted, with its stone walls, increasingly rural character and mature trees on the south side. The character of the narrow roads leading up from Inchgarth, such as Pitfodels Station Road and Westerton Road, are noted, with the current / recent level of traffic being unsuited to those roads.

Materials prevalent within the Conservation Area are granite, slate roofs, timber, as well as harling and terracotta roofs.

## **Local Outcome Improvement Plan 2016 – 26**

The Proposed LDP seeks to support the outcomes of the LOIP through creating a healthy environment, many of the outcomes cannot be achieved without an appropriate environment.

## **ENVIRONMENTAL STATEMENT**

Before considering the merits of the proposed development it is appropriate to comment on the background to the necessary Environmental Impact Assessment process and the Environmental Statement submitted in conjunction with this application for planning permission.

### EIA Directive

EU Directive 2011/92/EU (as amended by Directive 2014/52/EU) aims to ensure that an authority granting consent (the 'competent authority') for a particular project makes its decision in full knowledge of any likely significant effects on the environment. The directive sets out a procedure that must be followed for certain types of project before they can be given 'development consent'. This procedure - known as Environmental Impact Assessment or 'EIA' - is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the competent authority before it makes its decision.

### EIA (Scotland) Regulations

The purpose of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 is to transpose the relevant EU directive into the Scottish planning system. It is noted that regulations relating to the Environmental Impact Assessment (EIA) process in Scotland

were recently updated through the coming into force of the *Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017* on 16th May 2017.

It is the applicants' responsibility to prepare the Environmental Statement (ES). There is no statutory provision as to the precise form of an ES. It must contain the information specified in Part II, and such of the relevant information in Part I of Schedule 4 to the Regulations as is reasonably required to assess the effects of the project and which the applicant can reasonably be required to compile. Whilst every ES should provide a full factual description of the development, the emphasis of Schedule 4 is on the 'main' or 'significant' environmental effects to which a development is likely to give rise. Other impacts may be of little or no significance for the particular development in question and will need only very brief treatment to indicate that their possible relevance has been considered.

It is for the Council to satisfy itself of the adequacy of the ES, ensuring that the submitted statement contains the information specified in Part II of Schedule 4 to the Regulations and all the relevant information set out in Part I of that Schedule that the applicant can reasonably be required to compile. Schedule 4 also sets out requirements for the provision of a non-technical summary of this information.

#### Environmental Statement - Adequacy

This proposal was subject to Environmental Impact Assessment as a "Schedule 2 Development", by virtue of the characteristics of the proposed development and its potential impacts. This was established via a process of EIA Screening and confirmed via a Screening Opinion issued by Aberdeen City Council, which identified that the project falls within Schedule 2 Class 10(b) and (f) of the EIA Regulations, relating to Infrastructure Projects.

It was considered that EIA was required for the proposed development taking into account the following factors:

- The site consists of former fields, that have largely become self-seeded with plants and trees, and lies within the Pitfodels Conservation Area, and within an area zoned as Green Belt and as Green Space Network in the extant local development plan, as well as in the emerging Proposed Local Development Plan 2016. This is a relatively narrow area of green belt, with residential uses to the west and to the east. The site includes a significant proportion of the green belt in this location and the site is not allocated for development within the development plan.
- Potential for loss and future loss of trees. There are a large number of trees, including along the site boundaries and adjacent to the Deeside Walkway. Some of these are covered by Tree Preservation Order.
- The size of the site is 9.87 hectare, although it is acknowledged that area of development for Option B (the option that includes retirement units rather than the pitch) does not include the entire site.
- Extent of cut and fill, including the extent of building up of land to create the gradient and alignment needed for the proposed road, together with the development of the site itself.
- Potential for use of the proposed road by traffic as a 'rat run', including non-local traffic, including the air quality and noise pollution impact from traffic, both locally to the site and further afield, due to potential for changes to traffic routes and volumes. Also taking into account the Air Quality Management Zone on South Anderson Drive.
- The proximity of the River Dee Special Area of Conservation and catchment area and the Local Nature Conservation Site and core path along the former Deeside Railway.
- Potential impact on protected species and wildlife habitat of development of the site.
- Potential landscape and visual impact of the proposed development taking into account the factors above.

It is considered that the cumulative effect of the size, location and nature, including taking into account the factors above would be likely to result in a complex, long term and irreversible impact on the environment. EIA is therefore required and any proposed remediation measures may be fully explored in the Environmental Statement.

The ES includes a Schedule of Mitigation (in Part I) which summarises the proposed environmental mitigation measures that would be undertaken by the applicant/contractor, or other parties, to avoid, reduce or offset environmental effects before, during and after construction and during the operation of the development.

Following initial consideration of the submitted Environmental Statement, the planning authority sought further information in particular in relation to the Landscape Visual Impact Assessment, as provided for by Regulation 23 of the relevant EIA regulations. Having received further submissions from the applicants, it is considered that the Environmental Statement contains the required information and is therefore adequate for the purposes of informing assessment of the environmental effects of the proposal.

### Summary of Environmental Statement (ES) findings

The Environmental Statement is a suite of documents comprising:

- 1: Main document – full text of Environmental Report along with figures and tables
- 2: Appendices – contains technical surveys, reports and supporting documents to Volume I
- 3: Non-Technical Summary

The results of the Environmental Impact Assessment are intended to inform the planning process on what environmental effects are predicted to arise and what will be done to avoid or reduce them, and also to demonstrate how design decisions have been taken to avoid or reduce the significance of any impacts where it was practical to do this and it can be demonstrated. The impacts identified and mitigation measures proposed within the Environmental Report are summarised below.

### Landscape Visual Impact Assessment

This describes the site as lying on a plateau on the northern banks of the River Dee. The LVIA includes photomontages which aim to provide an indication of how the development would look within the landscape. The report acknowledges the limitations of the photomontages.

The LVIA assessments takes account of national and local policies; landscape character based on the Landscape character assessment of Aberdeen published by SNH in 1996; identification of contextual features within 5km, such as settlements, roads, paths, cultural heritage and natural heritage both as a baseline and secondly to assess impact on them. The physical attributes were considered, including topography, gradients, vegetation and built form.

A 'Zones of Theoretical Visibility drawing was created. This is based on topography of the ground (and therefore does not consider buildings etc). Coloured areas on the drawing indicate theoretical visibility of all or parts of the site, whilst clear areas show that views will not be possible from those locations.

Assessment was made of the impact on 'visual receptors' – views from dwellings, settlements, transport routes, cultural heritage and recreational locations and protected natural areas.

The LVIA report considers impacts on views of, from and across the site, taking into account existing tree cover and tree removal for the road; the change in character of the Deeside Way as it passes through the site, due to development and the extent to which this could be mitigated by design and planting. The report contains analysis of the visual impact on the viewpoints identified, including photomontages.

The report reaches several conclusions in terms of visual impact:

- That due to the nature of the river valley and mature wooded character of Pitfodels, the visual impact within the landscape will be very low;
- Impacts would be limited to the landscape immediately adjacent to the site boundaries on the Deeside way, North Deeside Road and Inchgarth Road, as well as, to some degree, the properties bounding the site;
- That preservation of the majority of tree cover along with enhanced landscape buffers would help mitigate residual impacts significantly;
- Low density development, in keeping with the style of the surroundings would help integrate development into landscape and mitigate visual impacts.
- From south of the Dee, impacts would be low in the valley and as elevation of viewpoint increases, so does distance;
- From location on southern slopes of the valley, views of the development would be within the context of the built environment – magnitude of change to views from this direction are cited as low.

### Mitigation

The following are seen as important in mitigating the impact of the development on the landscape:

- Protection of the GSN by maintaining significant tree cover on boundaries, in order to connect habitats and the green corridor of the Deeside Way.
- Enhancement of recreational access and biodiversity must be incorporated into the design of the development, to maintain and improve the GSN and the wider character of the landscape;
- Development masterplan must help to define settlement boundaries and not compromise Aberdeen's landscape setting and result in coalescence.
- Low density development would provide for large plot sizes and green spaces, that would fit with the character of the Conservation Area.
- Integrity of the Deeside Way must be protected during the course of development and its role as a green corridor for recreation and wildlife, enhanced.
- Tree retention and planting to enhance the character of the surrounding area.
- Overhead powerlines require a development offset and these should set the limit of development in a westerly direction, in order to maintain the separation of settlements.
- Stonewalling is a key feature in the Conservation Area and this should be preserved and / or integrated into the development.

### Noise Assessment Report

This predicts noise levels in the proposed development, by using road traffic flow data. The report concludes the following:

1. In order to provide suitable residential conditions in areas 1, 3, 4 and 6, it is recommended that noise mitigation measures should be provided to reduce impacts from traffic noise. These are indicated as sound insulating windows and trickle vents
2. To reduce noise levels in external areas in line with ACC criterion, noise barriers are recommended in a number of locations. Noise barriers are indicated along the North Deeside road boundary- the existing stone wall is thought sufficient, along the east and west sides of the proposed link road within the area north of the Deeside Way, and along the Inchgarth Road site boundary. It is considered likely that a 2.4m high close boarded fence along Inchgarth road site boundary and a 1.8m high similar barrier along the link road, would be required.
3. To protect amenity of occupiers of existing properties to the west of the proposed link road, it is recommended that a noise barrier be constructed to screen the road.
4. The design of proposed building services plant would need to meet the limits given.
5. Deliveries and service collections to and from retail units would need to be limited to between certain daytime hours.

### Tree Survey

The tree survey lists 75 individual trees that would be removed for development and a further 15no.

trees for management reasons. Of the trees removed for development, a large number are birch and willow, two limes and some sycamore and Norway maples. These numbers would not include a large number of smaller saplings. Many of the larger trees are required to be removed to accommodate the proposed link road, and are located along its route, near to the Deeside Way, and on the North Deeside Road.

Most notable amongst the trees to be removed are: 2no. Category B mature limes, 4no. beech and a Category B mature elm.

### Ecology

Seven of the trees proposed to be removed, were identified from the ground as having bat roost potential. A further survey was carried out to identify actual bat roost potential and to recommend mitigation measures. An aerial survey found that five of the trees have no actual roost habitat. Elm no. 8 could support roosting bats although no evidence was found. A birch (that was originally to be felled for health reasons, will now remain) with roost potential was to be retained.

Mitigation measures recommended were the carrying out of a dawn survey prior to felling of Elm 8 and the installation of bat boxes on trees bordering the Deeside Way and North Deeside Road.

Walkover Surveys took place in October 2016, June and October 2017 and updated in 2019. No evidence was observed of protected species; a badger footprint was found leading to the conclusion that badgers forage on the site. Trees were found to be unsuited to squirrels. There was found to be a mosaic of habitats that could support breeding birds. The habitats were found not to be valuable ecologically in themselves, however, some could support protected species at certain times of year. It was recommended that a breeding bird survey be carried out if work were to take place between February and August. It was further proposed that tree and shrub planting would help improve biodiversity and improve habitat potential.

Japanese Knotweed was found in a 3m<sup>2</sup> patch.

### Lepidoptera Survey

This recorded 51 species of butterfly and moth at the site, including 5 BAP priority species and 3 species considered 'local' on a national level. The survey describes the various habitat types on the site, and how these suit the various species. The potential impacts on habitat and therefore on the future success of various species is considered and mitigation measures identified, to ensure that if construction took place, there would be a continuity in habitat provision.

### Archaeology and Cultural Heritage

The consisted of a desk based study of all statutorily designated assets within 1km of the site and on site, including listed buildings, conservation areas, scheduled ancient monuments and archaeological finds, those within 1km include the former Pitfodels Railway Station and, the listed Inchgarth House.

There are no features on the site, and therefore no direct impact. The study concludes that impacts on nearby features are negligible and not significant. It would be proposed that a programme of archaeological works including trial trenches would be required to be undertaken on site prior to any development.

The LVIA also makes reference to the Conservation Area, and that is included above.

### Transportation

The transport assessment (TA) considered traffic impacts and walking, cycling and public transport accessibility. This was carried out in accordance with industry standards.

The TA included the road links and junctions at:

- Pitfodels Station Road, to the immediate east;
- Westerton Road, to the west;
- Inchgarth Road / proposed link road and junction; and,

- A93 North Deeside Road / proposed link road 'ghost island' junction.

The TA reported on the traffic capacity during morning and evening peak hours at the relevant junctions with the development in place. It was assumed that all traffic currently travelling between North Deeside Road and Inchgarth Road along Pitfodels Station Road and Westerton Road, would use the proposed link road. With this assumption, it was shown that the proposed development could be accommodated on the road network with both new junctions operating within capacity.

The TA proposes no mitigation as the increase in traffic levels (ie, from the development) would not overburden the road network as proposed. It is noted that traffic noise is dealt with separately, and mitigation is proposed in relation to that.

### Flooding and Drainage

The study is based on a Drainage Impact Assessment (DIA) and Flood Risk Assessment (FRA). FRA indicates the only flood risk to be from surface water overland flooding. The proposal would need to provide mitigation for surface water from the site, as well as external sources.

In terms of drainage, mitigation is proposed by SUDS measures to control run off and provide filtration and settlement treatment.

Gravity foul sewers would be required to serve the development and Scottish Water has confirmed sufficient capacity to deal with this.

Plans also indicate the possibility of a culverted watercourse across the site, it is unknown whether this exists as an active watercourse.

### Geo-environmental Site Investigation

Following investigations this concludes that:

- There is no known contamination from previous use of the site, other than the former railway;
- There is some indication of a low level of radon in the area to the south of the site. Any future development may require protection measures within part of the site;
- Need to create development platforms and the existence of the retaining wall to North Deeside Road is noted;
- Japanese knotweed exists on a bund in the south west corner of the site;
- There are several major services running across the site, including overhead powerlines, an aqueduct along the southern edge of the site and surface and foul water pipes. There is also a watercourse indicated, although could not be located on a walkover.

There are no specific mitigation measures identified, although some of the above matters would need to be the subject of conditions on any permission.

## **EVALUATION**

### **Legislative requirements**

Section 25 and Section 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 the determination shall be made in accordance with the Development Plan, unless material considerations indicate otherwise.

The issues for consideration are:

- the principle of the proposed uses on this site; visual impact on the character of the landscape, in particular from public viewpoints, and in the context of the green belt and conservation area designations;
- impact on the natural environment, including the site as part of the wider green network; impact on recreation;
- the impact on the residential amenity of the occupiers of nearby housing; transportation, including walking, cycling and public transport provision;
- whether an acceptable residential environment for the extent of development indicated, could be created on the site based on the indicative layout and whether there is justification for the development due to other material considerations, such as the need for housing and the link

road, and whether this overrides policy considerations, which seek to protect the green belt and natural environment.

### **Green Belt and Principle of Development**

National and strategic guidance strongly supports the Green Belt in its role of directing development to appropriate locations, protecting access to open space and protecting and enhancing the character and landscape setting of settlements. SPP identifies types of development that may be appropriate in the green belt and Policy NE2 in the ALDP further specifies this for Aberdeen.

In respect of Paragraph 193 - 203 of SPP, the key considerations are: would the proposal result in the protection, enhancement and promotion of access to a key environmental resource and whether the nature or scale of proposed development would have an unacceptable impact on the natural environment.

The application site extends across roughly half the width of the Pitfodels Green Belt designation between the eastern edge of the Aberdeen City suburbs and the Lower Deeside suburbs, and bounds the edge of the Cults residential area to the west. The proposal would result in built development on the major portion of the site, it would therefore significantly increase the risk of settlement coalescence between Aberdeen City and Cults, with the proposed public open space in the western area of the site, being the only remaining green space separating the site from Cults. The role of the Green Belt, and the setting of the City as described above would be seriously compromised.

In terms of the ALDP, the key issues for consideration are whether the proposed development complies with the uses identified as being appropriate within the green belt, and secondly the extent of impact upon the character and landscape setting of the settlement, which it is the green belt's role to protect.

ALDP Policy NE2 presumes against development, with some exceptions that are specified above, in the Policy section. In response to the exceptions, it is noted:

1. The proposal does not involve development associated with an existing activity on the site;
2. The proposal does not involve essential infrastructure. The link road is not a transport proposal identified in the ALDP, nor is it within a masterplanned Opportunity Site – a site identified in the ALDP.
3. 4. and 5. relate to existing buildings, extensions and replacements of existing building and none of these apply to the proposal.

None of the built elements of the proposal fall within these categories of exception to Green Belt Policy. The public open space element of the proposal relates to a recreational use, but in all other respects the proposal development is contrary to Policy NE2.

It is noted that the proposed link road is mentioned in the Strategic Infrastructure Plan (SIP). The SIP makes mention of the link road in the context of proposals for enhancing access from the south, over a widened Bridge of Dee or additional bridge. A report was taken to committees (in 2014 and 2017) which included several options, one of these included the link road as part of a proposal of which the main part involved an enhanced crossing of the River Dee. There was no option selected and the current position is that a review of the traffic impact of the AWPR will take place to inform further decisions at a future date. As the link road was mentioned only in the context of the wider proposals, little weight can be attached to the link road as a result of its inclusion in the SIP.

All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials. All developments in the Green Belt should have regard to other policies of the Local Development Plan in respect of landscape, trees and woodlands, natural heritage. Evaluation of the impact of the proposal on trees and woodlands, natural heritage are given in the

following two sections of the report. Analysis of the significant impact on the character of the green belt, including landscape and visual impact is considered in this instance to be very much intertwined with evaluation of the character of the Conservation Area: the latter being formed by the rural and landscape setting. This is discussed further below in the section on Historic Environment.

### **Trees and Woodland**

As noted above approximately 75no. mature and semi mature trees would be removed along the site boundaries with existing road and pedestrian routes, in order to build the road. The need for the road to be on an embankment for much of its length further increases tree loss due to the significant changes in levels involved. Plans have been submitted showing existing and proposed ground levels and these show changes within the root protection areas of additional trees that are not identified to be removed within the Tree Survey. These are trees along the eastern boundary of the site and consist of beech trees that form the boundary between the end of the 'cul de sac' in the northern part of the site, and the existing neighbouring property and grounds, to the east. The applicant's proposal is to reduce the canopies of these trees in order to reduce the required root protection area, however, the Council's arboriculturalist has doubts that this approach would result in a lesser root protection area being required for the long term health of the tree. There are ground level changes proposed within the area that would assess as RPA under the standard methodology.

In order to avoid the root protection areas of the trees that are proposed for retention on the north side of the Deeside Way, it is proposed to build a retaining wall of between approximately 2m and 3.5m in height set back approximately 16m from the edge of the Deeside Way. Whilst the intention is to protect the tree roots, it is the view of the Council's arboriculturalist that changes to hydrology in the area would result in a long-term damaging impact on the trees. The proposal would also result in a significant structure within the rear garden areas of the residential units proposed in this area, to the detriment of the amenity of the occupiers.

Whilst the plans indicate that significant changes in levels would be kept outside root areas, in several instances the level changes would result in engineered rather than natural looking solutions. This appears to be an inevitable consequence of attempting to accommodate the level of development proposed on a site of this topography.

Elsewhere, proposals for tree management are considered unnecessary in some instances and a more nuanced approach could be taken with these by requiring further details by condition if permission were to be granted.

Taking into account the foregoing adverse impacts on trees the proposal is considered to be contrary to Policy NE5 which presumes against development that would result in loss or damage to trees that contribute to nature conservation, landscape character and local amenity. Trees that would be lost for the development are alongside well used publicly accessible and prominent site boundaries and very much contribute to the character of the adjoining tree lined roads, (North Deeside Road and Inchgarth Road), and the Deeside Way, which is a Nature Conservation Site. Planting of replacement trees could not mitigate the loss of the 75no. broadleaved trees detailed above, even in the longer term, as the proposed road would create a wide swath of raised hard surfaced area – the road and associated foot / cycle way would be approximately 12.0m in width, whilst the overall width of raised ground from the edge of the embankment would be approximately 30.0m wide at the point of crossing the Deeside Way. The extent of hardsurfaced area would obviously reduce the area available for tree planting and be difficult to screen, especially in the northern area where there would be significant embankment. Views from North Deeside Road would reveal the full length of the road breaking through the tree line on the Deeside Way. As the proposal is for development that does not comply with green belt policy and there are no other material considerations overriding this, it is considered that the extent of tree loss is unacceptable, has a resultant damaging effect on wildlife, such as breeding birds, and does not comply with policy.

## Green Space Network, Open Space and Natural Heritage

The purpose of the Green Space Network (GSN) is to provide a network of green spaces for recreation, wildlife, access, the ecosystem and landscape value. The Deeside Way is a core path and designated as a Local Nature Conservation Site. Although the recreational and wildlife link along the Deeside Way would remain, most of the wildlife, ecosystem and landscape value of a significant area of GSN, to the east of the proposed road, would be lost. This is because, in the area to the east of the road, due to the proposed extent of development and associated hard surfacing, landscaping and tree planting would not be capable of mitigating the loss of green space to the degree required to maintain a functioning green space network. Enhancement to biodiversity by way of a scheme within the area to the west of the road would not compensate for the loss of this significant area, which is gradually being naturally colonised. Access would be maintained, however, the natural character of the Deeside Way in this area would be significantly altered to that of a suburban residential area.

The site provides a suitable habitat for wildlife being uncultivated and increasingly naturalised, it is used for foraging by bats, badgers, and anecdotally a range of other species, and is heavily used by breeding birds, it has 51 species of butterfly and moths, including 5 species of lepidoptera included in the Biodiversity Action Plan (BAP) identified as being the most threatened and requiring conservation action. The site walkover did not identify the need for survey of protected species (other than bats and lepidoptera) as the site's value for other species is a foraging habitat and linkage between green spaces.

Given that this is part of a narrow area of green belt, albeit there are large more managed and cultivated private green spaces within the area, it is an important unbroken area allowing movement, breeding habitat for birds, foraging and undisturbed area. The area provides links to the River Dee to the south and along the Deeside Way green link.

The conclusion of the EIA report that there would be a beneficial impact overall on ecology and biodiversity is disputed due to reduction in habitat, as noted by SNH in their first consultation response, and it is considered that the proposal would be contrary to Policy NE1 (Green Space Network) and Policy NE2 (Green Belt) due to loss of habitat.

## Landscape and Visual Impact

In addition to the photomontages, the LVIA report identifies various impacts (shown below in italics). These are useful points for evaluation and comment:

- *Impact on views from North Deeside Road across the River Dee valley, due to the development. On the other hand, the development would be set lower than North Deeside Road, views are currently partially screened by trees, and the construction of the access road would necessitate the opening up of views.*

Whilst these views would be opened up, the short and medium range would reveal the extent of development across the site, with the link road cutting through the tree line of the Deeside Way at a raised level.

- *Visual impact of new built form on the site – the report states that this would be mitigated by tree planting, although there would also be tree loss, in particular for the new link road.*

The tree loss is noted above, areas for tree planting would be limited due to development on the east side of the site, and in the north west by the raised pedestrian / cycle way. Whilst tree planting could take place on the lower slopes of the embankments, it would not screen views from the north.

- *Impact on recreational areas, namely the Deeside Way. The report highlights that the route would be protected and new links to it, provided. However, there is acknowledgement of the change in character of the Way in the section adjacent the development site, which would move from a natural and relatively remote path to one adjacent to development. In adjacent stretches, the path is separated from existing houses by large plots with tree cover. The west of the site is proposed to remain natural and the report states that tree cover would for the*

*most part be retained on the north side of the path (however, see Trees and Woodland section below). It is acknowledged that some development would be visible and there would be a proposed road over the Way. The impact is noted as being Medium to Low*

The description in the LVIA identifies the downgrading in experience for users of the Deeside Way. It is clear that the relatively remote semi-rural nature of this stretch would be lost and it would become hedged in by suburban development. This change would devalue the Deeside Way in terms of its contribution to well-being.

Enhancement and mitigation is recommended in the submissions, in the form of establishing native shrubs along the sides and embankments of the railway path.

On the basis that tree cover around the site boundary (including the Deeside Way boundary) would be lost along significant stretches, acknowledging that it would be retained with enhancement to the west of the link road and taking into account that there would be a large degree of reduction in the space between Pitfodells and Cults, together with suburbanisation of part of that space, there would be an increased the risk of settlement coalescence. It is considered that through tree loss and significant changes to the natural land form, the proposal is contrary to Policy D2 and is unacceptable.

Landscape is considered further, below, in the context of the Conservation Area.

### **Conservation Area, Green Belt and Landscape Character and Setting**

The impact on the character of the Pitfodells Conservation Area requires careful consideration. The site lies at the heart of the Conservation Area and the character of the area is one of large houses within ample plots surrounded by a large number of mature trees that line the roads, hedges and stone walls and an informality in terms of layout, house designs and street frontages, reflecting the organic growth and gradual infill of the area over a long period. The site is steeply sloped, and in order to provide an acceptable gradient for current adoptable standards, the link road would require to take a meandering course and to be raised on an embankment from south of the Deeside Way up to the junction with North Deeside Road. This would be a significant height at approximately 4m above the level of the Deeside Way. The construction of the road would involve removal of trees along an approximately 30m wide stretch of the Deeside Way and along an approximately 15m wide stretch along North Deeside Road. Development platforms would require changes in levels and would create a highly engineered, rather than natural landform across the site area east of the proposed road. The creation of retaining walls of 2-3.5m in height within rear garden areas to the north of the Deeside Way would be visually intrusive. The alignment of the road and its engineered appearance, raised above surrounding ground and with noise barriers of 2m in height would result in a character at odds with that of the Conservation Area.

Turning to the proposed buildings, it could be argued that the design of flatted blocks to give the appearance of large houses, could reflect the Conservation Area character of large houses within extensive plots if appropriately handled at the design stage. However, there are acknowledged difficulties with attempts to create the sort of variety and character that is achieved through organic growth within historic areas. In addition, account needs to be taken of the ancillary requirements of a large number of residential units. These would include the number of parking spaces that would be required due to the number of residential units within each 'house', features such as refuse storage, cycle storage and extent of hard surfacing for turning areas, as well as servicing areas for the nursing home and retail units. These factors, together with the absence of existing mature trees within the central areas of the site and that, even with extensive tree planting, it would be a considerable length of time before the trees performed a role in screening development to bed it into the Conservation Area, would result in an adverse impact on the character of the Conservation Area.

The Conservation Area is currently viewed from North Deeside Road, the Deeside Way and Inchgarth Road, whereas once implemented, the site would be also be highly visible from the

proposed link road. The view southward from North Deeside Road would be opened up by the creation of the proposed road junction. Although development would sit at a lower level than the road, the existing view long range views from the south pavement of the road would be significantly adversely altered.

From the Deeside Way, the current rural character would change to one of a road bridge, with vertical walls to an approximately 20m stretch of the Deeside Way and built to the east of the bridge.

On Inchgarth Road, which is relatively narrow and rural in character at this point, 2.4m noise barriers are recommended in order to protect proposed residential development from road traffic, with an approximately 30m wide junction mouth onto the proposed road resulting in, the an additional erosion of landscape character.

Overall, it is concluded that the development would significantly erode the character and landscape setting and have an adverse visual impact due to loss of trees and the changes to the land form resulting in an overly engineered and hard surfaced development. It is further noted that the site covers a substantial area of land within the centre of the Pitfodels Conservation Area and therefore the extent, type and character of development would have a significantly adverse impact. In summary the proposal would not preserve or enhance the character of the Conservation Area and would be contrary to Policy D4 in the ALDP, to SPP and HESPS.

### **Historic Environment**

There are a number of listed buildings within close proximity of the site, in addition to the Pitfodels Conservation Area designation covering the site. On the opposite, southern side of Inchgarth Road, Inchgarth House faces south toward the River Dee, its setting would not be significantly impacted upon by development on the site. However, noise barriers along the site frontage on Inchgarth Road have the potential for adverse impact depending on their design and materials. Also a listed building, Pitfodels Station has been converted to a house, it is located close to the north side of the Deeside Way at the eastern extremity of the site, near to existing houses. Its relationship to the Deeside Way is important to its setting; the development would be sufficiently distance from this listed building so as not to significantly impact on its setting. Other historic assets are more remote from the site and would not be affected.

Any impact on archaeology could be covered by a condition requiring a dig to take place prior to development.

### **Noise**

The Noise Impact Assessment was carried out on the same basis as the TA, assuming that all existing traffic currently using Pitfodels Station Road and Westerton Road would, instead, travel via the proposed road through the site. . Neither study allows for any additional traffic rat-running through the area that might be generated by the formation of the new road.

On this basis, and taking noise levels from the ACC guidance based on WHO advised acceptable noise levels, the levels would be above recommended limits within those residential plots closer to the proposed road and to North Deeside and Inchgarth Road. Proposed buildings could incorporate noise reduction within windows, whilst noise attenuation barriers are recommended along both sides of the northern section of the proposed road, and along the site boundary on Inchgarth Road, to protect outdoor amenity and the indoor amenity of occupiers of existing houses to the west. The noise barriers recommended on Inchgarth Road in order to achieve noise reduction to the level required, would be close boarded fences of 2.4m in height.

It could be argued that any gains in terms of traffic noise reduction for residents on Pitfodels Station Road and Westerton Road would be offset by losses of amenity to existing residents on Inchgarth

Road to the east of the site and the houses to the west of the site on North Deeside Road. The latter could be mitigated by acoustic barriers of 1.8m along the site of the proposed road. Residents of proposed residential units on the application site would be protected from traffic noise by acoustically attenuated windows and the acoustic barriers alongside the proposed road. These would require to be the subject of conditions on any permission. There would be no noise barrier measures proposed to protect residents in existing properties on Inchgarth Road, it is therefore considered that there is tension with Policy T5. The traffic noise on Inchgarth Road would be from the traffic that would currently use Pitfodels Station Road, but according to the assumptions of the TA and noise assessment, would be likely to use the proposed link road within the proposed development instead.

### Transportation

In terms of vehicular traffic, as noted above, the TA indicates that, with the development in place, the new link road, junctions and existing network would operate within capacity. Objectors make several points:

- That in addition to the traffic currently 'rat running' through Pitfodels Station Road, Westerton Road, or Deevie Road South the provision of the new link road may encourage 'new' traffic to use the route through the application site – ie traffic currently using, for example, the Anderson Drive / North Deeside Road route,
- That traffic currently 'rat running' through the Deevie Road South, further to the west, is not included in the TA assumed 'worst case scenario';
- That due to the site's topography it is less likely to encourage people, especially older people, to walk to destinations on North Deeside Road or Inchgarth, including to bus stops.

Advice from the Roads Team is that:

- due to the meandering line of the proposed road, which would slow traffic, it would not encourage additional rat-running.
- it is not appropriate to ask for reanalysis based on an existing situation on Deevie Road South. For the purposes of assessing the proposal the relevant figures are the traffic coming into the site – these are the ones provided. The Roads Team considers that in this case the link road simply replaces two links that are less suitable in traffic terms.

The comment on the site's topography and active travel is accepted. The site is not ideally suited to less than able bodied people as the gradients would discourage walking, including to public transport, of which the closest provision is on North Deeside Road. Within the southern part of the site gradients are not so challenging, although public transport provision is further away - at 900m to Garthdee and Auchinyell Roads.

It is possible that First Bus would run a service through the site in the future, however, this is uncertain and cannot be controlled through the planning process. The carriageway and footways on Inchgarth Road are not at currently adoptable standards, being of a width whereby two buses would not be able to pass each other without overhanging the narrow footpaths. The stretch of Inchgarth Road to the south and east of the site could not be widened due to private land ownership. Bus timetabling could overcome the possibility of buses passing each other on this stretch but the problem would be equally applicable in relation to other large vehicles that use the road network in the area, and this is unlikely to decrease with the provision of a new link road.

In terms of Policy T2, within the constraints of the site's topography, opportunities have been taken to provide for active travel to the road network on the site boundaries. Inchgarth Road has narrow footpaths and access to public transport is to the east requiring a 900m walk along Inchgarth Road. Local services are proposed on site in order to reduce the need to travel and the preparation of travel plans could be covered by a planning condition. The proposal is considered not to be discordant with Policy T2, although the site gradient is not ideal in terms of encouraging active travel.

Turning to Policy T3: Sustainable and Active Travel, the points made above in respect of active travel within the site, are relevant. It is noted that there is currently a network of informal countryside paths used for recreation, especially within the southern area of the site. Although footpaths would be provided across the site as part of the development, these would be of an entirely different character. The proposal complies with Policy T3.

### **Housing and Residential Amenity**

The design proposals are currently indicative, and it is considered that at the density indicated it would generally be possible to provide a pleasant residential environment with provision of private open space for each unit. The buildings to the north of the Deeside Way would have restricted garden space due to the extensive retaining walls within rear gardens; a heavily engineered arrangement which would require careful design to provide an acceptable residential experience.

The impact of traffic noise on residential amenity is dealt with below.

Given the low density, challenging topography and particular character of the surrounding area, it would not be desirable to increase density. The proposal includes flats and small houses and would increase the mix of units within the wider area, which largely contains large detached houses.

The applicant has stated that the proposed residential units are retirement homes, however there are concerns, given current life expectancy and changing retirement age, and how this might potentially be controlled should permission be granted. It is a requirement of Building Regulations that all residential units are provided with level access, whilst the provision of lifts is not something that could be readily controlled through the planning process. The provision of retirement housing is considered not to be a material consideration and, therefore, cannot overcome other policy considerations.

### **Drainage and Water Environment**

The submissions relating to foul and surface water drainage proposals indicate that flooding and drainage on the site could be suitably dealt with as a condition of any permission.

The culverted watercourse that may be active across the site would require investigation and the Flooding Team as well as SEPA have indicated that this could appropriately be dealt with by condition. If the watercourse were to be active this provides a possible route for pollution of the River Dee – a Special Area of Conservation – during any construction process. It is considered that appropriate mitigation measures submitted as part of a condition requiring a construction environmental management plan could prevent sediment flowing down stream out of the site.

Any watercourse found would also require to be de-culverted and a buffer strip provided along its length, for both ecological and maintenance purposes. A buffer strip would need to be several metres wide, dependent on the size of watercourse, and accessible. This would have potential implications for site layout and would require to be designed as part of a holistic approach to green links and landscaping, however, this could be dealt by condition on any permission granted.

With the attachments of conditions, the proposal would comply with Policy NE6 in the ALDP and NE4 in the PLDP.

### **Health and Well-being**

The PLDP introduces a new Policy on Health and Well-Being. The policy considers issues such as providing a healthy environment that facilitates physical activity and promotes physical and mental wellbeing. Major and EIA applications would require Health Impact Assessments under this Policy. Clearly this application was submitted prior to the PLDP being approved for consultation (earlier this year), and Health Impact Assessment could not be required, which precludes a detailed assessment against this policy, notwithstanding the weight to be attached to it.

However, especially given that this policy reflects a national policy direction, it is considered useful to note, at a high level, how the proposal relates to the aim of the policy.

As noted above, the Deeside Way is an important footpath and cycle route, with significant benefits for health and well-being. The Deeside Way would remain as part of this proposal. In addition, the applicant has indicated a proposal to create an enhanced open space that would increase biodiversity and provide public green space. The site currently consists of former agricultural fields with informal 'desire line' type footpaths and self seeded trees as well as overgrown hedgerow trees. It has a tranquil and remote feel and is one of the only stretches of the Way that is not bounded by residential plots or the grounds of buildings.

The proposal would clearly significantly reduce the amount of open space on the site, whilst the area that would be provided to the west of the proposed road, would also include SUDS measures and a footpath on raised embankments, these elements would further reduce the open nature of the space, within the north field.

With much of the green space in the surrounding area lying within private gardens and grounds, the application site provides the only significant area of open space along the Deeside Way in this area. As such, the Deeside Way has significant benefits for health and well-being., which would be diminished if the application proposal were to be implemented.

As noted above, the character of the Deeside Way would also alter, with the construction of the proposed link requiring a bridge link and development within close proximity of the Deeside Way.

### **Retail development**

The proposal includes 500 m<sup>2</sup> of retail and community space shown as small units within the central area of the site. These are of appropriate scale to serve the development and would not require retail impact assessment based on potential impact on existing shops. From within the site, and from the Deeside Way, the units would be accessible by walking and cycling. Public transport is at some distance and in this respect these do not fully comply with Policy NC8: Retail Development Serving New Development Areas. Although there is doubt as to how successful these units would be given that they are within the site without a street frontage, if the proposal were to be approved contrary to Green Belt Policy, the provision of this facility would be of benefit to future residents.

### **Developer Obligations**

The applicant has agreed to make contributions as required in line with Policy I1 and the Developer Obligations SG, where the mitigations required are not provided on site. It is noted that no contribution to education is requested due to the application being for housing aimed at older people. If permission were to be granted, the age of occupants would require to be controlled by way of a legal agreement in order to avoid taking schools further over-capacity.

### **Air Quality**

Following pre-application consultation with Environmental Health it was confirmed that an air quality assessment was not required in this instance. The proposal would not, therefore, conflict with Policy T4 in the ALDP.

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

In relation to this particular application, many of the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is assessed above in terms of both Plans for the reasons previously given. Where policies differ these have been highlighted above in the evaluation of each issue.

### **RECOMMENDATION**

Refuse

### **REASON FOR RECOMMENDATION**

The proposal would be contrary to Green Belt Policy NE2 of the Aberdeen Local Development Plan 2017 as well as Scottish Planning Policy and the Proposed Strategic Development Plan in that the residential, retail and community uses and associated infrastructure (including the link road) proposed are not uses that are identified as being acceptable as exceptions within areas zoned as Green Belt.

Although the site is part of one option under consideration for transport infrastructure to improve access from south of the Dee, this project remains subject to review through a separate process and the link road is part of an option that may or may not be selected. Accordingly the link road cannot be regarded as essential infrastructure in terms of the permissible exceptions allowed by Green Belt policy and there is no policy justification for the road in this regard. We do not consider the Link Road to be a material planning consideration that would alter the Recommendation of Refusal. Possible benefits for residents on nearby roads where traffic levels may reduce would be offset by corresponding increased traffic levels for residents on Inchgarth Road and North Deeside Road. Noise reduction would require the erection of significant lengths of noise barrier fencing which would be visually intrusive to the detriment of residential amenity and the landscape character of the Green Belt and the local area.

The proposal would result in significant tree loss, contrary to Policy NE5: Trees and Woodland and have an adverse visual impact on views of the site and short and long range views across the site from public viewpoints on North Deeside Road, Inchgarth Road and the Deeside Way.

The proposal would have a significant impact on the landscape setting and character of the surrounding roads and recreational value of the Deeside Way, together with a damaging adverse impact on the Pitfodels Conservation Area. The character of the Pitfodels Conservation Area is that of large individual houses within parkland style landscaped plots bounded by mature trees, hedges and stone walls. Roads in the area follow the contours of the land are tree lined and often narrow. The proposed road would be on a significant embankment and highly visible from the surrounding area and the extent of development would involve large hardsurfaced areas to provide car parking and service the number of apartments proposed..Taking this into account it is considered that the proposal would have an adverse impact on landscape, the character of the conservation area and the proposal would therefore be contrary to Policy D2: Landscape and D4: Historic Environment, as well as the Historic Environment Scotland Policy Statement, Scottish Planning Policy and the Vision of the Proposed Strategic Development Plan to protect the unique built, historic and natural environment, as a key asset in underpinning a high quality of life and place..

There would be a detrimental impact on the character of this stretch of the Deeside Way adversely affecting its value for recreation and a detrimental impact on the natural environment by virtue of the consequent reduction in habitat and erosion of the network of green space. The proposal would therefore also be contrary to Policy NE1: Green Space Network.

The proposal would risk setting a precedent for further development within the Green Belt.

#### **Committee resolution to approve:**

If Members are minded to approve the application contrary to officer recommendation it is recommended that this should be:

- Subject to legal agreement to ensure:

- (i) payment of the developer obligations contributions and provision of affordable housing as identified in the Developer Obligations Team response.
- (ii) an age restriction on occupation of the housing for over 55s only –on the basis that no contribution has been requested towards education;

Committee should also impose conditions or a legal agreement to ensure:

- The delivery of infrastructure such as the link road, retail units and public open space and their control through phasing to ensure that these elements are delivered and the link road specifically is delivered at the beginning of the first phase.
- Maintenance of public open space within the development
- Control on the height of development – for example, to a maximum of 2.5 storeys
- Improvement to the bus stop on North Deeside Road

Members should also attach the following conditions:

- standard timing condition for Planning Permission in Principle and submission of Matters Specified in Conditions and commencement of development.
- phasing plan for delivery of development including link road and infrastructure, including paths, landscaping and public open space.
- a masterplan for the entire site, prior to any development.
- Construction method statement showing how access along the Deeside Way would be managed
- tree management
- tree planting and tree protection during development is delivered
- landscape design, including incorporating SUDS measures and de-culverting of the watercourse.
- badger surveys prior to commencement of each phase
- detailed topographical drawings showing existing and proposed levels, and finished floor levels;
- cross sections through site
- details of road layout and junctions
- detailed layout and elevational drawings of all buildings
- archaeology
- play park
- installation of bat boxes as recommended by the Bat Survey Construction Environmental Management Plan
- investigation of possible watercourse, its daylighting and creation of natural buffer strips in accordance with Policy NE8.
- biodiversity Action Plan and planting plan
- travel plan
- no work to remove trees within the bird breeding season
- low and Zero Carbon Equipment
- water saving techniques and technologies.- details of design of housing units to demonstrate accessibility and future adaptability.
- electric vehicle charging points
- layout of footpaths and cycleways to be designed to prioritise active transport modes
- cycle parking
- refuse storage and swept path for refuse vehicles

- noise barriers and mitigation as per a plan based on the Noise Assessment
- detailed mitigation plan and landscape plan following the recommendations of the Lepidoptera survey.
- details of site surface water drainage.
- an assessment of soil conditions and if peat is found, a Peat Management Plan
- Site waste management plan
- Japanese knotweed management plan.
- radon survey and protection measures if indicated.
- contaminated land
- finishing materials, including proposals for retaining and reusing stonewalling

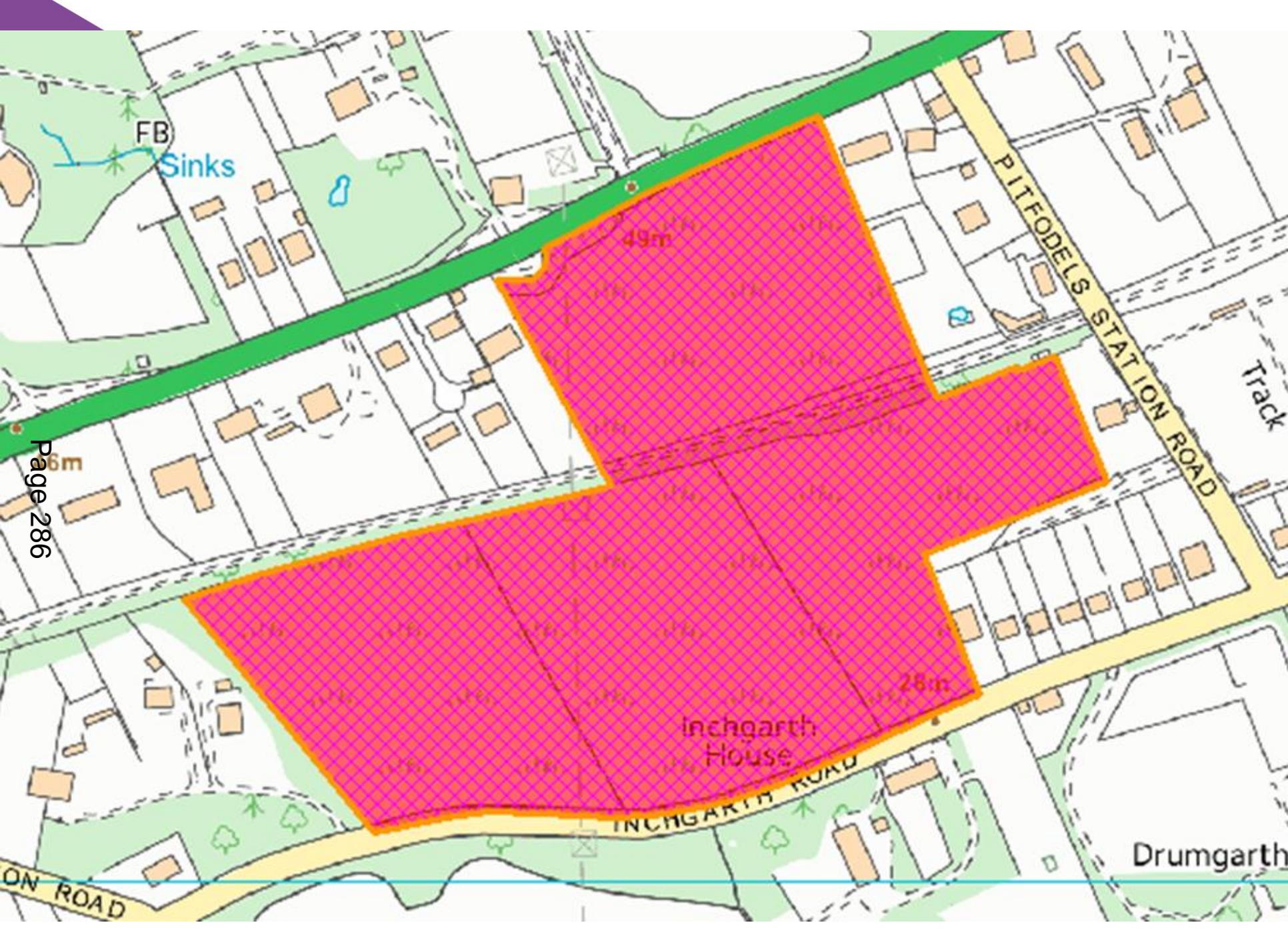
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## Item 7.2

# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

**181224/PPP** – Residential led development for the retired/elderly (including affordable housing), a 50 bedroom care home and approximately 500sqm of ancillary retail/community use, together with public open space and associated infrastructure including a link road

**Site: Land at Inchgarth Road, Cults**



FB  
Sinks

PITFODELS STATION ROAD

Track

Inchgarth House

Drumgarth

INCHGARTH ROAD

ON ROAD

49m

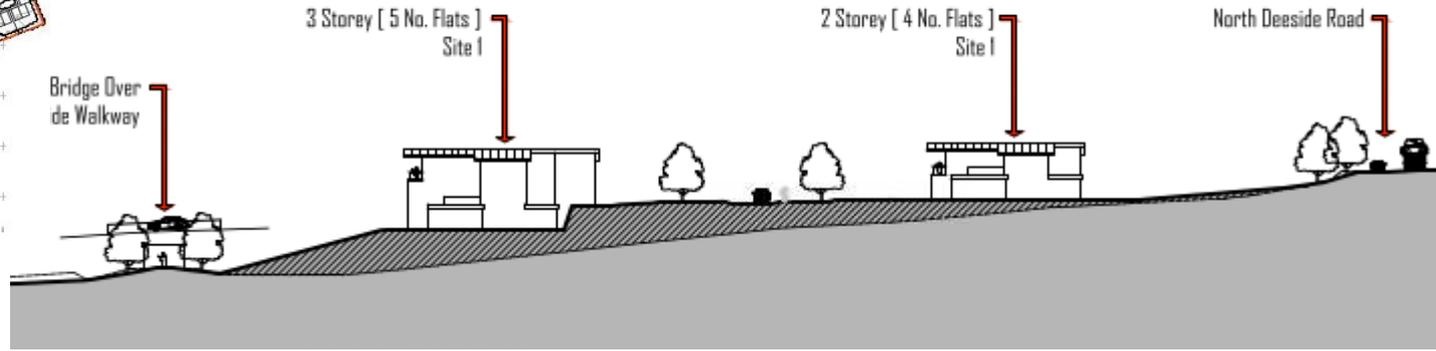
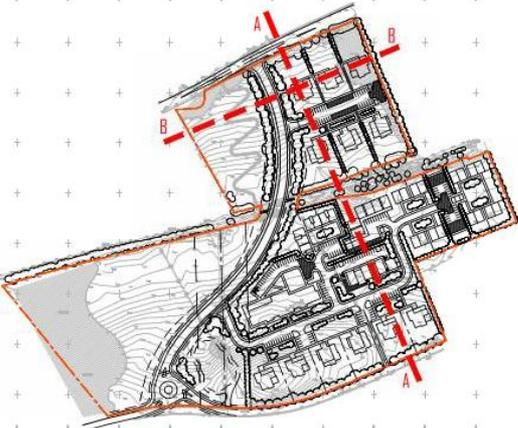
28m



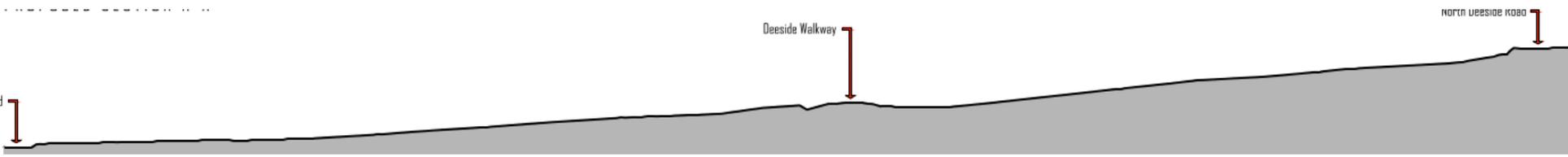
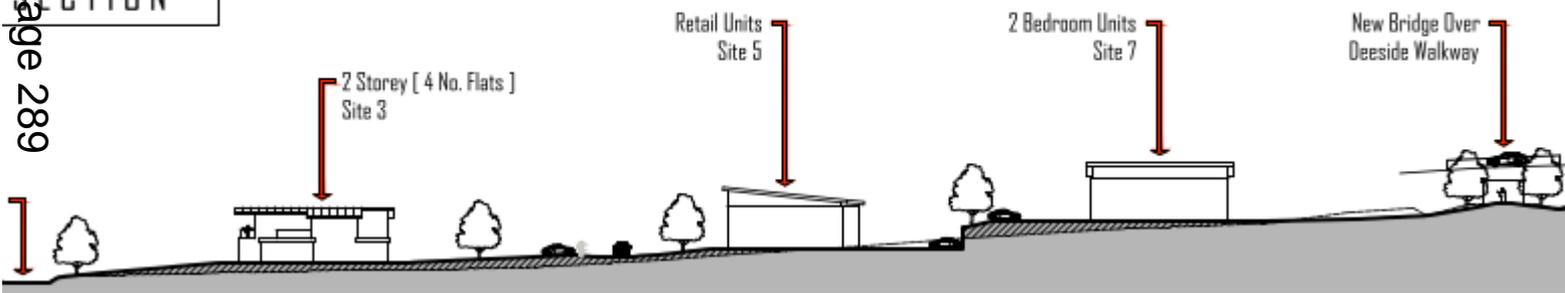


Elevation of

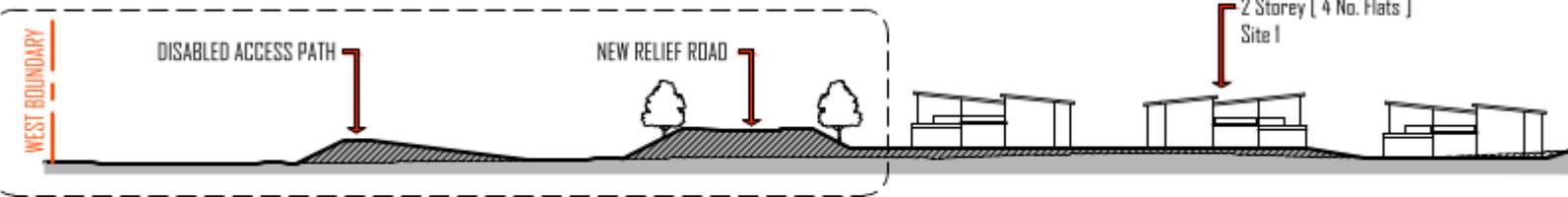
# Section A – north/south



SECTION  
Page 289



EXISTING SECTION A-A

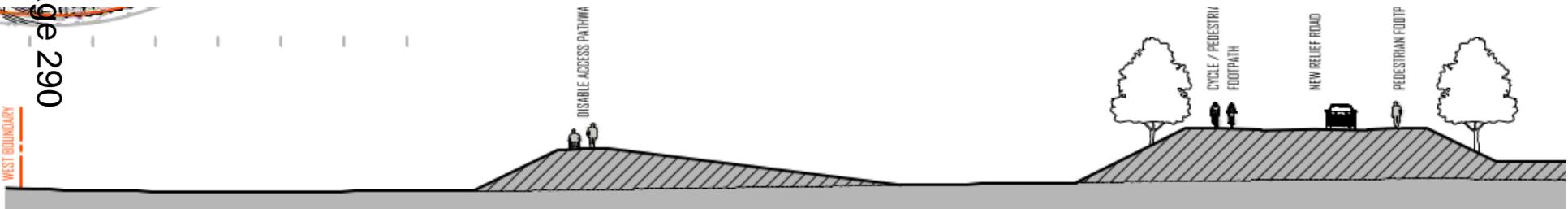


PROPOSED SECTION B-B



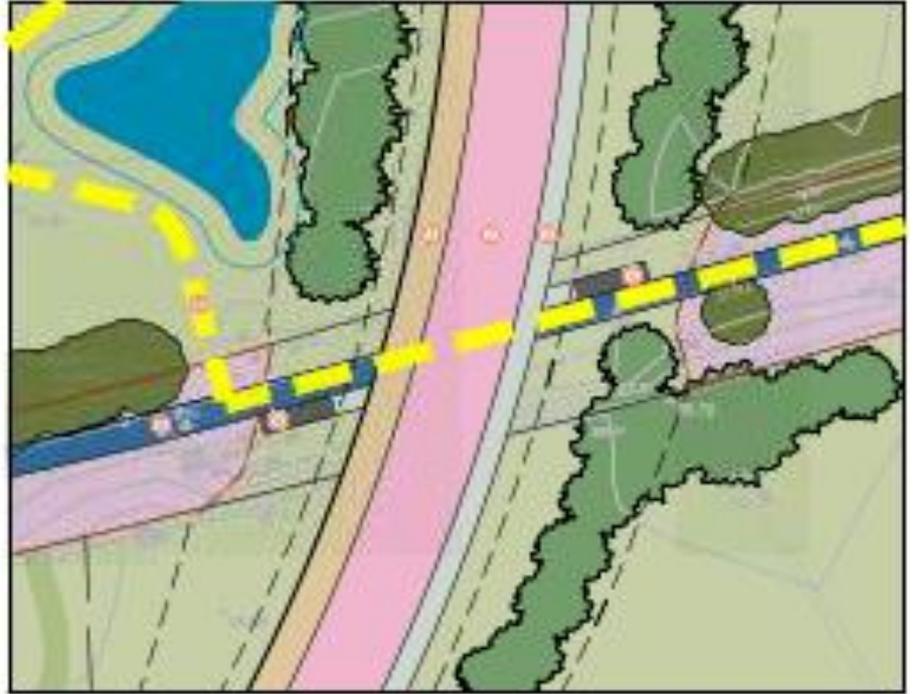
EXISTING SECTION B-B

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PART SECTION B-B

SCALE 1:200

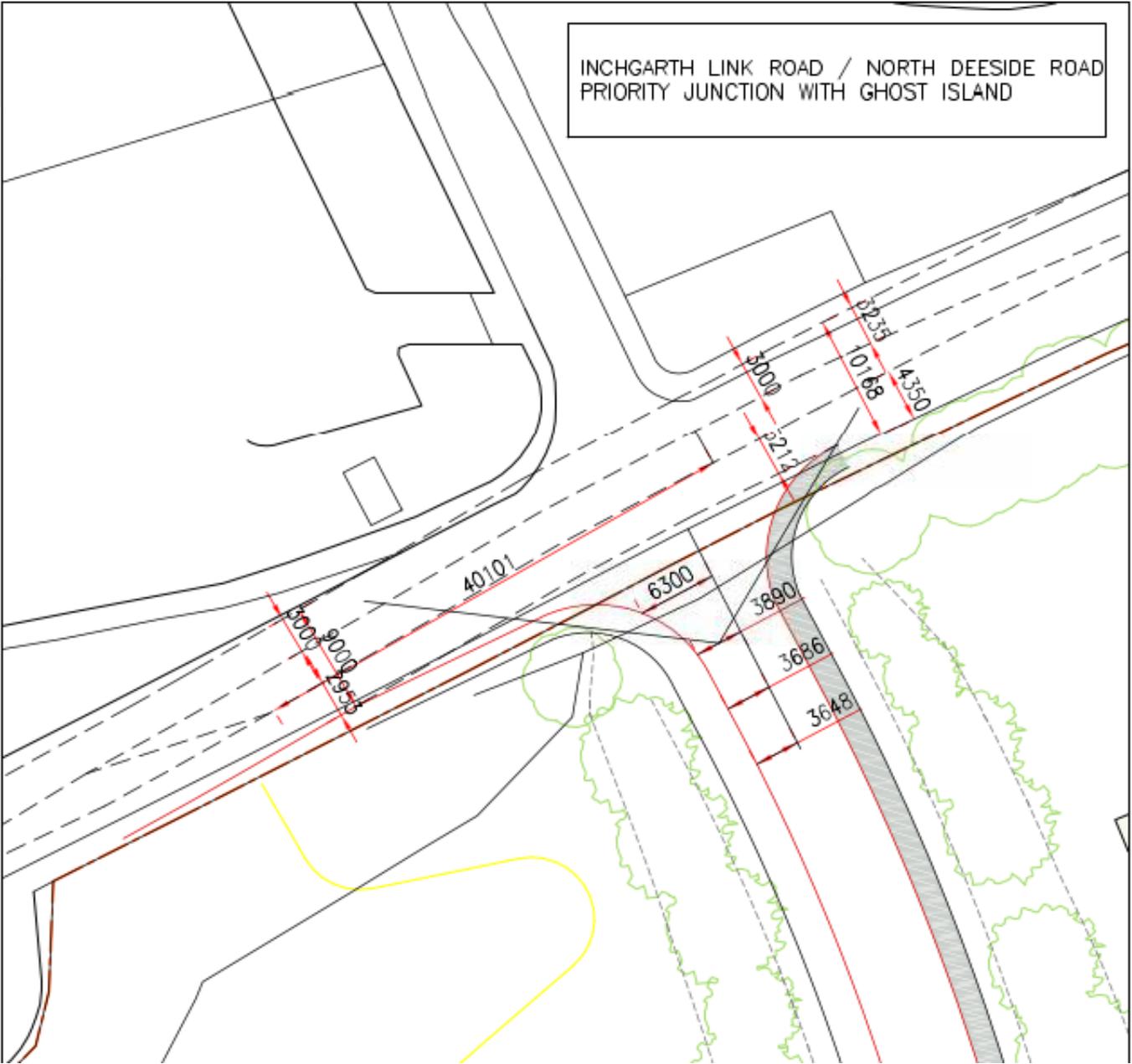


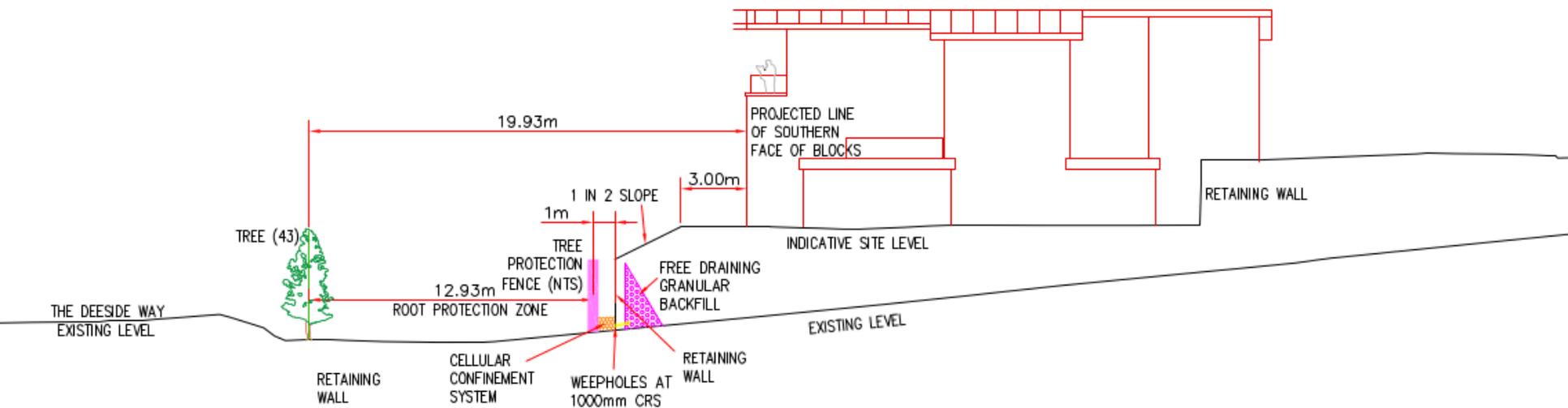
- 1. SITE VISUAL IMPACT
- 2. PROPOSED PLANTING AND TREES
- 3. EXISTING PLANTING AND TREES
- 4. EXISTING PLANTING AND TREES TO BE REMOVED
- 5. EXISTING PLANTING AND TREES TO BE PRESERVED



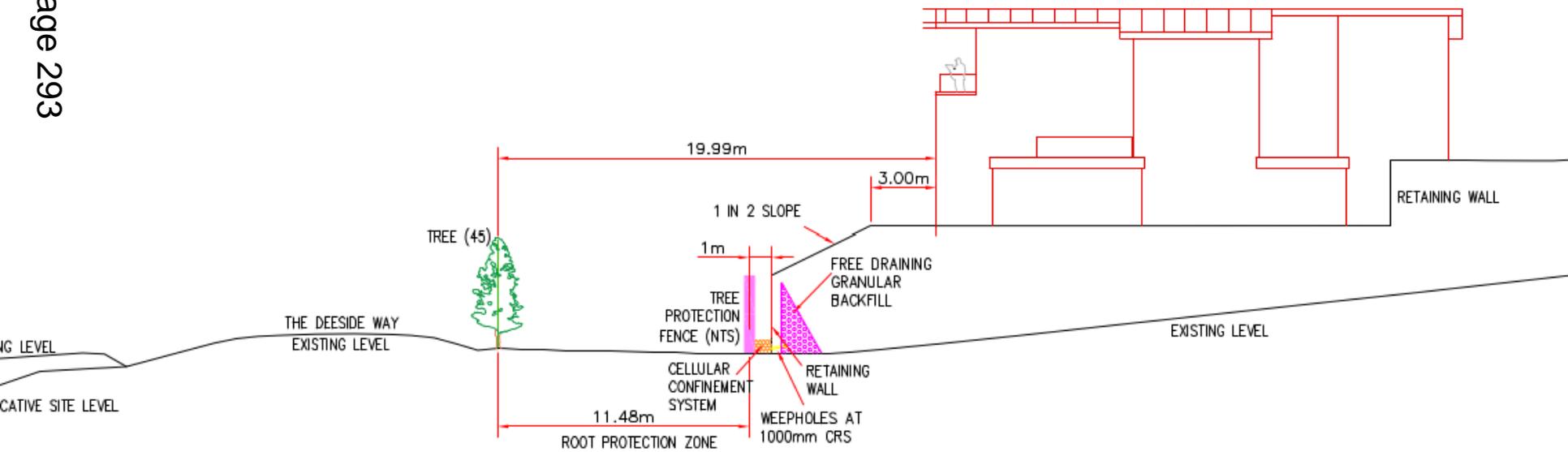
City of Aberdeen Planning Department Planning Services 1000 - 1000	
Project Name	1000 - 1000
Project Number	1000 - 1000
Project Date	1000 - 1000
Project Status	1000 - 1000

INCHGARTH LINK ROAD / NORTH DEESIDE ROAD  
PRIORITY JUNCTION WITH GHOST ISLAND





Section through Tree 43



Section through Tree 45

Sections through Deeside Way and area to north



Showing tree groups listed on tree report (indicative)

12/2000

- Category A Trees
- Category B Trees
- Category C Trees
- Category U Trees
- Trees outwith site or not surveyed

Root protection area

Beech hedge/dense planting



- Category A Trees
- Category B Trees
- Category C Trees
- Category U Trees
- Trees outwith site or not surveyed
- Root protection area
- Beech hedge/dense planting
- Existing contour (intermediate)
- Existing contour (greenbank)

**natall associates**

<b>project:</b>	Proposed Development at Site of Inglethorpe Road, Piffarelli
<b>client:</b>	Colwynwyn Development Co Ltd
<b>date:</b>	20th February 2020
<b>drawn:</b>	SGC (TJBA/AA p-01)
<b>scale:</b>	1:750 @ A1



## EIA Report:

Transport Assessment

Archaeology Desk -based Assessment Drainage

Assessment Geo-Environmental Desk Study

Landscape and Visual Impact Assessment including  
photomontages

Noise Assessment Report

Environmental Walkover Survey

Lepidoptera Survey



- 3 Intervention - River Dee Link
- 4 Intervention - A96 Dualling
- 5 Intervention - A956
- 6 Intervention - A944
- 7 Aberdeen International Airport

**Place:**

- 8 Aberdeen Harbour
- 9 Aberdeen South Harbour / Cruise Terminal
- 10 City Centre Transformation Zone and Busin
- 11 TECA - The Event Complex Aberdeen
- 12 North & North East Mortuary Project

**Infrastructure:**

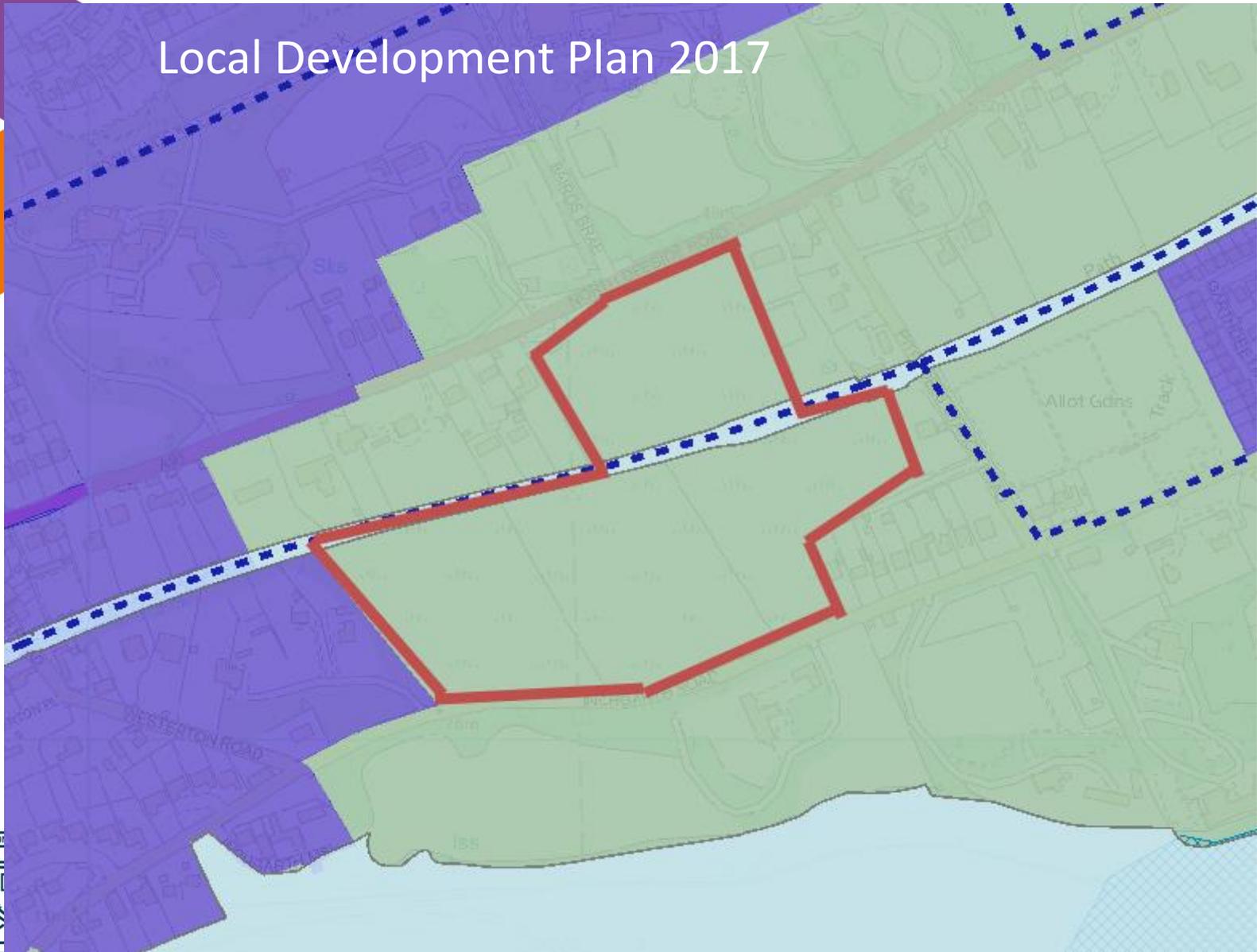
- 13 City Fibre Project
- Aberdeen Bay, European Offshore Wind De

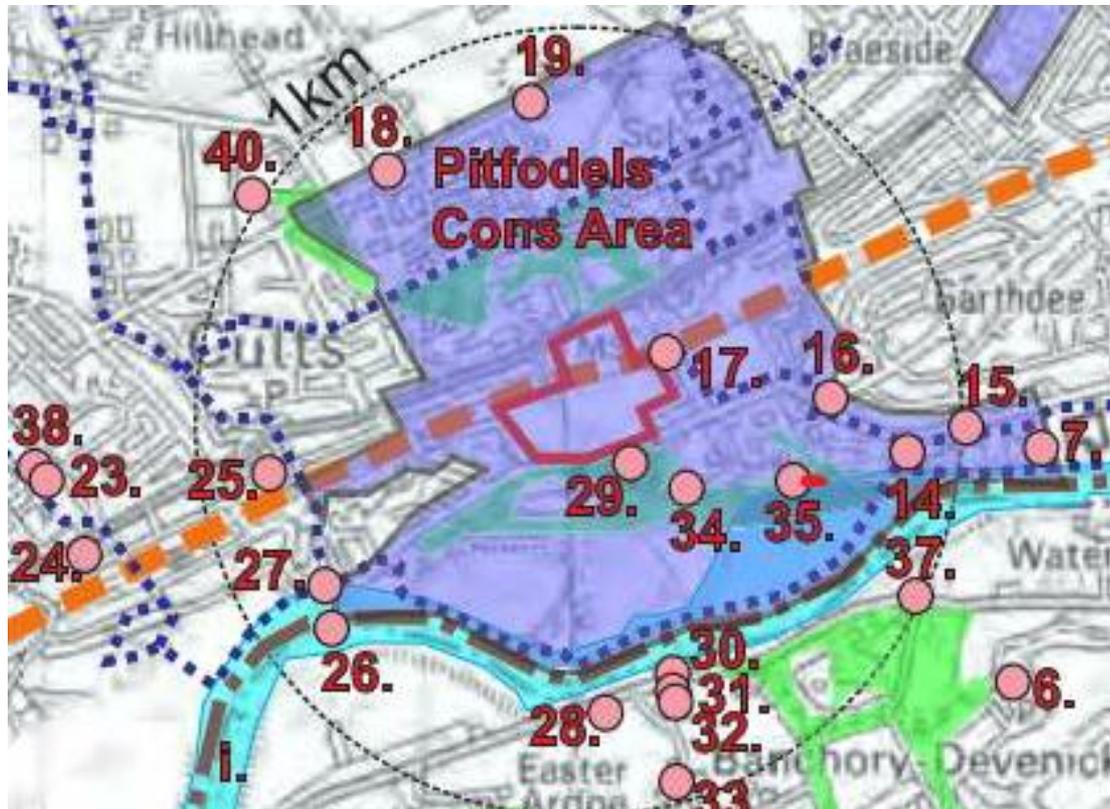
**Connections:**

- Improved Cross City Connections for Activ
- Improved Cross Boundary Connections fo
- National / International Maritime Links
- Rivers – Blue / Green Corridors
- Walking / Active Travel Opportunities / Cc
- Formartine & Buchan Way / Deeside Way

**Proposed Strategic Development Plan**

# Local Development Plan 2017





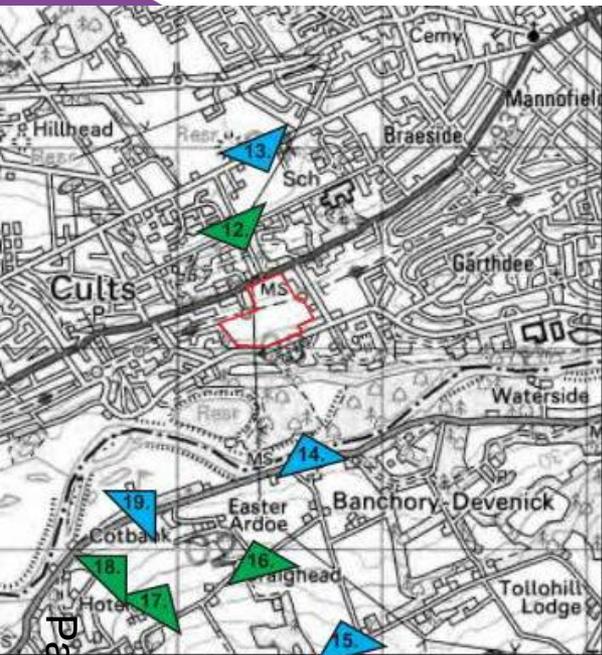


Photo Point  
Photo Point /  
Photo Montage

**INCHGARTH**  
L6 Photography Locations  
October 2019  










View 15 from Banchory Devenick, zoomed in



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## ABERDEEN CITY COUNCIL

<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	30 April 2020
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Planning Enforcement Activity – April 2019 to March 2020
<b>REPORT NUMBER</b>	PLA/20/084
<b>CHIEF OFFICER</b>	Gale Beattie
<b>REPORT AUTHOR</b>	Gavin Clark
<b>TERMS OF REFERENCE</b>	General Delegation 8.5 - monitor performance relevant to its purpose and remit

### 1. PURPOSE OF REPORT

- 1.1 To inform Members of the planning enforcement work that has been undertaken by the Planning Service from 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.

### 2. RECOMMENDATION(S)

- 2.1 That members note the contents of this report.

### 3. BACKGROUND

- 3.1 This report provides an annual update for the Planning Development Management Committee of the enforcement work that has been pursued by the Development Management Section of Strategic Place Planning.

- 3.2 Appendix 1 to this report identifies all cases which have been investigated with a view to determining whether a breach of planning control has taken place and whether it is expedient to take enforcement action. It details those cases that have been resolved; updates cases that were under investigation prior to April 2019; and those that have required formal enforcement action. The Appendix provides a summary of the complaint/ alleged breach and an update of the current status and any related action.

- 3.3 The information indicates that a number of cases have been resolved through negotiation and discussion, without recourse to use formal enforcement action. In most circumstances, particularly where householders are concerned, the breaches are relatively minor and may have taken place because the parties were unaware of the requirement of the need for first obtaining planning permission. In many cases, the submission of a planning application and eventual grant of planning permission has resolved the situation.

- 3.4 A total of 216 new cases have been investigated since 1<sup>st</sup> April 2019. The majority of these (142) have been resolved without recourse for formal action. These cases fall into one of the following categories: -

- by the approval of a retrospective planning application,
- by informal negotiation,
- being a minor breach where it would not be reasonable or economical to progress,
- no breach of planning control

The remaining 74 cases are still under investigation and may require formal enforcement action if negotiation proves unsuccessful and if there is found to be a breach of planning control which has resulted in significant dis-amenity or threat to public safety. Eleven enforcement related notices have been served during the current reporting period. Of the historic enforcement cases previously investigated (prior to 1<sup>st</sup> April 2019), eight are still unresolved and may require formal action to ensure a satisfactory outcome.

- 3.5 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature, these are mostly householder cases. As these cases often do not relate to the priorities identified for action in the Council's Enforcement Charter (properties in conservation areas, involving protected trees or raising issues of public amenity or public safety), they are likely to be of lower priority in terms of consideration of enforcement action, notwithstanding the statutory duty to investigate enforcement complaints. However, these cases can give rise to very strong feelings amongst those affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute.
- 3.6 The commitment of the Scottish Government to ensuring sustainable economic growth requires consideration of the economic implications of enforcement activity. Factors such as employment retention and creation are, therefore, of some weight in considering whether, in any given situation, it is expedient to take enforcement activity. There is also a need to ensure that burdens imposed on developers in terms of planning conditions and planning obligations/ legal agreements are proportionate and reasonable.
- 3.7 A significant issue within the reporting period has been the prioritisation of action in relation to Union Street, relating to the Union Street Conservation Area Regeneration Scheme (CARS). This is in recognition of the civic importance of the street, its related conservation status/ heritage interests and the public perception of physical decline of the appearance of the street. The importance of prioritising limited staff resource and time to taking action in this area is now recognised in the recently amended Enforcement Charter adopted in March 2020. A good example of action in the City Centre was the serving of an Amenity Notice in relation to a shop frontage which was causing a dis-amenity to the character of the conservation area at 25 Union Street. The applicants appealed this notice to the Scottish Government with the appeal subsequently dismissed. Discussion with the relevant agent is ongoing and a planning application/ listed building consent application has been submitted for a more sympathetic shop frontage. There are also a significant number of other cases (30) that have been opened/ investigated within the area, with the Council currently in negotiation or seeking to serve formal notice on several sites.

- 3.8 A further issue within the reporting period has been the installation of unauthorised signage throughout the city (41 cases – 19% of all cases). A number of these cases have been resolved through negotiation with relevant parties, however there have been cases where the Council have been required to take formal action. This includes the installation of an unauthorised sign at 11 Holburn Street. The Planning Service contacted the owner soon after the sign was installed to advise that it was unauthorised and would need to be removed, as it was unlikely that planning permission would be granted for such works. Following negotiations, a planning application was submitted, and an acceptable scheme was approved. The unacceptable signage has since been removed, with works currently being undertaken to install the approved scheme.
- 3.9 Notwithstanding the challenging economic situation, the scale and number of major developments, which have previously been consented and partly constructed within the City, presents significant resource challenges in terms of monitoring and compliance with planning permission requirements. The Planning (Scotland) Act 2019 inserts a new sub-section stating that the Enforcement Charter (discussed below) must contain a statement about how the Planning Authority will monitor compliance with planning permissions for major developments, and how they will record such monitoring and make the records available to the public. This has placed a significant burden on the role of planning enforcement given that such applications are often subject to numerous planning conditions/ legal obligations which require post approval monitoring/ action. Such action is generally led on a case-by-case basis by the planning case officer, in liaison with relevant key consultees/ other interested parties (e.g. legal services). A recurring issue with many of these sites is the level and scale of developer obligation burdens imposed on developers and the potential breach of planning conditions / obligations (e.g. in relation to major residential development). The general approach of the services in these circumstances has been to try and resolve the relevant matter by negotiation, rather than by use of formal enforcement powers. However, in cases raising potentially serious environmental/ amenity/ infrastructure impacts, it may be necessary to use such powers.
- 3.10 An example of where this has occurred has been within an ongoing residential development within Aberdeen city. At present there are several areas of work that have been undertaken without the benefit of planning permission. The Planning Service served a Temporary Stop Notice (TSN) and a subsequent planning application dealt with several dwellings that had not been constructed in accordance with approved plans. There are wider issues that remain outstanding in relation to materials, finished and landscaping, with the Planning Service waiting on the submission of further details to rectify this breach of planning control. An Enforcement Notice may be required if no satisfactory solution is forthcoming.
- 3.11 The following table provided a summary of the enforcement caseload since 1st April 2019 and divides the cases into new and those within the previous reporting period.

New Cases – 1st April 2019 to 31st March 2020	Cases resolved & no further action required.	142
New Cases - 1st April 2019 to 31st March 2020	Under investigation, being negotiated, or application decisions pending.	74
Enforcement Related Notices served		11
Enforcement Notices in process of being prepared		4

3.12 An Enforcement Charter, which is a statutory requirement arising from implementation of the 2006 Planning (Scotland) Act, was first adopted by the Council in June 2009. There is a statutory requirement to review this document every two years. There have been updates on several occasions since 2009, with the most recent update taking place in March 2020. A copy of this document is appended at Appendix 2 for information. The Charter helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service. These priorities include the Union Street Conservation Area Scheme area.

3.13 The Planning Service previously had to request authority from the Planning Development Management Committee to serve enforcement notices (all other types of notice were previously delegated excluding enforcement notices). The new scheme of delegation now gives delegated powers to serve such notices; meaning that enforcement is now a fully delegated function. This will hopefully speed up and increase the effectiveness and efficiency of the enforcement service.

#### 4. FINANCIAL IMPLICATIONS

4.1 There are no specific implications for revenue or capital budgets, property-based budgeting, or state aid arising from consideration of this report. Some costs may be incurred in direct action to secure compliance when an enforcement notice is necessary. This can generally be accommodated within existing budgets, actions outwith budget parameters will trigger a specific report being submitted to Committee to seek authorisation or other instructions

#### 5. LEGAL IMPLICATIONS

5.1 There are no legal implications arising from this report.

#### 6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Strategic Risk	N/A		
Compliance	N/A		
Operational	N/A		

<b>Financial</b>	Financial costs may be incurred should Enforcement Notices not be complied with	L	The risk can be mitigated by ensuring 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 the costs of the required action from the landowner in accordance with the relevant legislation
<b>Reputational</b>	There may be a negative impact if the Council do not decide to proceed with enforcement action.	L	Proceed with the enforcement action where required.
<b>Environment / Climate</b>	Not undertaking enforcement action could result in adverse impacts on the built and natural environment	L	Proceed with the enforcement action where required.

## 7. OUTCOMES

<b><u>COUNCIL DELIVERY PLAN</u></b>	
<b>Aberdeen City Local Outcome Improvement Plan</b>	
Prosperous Economy Stretch Outcomes	The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. This report monitors indicators which reflect current economic activity within the City and actions taken by the Council to support such activity.
Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen. This report monitors key indicators impacting on the lives of all citizens of Aberdeen. Thus, the Planning Service will need to measure the effectiveness of measures already implemented, as well as allowing an evaluation of future actions which may be required to ensure an improvement in such outcomes.
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit, operating to the highest environmental standards. This report provides essential information in relation to enforcement related issues to measure the impact of any current action.

## 8. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	Full impact assessment not required.
Data Protection Impact Assessment	Not required.

## 9. BACKGROUND PAPERS

9.1 None

## 10. APPENDICES

10.1 Appendix 1 – Enforcement Cases

10.2 Appendix 2 – Enforcement Charter – March 2020

## 11. REPORT AUTHOR CONTACT DETAILS

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<b>Title</b>	Senior Planner
<b>Email Address</b>	<a href="mailto:gaclark@aberdeencity.gov.uk">gaclark@aberdeencity.gov.uk</a>
<b>Tel</b>	01224 522321

### Registered Enforcement Cases - April 2019 to March 2020

ADDRESS	WARD	COMPLAINT	CURRENT STATUS
Hillhead of Clinterty (land to north west) Tyrebagger Road, Kirkton of Skene	1	Unauthorised building works & business use on site	Enforcement action to resolve breach under consideration.
5 Kepplehills Road Bucksburn	1	Tall fencing erected around front garden perimeter without planning consent.	Height of boundary fencing reduced to comply with 'permitted development' guidelines. Resolved.
16 Sclattie Park Bucksburn	1	Unauthorised sale of 'hot food' from Class 1 shop premises.	Sale of 'hot food' items from shop premises now ceased. No further action at this time.
17 Cruickshank Crescent Bucksburn	1	Erection of unauthorised boundary fencing.	Application lodged Sept.19 seeking permission to retain existing fencing refused - Owner has now complied with formal request for boundary fencing to be altered & reduced in height. Resolved.
5 Goval Terrace Dyce	1	External alterations carried out to roof/balcony area of property without consent.	Minor alterations carried out to roof/balcony area not subject to planning permission. No further action.
Farburn Terrace/Place (adj. to railway line) Dyce	1	Formation of car parking areas without planning consent.	Application seeking consent 'change of use' of amenity land form temp. car parking lodged Jan.20 - decision on application pending.
83 Fairview Drive Danestone	1	Large storage structure erected on mutual garden ground without planning consent	Request for structure to be altered to conform with 'permitted development' guidelines complied with. Resolved.
114 Mugiemooss Road Bucksburn	1	Tall fencing installed along front garden boundary without consent.	Request issued asking Owner to reduce height of fence to approx. 1 metre complied with. Resolved.
7 River Don Crescent Mugiemooss	1	Change of use of public open space to private garden ground	Awaiting the submission of a planning application, or change of land back to public open space
876 Great Northern Road (Pizza Hut)	1	Unauthorised banners erected on car park boundary railings	2x letters have been sent to owner. If no response then an enforcement notice will be served seeking removal
Pitmedden Road (Logie Steading)	1	Unauthorised business use operating from existing detached garage.	No breach of planning. No further action.

ASDA Stores Dyce Shopping Centre	1	Erection of temporary sales portacabin and parking area	Building remains on site despite temporary consent expiring - applicants have advised that a new application will be submitted, but this has not been done to date
Land to the South of Mugiemoss Drive	1	Installation of three signs	Current application pending to rectify the breach of planning control
876 Great Northern Road (Evans Cycles)	1	Installation of unauthorised banners	Letter issued asking for the unauthorised advert banners to be removed.
Laurel Drive (Bannatynes Health Club)	1	Installation of signage adjacent to road	Owners have been asked to lodge an application seeking consent for site signage & to remove hoarding located opposite Tesco entrance.
Mugiemoss/ Stoneywood Area	1	Erection of signage & advert banners without consent	Site owners involved to be asked to remove some unauthorised banners & to submit formal applications seeking consent for other signage that would be acceptable.
6 Kingsway	1	Very tall fencing erected on mutual boundary	Site inspection confirmed that rear boundary fencing would not be subject to formal planning consent. No further action.
75 Jesmond Avenue	2	Garage built without planning permission.	Established that permission for garage was granted in 2006 and that it was built circa. 2008. No further action.
86 Woodcroft Avenue	2	Erection of boundary fence & change of use to amenity land.	Permitted development not requiring planning permission.
29 Cameron Way Bridge of Don	2	Works carried out within rear garden area without planning consent.	Works referred to do not require formal planning consent. No further action.
Jesmond Grange Shop. Centre (Sea Salt & Sole)	2	Unauthorised advert hoarding sign erected on land at front of shop unit	Request for hoarding sign to be taken down complied with. Resolved.
98 Lee Crescent Bridge of Don	2	Minor demolition works & alterations carried out to boundary mutual with No. 96 without planning consent	Site inspection confirmed that works to mutual boundary do not require formal planning permission. No further action.
10 Buckie Road Bridge of Don	2	Erection of tall fencing to rear garden boundary without consent.	Confirmed by site inspection that height of new boundary (approx. 2m) does not require formal planning permission.
Denmore Road (land north of Sparrows Offshore)	2	Installation of steps to proposed shared cycle & pedestrian pathway without consent.	Confirmation received that steps will be removed when work on the pathway project commences. No further action.

Silverburn Sports Centre Claymore Drive Bridge of Don	2	The car parking has not been implemented in accordance with the approved plans	Site owners have been asked to resolve the non-compliance concerning the car park area.
21 Cameron Way Bridge of Don	2	Development carried out onto neighbouring land	No breach of planning. No further action.
Woodside Road (Thistle Windows) Bridge of Don	2	Formation of promotional decking area without planning permission	Site owners asked to lodge an application seeking consent for the new promotional display area & to remove the temporary advert signage.
Mill of Murdurno	2	Installation of various signs	Letter issued to Management asking for advert banners to be removed & for an application to be lodged for new signage to main access.
77 Ashwood Road Bridge of Don	2	Query re. installation of extract flue as per App.181369/DPP	No breach of planning. No further action.
12 Seaview Place	2	Boundary fencing issue	Requirement for owner to relocate boundary fencing has not been complied with - Enforcement action to be discussed with Legal Team.
Skene Road, Kingswells (land at Cairdhillcock)	3	ground restoration works carried out without planning consent.	Works carried out not considered to be unduly detrimental or to adversely affected the amenity of the site. Not considered expedient to enforce. No further action to be taken.
Fairley Road (land to east) Kingswells	3	Non-compliance with planning conditions relating to (Ref.130288)	Outstanding planning conditions now purified by Developer. Resolved.
Willowbank' (off Kingswells Crescent) Kingswells	3	Tree removal & groundworks carried out to ground/verge adjacent to main road.	Removal of tree & minor ground clearing works not subject to planning permission. No further action.
8 John Arthur Court	3	Installation of tall external flue to gable extension without P.P.	Deemed consent - as the works were carried out more than 4 years ago
1 Wellside Park Kingswells	3	Breach of condition re: installation of obscure glass in new windows	Breach rectified by offender
Land at Maidencraig	3	Connection to core path network has not been formed in association with 181380/MSC	Application submitted to rectify the breach of planning control
Land at Maidencraig	3	Non compliance with landscaping condition associated with 131827	Replacement planting has now been installed in accordance with the approved scheme

35 Invercauld Gardens Mastrick	4	Personal training business use operating from residential property.	Level of business related activity carried out within property deemed to be ancillary to residential use and not in breach of planning. No further action to be taken.
7 Moir Green	4	Query re. planning requirements associated with structure built within rear garden area.	Established that structure does not require planning consent. No further action.
Springhill Road (former Springhill Depot.)	4	Erection of new boundary palisade fencing around site without P.P. & possible unauthorised use.	Request for application to be lodged seeking retrospective consent for palisade fencing complied with - application now approved - no evidence of any unauthorised use. Resolved.
10 Kettlehills Road Northfield	4	Large timber structure erected within rear garden area without consent.	Request for owner to submit a formal planning application seeking consent complied with. Application lodged Feb.20 (Ref.200178/DPP) decision on application pending.
143 Cairnwell Drive	4	Erection of 2 buildings within curtilage of property without planning consent.	Permitted development
15 Derry Place Mastrick	4	Erection of timber structure & boundary fencing without P.P.	Letter to be issued to property owner asking for boundary fencing to be reduced in height & for an application to be lodged seeking consent for the timber structure.
87 Rosehill Avenue	5	Large external extract flue erected to roof area of rear extension without planning consent.	Request for large flue to be removed & replaced with smaller alternative complied with. Resolved.
89a Rosehill Drive	5	Safety railings and additional air-con units installed on external roof area of shop premises without consent.	Owners asked to submit new planning application for works carried out - new application lodged Jan.20 - decision on application currently pending.
8 Blackthorn Crescent	5	Large structure erected to rear of property without planning consent.	Request issued asking Owner to remove unauthorised structure complied with. Resolved.
109 Hilton Road	5	Demolition of stone shed & formation of driveway at rear of property without P.P.	Permitted development
19 Middlefield Terrace	5	Installation of driveway	Works were carried out in excess of 10 years ago, immune from enforcement action. No further action.

24 Cairncry Road	5	Replacement garage constructed without planning permission.	Site inspected - no apparent evidence noted to confirm that a replacement garage was under construction. No further action at this time.
112 High Street (Shelter Coffee) Old Aberdeen	6	Placement of outdoor seating area without consent	Application seeking permission for outdoor seating lodged Jul.19 approved Sept.19 - Resolved.
18 Seaton Road (Flat A)	6	Erection of shed to front of flatted property.	No positive response to request for householder to submit a formal application seeking consent. Minor planning breach which is not considered expedient to enforce. No further action.
University of Aberdeen (Kings Pavilion)	6	Internal works/alterations carried out to Listed Building without formal consent.	Site investigation carried out - only minor refurbishment works have been carried out to changing rooms & shower areas which would not require formal consent. No further action.
14 Sunnyside Gardens	6	Works carried out to extend existing driveway access.	Confirmed by site visit that minor driveway alterations are 'permitted development' not requiring planning permission.
1b Orchard Place	6	Large unauthorised advert sign erected within front garden area.	Request issued asking for advert sign to be removed complied with. Resolved.
17 School Avenue (land adjacent to)	6	Temporary' large steel container located on land adjacent to flatted property without consent.	Planning application seeking to erect standard sized shed within ground of flatted property lodged Mar.20 - decision on application pending.
80 St Machar Drive (The Barn)	6	Installation of modern light fitting to entrance porch & replacement of several internal doors without consent.	Negotiations with Abdn, University re a suitable replacement light fitting and re-instating 3 original doors ongoing.
The Studio Nether Don Old Aberdeen	6	UPVc window(s) installed to property within Con. Area without consent.	Current planning application pending to rectify the breach of planning control
27 Northfield Place (first floor right)	7	PVCu windows installed to flatted property in con. Area without planning permission.	Application lodged Apr.19 seeking retrospective consent approved unconditionally May.19. Resolved.
Oakhill Crescent Lane (Scout Hall)	7	Preliminary surveying works relating to possible extension of scout hall being carried out within lane.	Random site monitoring carried out over 4 week period revealed no apparent evidence of any unauthorised surveying or building work activities. No further action at this time.

Chapel of Stoneywood (Chapel of Stoneywood to Fairley Road)	7	Unauthorised car dealership	Certificate of Lawfulness issued Feb.20. No further action to e taken.
231 Rosemount Place (The Duck & Dog)	7	Installation of new shopfront signage.	Very minor planning breach - not considered expedient to enforce. No further action.
46 Skene Terrace	7	Various works carried out to Cat. (B) Listed Building without consent	Minor exterior works carried out to rear of property not subject to formal consent.
2 Crimon Place	7	Satellite dish erected to front elevation without consent (Con. Area).	Letter issued asking for dish to be re-located away from front elevation.
440 Union Street	7	Signage not in accordance with approved plans	Agent has not been responding, likely to proceed with formal action if breach cannot be resolved
220 Union Street (all properties)	7	High level vegetation	Letter have been issued to owners - works likely to take place soon to rectify the breach
34 Beattie Avenue	7	Unauthorised business use re. beauty treatments being carried out within residential property.	Flat owner asked to cease unauthorised business use and to restore the residential use of the flat by 16th Mar.20 - further internal inspection to be made to confirm compliance.
116 Rosemount Place	7	Works taking place to roof/ gutters of a listed building in conservation area	No breach of planning. No further action.
St. Nicholas Shopping Centre (external access steps)	8	External access steps painted without consent	Access steps not included within Conservation Area - painting of steps not considered to require the submission of a formal planning application. No further action.
77 Wellington Street	8	Unauthorised use of warehouse premises as bathroom showroom	Application seeking required 'change of use' lodged Nov.19 and approved unconditionally Dec.19. Resolved.
Marischal Square (Unit F) Tony Macaroni	8	Installation of temporary signage.	Permission for installation of fascia signage granted previously (Ref.171322/ADV) - positive response to request for temporary signage to be removed has not been received - minor planning breach which is not considered expedient to enforce. No further action.

443 George Street (Butchers Arms)	8	Formation of beer garden to rear of premises.	Approval to vary existing licence to include outdoor drinking facilities approved by Licencing board - provision of tables/chairs within curtilage of licenced premises not subject to planning permission. No further action.
25 Union Street	8	Untidy shopfront	Amenity Notice asking for shopfront to be repaired & restored to a suitable condition served Oct.19 - Appeal against Notice dismissed - application for new shopfront proposals lodged Mar.20 - decision on application pending.
39 King's Crescent	8	Installation of external door and sub-division of property to form two flats.	Application lodged seeking retrospective consent Mar.20 - decision on application pending.
28-32 Marischal Street	8	Building is in a state of disrepair	No breach of planning control. No further action at this time.
29 Union Street (Flats 1-8)	8	Green staining affecting front elevation stonework & other general repairs required.	Letter issued to flat owners Jan.20 asking for stonework to be cleaned and other repairs carried out - confirmation now received that stone cleaning & other repairs are to be carried out shortly.
3 Pittodrie Place	8	Tall fencing erected near to mutual boundary wall without consent.	Height of boundary fencing altered to meet 'permitted development' guidelines. No further action.
120 Union Street (Espionage)	8	Vegetation growing on site frontage	General maintenance issue and not considered expedient to enforce.
49 Union Street (Prime Vapour Ltd.)	8	Installation of unauthorised fascia signage.	Letter issued to shop owner asking for an application to be lodged for alternative signage proposals - confirmation received Mar.20 that an application is to be submitted for consideration shortly.
314 King Street	8	Installation of new ATM to shop front window on King Street without consent.	Applications for planning permission and advertisement consent currently pending consideration
12 Castle Street (All Properties)	8	Vegetation in guttering	CARS Area - letter to be sent to owners seeking removal of the signage
22-23 Castle Street	8	Fascia falling off to pend right of Barnardo's	CARS Area - matter to be investigated by colleagues in Building Standards

31-32 Castle Street	8	Green stain around downpipe	CARS Area - letter to be sent to owners to seek removal of staining
33 Castle Street (RS McColls)	8	Possible unauthorised signage.	CARS Area - signage has been in place for a number of years - no breach of planning control
49 Castle Street (Phone Fit)	8	Unauthorised signage and bowing chimney	CARS Area - Signage granted consent via 191271/ADV) - bowing chimney being looked at by building standards
52 Castle Street (Old Blackfriars)	8	Guttering failing and chimney vowing	CARS Area - matter to be investigated by colleagues in Building Standards
17 Union Street (RS McColls)	8	Poor signage, vegetation and general amenity	CARS Area - letter was sent to owners, no response received. Further decision to be made on whether to serve amenity notice
26 Union Street (upper floors)	8	Upper floor windows boarded up without planning consent	CARS Area - further discussion required with applicants as to future use/ development of the site. No permission in place for works undertaken
31 Union Street (British Heart Foundation)	8	Green stain down building - Fascia Coming off	CARS Area - contractor in place to remove the staining - fascia deemed acceptable once works completed
37 Union Street (Premier Stores)	8	Poor signage and step broken	CARS Area - signage consented, deemed not expedient to enforce other minor works
40 Union Street (Optical Express)	8	General poor amenity of shop frontage	CARS Area - owner has advised that roof repairs and general shop front works will be undertaken in the summer. Advised of funding available to undertake these works
44 Union Street (Mobifix)	8	Poor signage and vegetation in gutter	CARS Area - owner to be contacted to discuss required works
51 Union Street (VPZ & Paddy Power)	8	Green staining on fascia	CARS Area - owner to be contracted to discuss cleaning of signage
73-79 Union Street (Café Nero)	8	Vegetation growing out of building	CARS Area - matter to be investigated by colleagues in Building Standards
91-93 Union Street (former BHS store)	8	Boarding up of windows/ doors without planning permission	CARS Area - planning permission recently been approved for works to the building, will hold off undertaking any works until this permission has been implemented

114-116 Union Street (upper floors)	8	Boarded up windows and plant growth	CARS Area - matter to be investigated by colleagues in Building Standards
122 Union Street (Bargain Buys)	8	Boarded up windows and bowed frontage	CARS Area - deemed not expedient to take action at this time
130 Union Street (RS McColls)	8	Poor signage and broken stall riser	CARS Area - matter to be investigated by colleagues in Building Standards
132 Union Street	8	Lead flashing coming off fascia	CARS Area - matter to be investigated by colleagues in Building Standards
136-138 Union Street (All Saints)	8	Broken projecting sign bracket and boarded window	CARS Area - matter to be investigated by colleagues in Building Standards
171 George Street	8	Refuse bins placed on street & not within premises as had been indicated	No breach of planning. No further action.
57 Union Street (former Shack Restaurant)	8	Proposed external alterations to shopfront	The works have not been carried out. There is therefore no breach of planning control
33 Belmont Street	8	Installation of banners without the benefit of advert consent	Letter sent to owner - no response received. Planning Authority to decide next course of action
46 Castle Street (former Lloyds TSB)	8	Change of use from Class 2 (bank) to Class 4 (office) for the VSA	Applicant has been advised of the requirement for planning permission
Cutters Wharf 65 Regents Quay	8	Pre-commencement aspects of the planning condition have not been discharged	Breach rectified by offender
Links Road (Transition Extreme)	8	Installation of parking cameras, signage and yellow metal barriers.	Applicant has been advised of the requirement for planning permission. No application submitted to date
10 North Square	8	Alterations carried out & possible unauthorised business use operating from outhouse (Con. Area)	A planning application is currently pending consideration to rectify the breach of planning control
6 Market Street	8	Installation of unauthorised projecting sign	Breach rectified by offender
121 Causewayend	8	Installation of unauthorised advertisements	Letter to be issued to proprietors asking for an application to be lodged seeking retrospective consent.
37 Elmbank Terrace (The Skinny House)	8	Non-compliance with landscaping condition	Email sent to owner - no response received. Decision to be made as to whether a formal notice needs to be served on site

Beach Leisure Centre	8	2 Large banner installed on the northern side of the building with lighting	Management have been asked to remove the 2 unauthorised advert banners from external elevation.
25 Belmont Street (Revolution)	8	Formation of permanent structure to rear; in addition, a smoking shelter has been formed adjacent to the priory.	Site inspection established that the temporary roof awnings & side panels on rear balcony have been replaced with a more permanent structure - external smoking area has also been created. Owners to be asked to submit a formal planning application seeking the required retrospective consent.
Fraser Road (Highgate Apartments)	8	Installation of unauthorised banners	Owner to be contacted in relation to unauthorised works. Asked to remove signage
19-21 St Clair Street (Bedz To Go)	8	Installation of unauthorised illuminated advertisement	Breach rectified by proprietor. No further action..
1 Den of Pittengullies Milltimber	9	Erection of new large storage shed adjacent to mutual boundary without planning consent.	Site inspection established that position/dimensions of shed complies with permitted development guidelines. No further action.
Bielside Lodge' North Deeside Road Bielside	9	Alleged non-compliance with planning condition set with previous approval (Ref.120491)	Preliminary on site exploratory bore-hole drilling works deemed not to be in breach of earlier planning condition. No further action at this time.
1 Bingham Road West Milltimber	9	Erection of tall fencing to rear garden area without consent.	Boundary fencing reduced in height to comply with permitted development guidelines. Resolved.
Milltimber Farm Milltimber Brae	9	Unauthorised quarrying , excavation works, and importation of soil without planning consent.	Temp. Stop Notice served Nov.19 complied with - negotiations ongoing re. the submission of a formal planning application seeking retrospective consent for the works carried out - possibility that a resolution may have to be pursued through formal enforcement action.
North Lasts Quarry Peterculter	9	Breach of Condition re, operating times for on site coating plant.	Request for site operating times to be adhered to complied to. No further action at this time.
Kennerty Mill (Plot 2) Burnside Road Peterculter	9	Large quantity of building related material & equipment being stored on development site without consent.	Request for developers to remove building materials and equipment from site complied with. Resolved.

52 Cairnlee Avenue East Bieldside	9	Large area of decking exceeding 500mm in height erected within rear garden area without planning consent.	Application lodged Aug.19 seeking retrospective consent for works carried out (Ref.191197/DPP) application refused Oct.19 - Legal Team has been asked to initiate formal Enforcement Action for the removal of the decking area.
41 School Road Peterculter	9	Unauthorised use of ancillary building at rear of property as full-time accommodation.	Investigation confirmed that the ancillary building to rear of property is used for occasional accommodation purposes by a family member only which would not be a breach of planning. No further action to be taken.
8 Garden Road Cults	9	Several large structures erected within rear garden without planning consent.	Site inspection confirmed that structures erected within rear garden area would not be subject to formal planning permission.
69 Abbotshall Drive Cults	9	New rear elevation single storey extension not built in accordance with approved plans.	Site inspection confirmed some minor building work discrepancies as per the approved plans - Amended plans seeking a non-material variation submitted and approved. Resolved.
North Linn Cottage (West of Peterculter)	9	Unauthorised gazebo structure erected near to Dee river bank without consent	Site visited - gazebo structure not as yet in place - following site meeting with Owner, it has been confirmed that he no longer intends to go ahead with erecting the gazebo. No further action at this time.
Culter House Road (Plot 1)	9	Non-compliance with planning condition relating to boundary treatments.	Request for planning breach to be rectified complied with. No further action.
Craigton Road (land at Morkeu)	9	Installation of site fencing exceeding 1m in height	Fencing referred to now removed. Resolved.
13 Hillside Road	9	Erection of extension and fence along mutual boundary	Permitted development
Nether Contlaw Contlaw Road	9	Breach of conditions in relation to planning permission 130879 (probable);Erection of outdoor riding arena and horse walker without planning permission	Owner has been advised of the requirement for planning permission. Application to be submitted in due course
19 South Avenue Cults	9	Removal of boundary wall and other associated works within site curtilage	Permitted development

North Lasts Quarry	9	Query regarding blasting operations at the quarry and whether there was an associated breach of planning conditions	No breach of planning. No further action.
19 South Avenue Cults	9	Siting of storage container and re-grading of land	Email sent to owner - waiting for a response
58 Culter House Road	9	Erection of outbuilding and earthworks in rear garden ground	Permitted development
Baads Farm	9	Unauthorised materials/works on site without P. P.	No breach of planning. No further action.
281 North Deeside Road (Beechcroft)	9	Refurbishment of existing windows	Minor refurbishment works - not considered expedient to enforce. No further action.
70 Carden Place (Soju Bar & Restaurant)	10	Signage erected to front elevation of property without consent.	Signage removed. Resolved.
25 Hartington Road	10	Building works commenced on site outwith 3 year timescale of planning approval (Ref.141273)	Request for new planning application to be lodged complied with - application lodged May.19 (Ref.190781/DPP) approved conditionally Jul. 19. Resolved
Hazledene Road (Somebody Cares)	10	Current permission for operation of charity shop has expired.	Application to extend charity shop operation approved Aug.19. Resolved.
80 Carden Place	10	2 large freestanding signboards erected to front garden area of property without consent.	Site inspection established that the 2 signboards conform with 'deemed consent' guidelines and do not require formal advert consent. No further action.
15 Royfold Crescent	10	New house & garage construction incomplete.	Planning permission for new house & garage granted in 2017 and works commenced within 3 year period. Planning has no remit on the timescale for work completion. No further action.
21 Woodburn Crescent	10	Non-compliance with approved plans (Ref.171372/DPP)	Site inspection confirmed that works carried out on site comply with the approved plans. No further action.
30 Anderson Drive	10	Additional fence panels erected along rear garden boundary line without consent.	Boundary fencing height lowered in height to comply with 'permitted development' guidelines. No further action.
87 Ashley Road	10	Formation of raised platform area with retaining wall to rear garden area of property within Con. Area without consent	Request for owner(s) to submit a formal application seeking consent for works carried out complied with - Application lodged Sept.19 approved Nov.19 - Resolved.

8 Fernielea Crescent	10	Erection of large summer house to rear garden area without planning permission.	Site inspection established that the dimensions/placement of the summer house structure complies with the 'permitted development' guidelines and would not be subject to planning permission. No further action required.
52 Brighton Place	10	Formation of driveway not as approved & proposed drop kerb area has not been implemented.	Driveway construction now in compliance with approve - drop kerb now installed. Resolved.
4 Ashley Gardens	10	Side extension built on gable wall without planning permission.	Investigation confirmed that the modest sized gable wall extension has been in-situ well in excess of 4 years and therefore has deemed consent. No further action.
72 Morningfield Road	10	Old style telephone box located within front garden area without consent.	Phone box has been completely stripped out & has been placed in garden as an ornamental feature - establish that phone box has been in-situ for more than 4 years & is therefore immune from further action. No further action.
28 Countesswells Park Place	10	Shed erected without consent.	Dimensions & location of shed structure complies with 'permitted development' guidelines. No further action.
63 Devonshire Road	10	Construction of new extension along boundary wall mutual with Num. 61 not in accordance with approved plans.	No breach of planning. No further action.
3 Woodend Crescent	10	Non-compliance with approved plans	No breach of planning. No further action.
1 Fernielea Road	10	Installation of fencing exceeding 1m in height along front and side garden boundary.	Property owner has been asked to reduce fence height to approx. 1m to comply with 'permitted development' guidelines'.
27 Eday Road	10	Installation of fencing exceeding 1m in height	Request for boundary fencing to be reduced to approx. 1 metre in height complied with. Resolved.
38 Holburn Street (Scotvapes)	10	Illuminated signage installed immediately behind shopfront window	Proprietor to be asked to remove the illuminated signage.
34 Holburn Street (Hotspot)	10	Illuminated signage installed immediately behind shopfront window	Proprietor to be asked to remove the illuminated signage.
32 Holburn Street (Thistle News)	10	Advertisements covering entire shopfront and entrance door	Proprietor to be asked to reduce amount of adverts covering shopfront window.

Land at former Kepplestone Manor House	10	Unightly wall	No breach of planning. No further action.
72 Forest Road	10	Alterations to G/F flat causing problems with cigarette smoke entering F/F flat	Not development
2 Forest Avenue	10	metal hooks fixed to external wall of property in Con. area without consent	No breach of planning. No further action.
29 Summerhill Road	10	Unauthorised scaffolding & roofing business operating from residential property	Following a site inspection, letters are to be issued to tenant & property owner asking for garden areas to be tidied-up and for any unauthorised business use to cease.
68 Springfield Road	10	Construction of rear elevation alterations not in accordance with approved plans (Ref.191704/DPP)	Site inspection confirmed that the rear elevation alterations to not comply with approved plans - Agent has been instructed to lodge a new planning application.
107 Cranford Road	11	Breach of condition re. installation of obscure glass to new first floor dormer window.	Request for obscure glass to be fitted as per. condition complied with. Resolved.
4 Ruthrie Garden	11	Erection of new garage.	Planning permission not required for new garage construction. No further action.
27 Airyhall Drive	11	Tall fencing erected around front & side garden perimeter without planning consent.	Determined that boundary fencing has been in place for more than 4 years - application for Certificate of Lawfulness lodged Dec19. and issued Jan.20. Resolved.
485 Great Western Road (Co-op Food Store)	11	External extractor vent installed to rear of premises within Con. Area without consent.	Installation of vent deemed to be 'de-minimis' in terms of planning. No further action.
2 Abergeldie Terrace	11	Unauthorised business use (music studio) operating from domestic garage	Request for Owner(s) to cease unauthorised business use complied with. Resolved
7 Airyhall Place	11	Hairdressing business operating from residential property.	Hairdressing activities carried out within property considered to be ancillary to the existing residential use and not in breach of planning. No further action.
68 Airyhall Drive	11	Erection of large summer house structure without permission	Site visit established that the works were permitted development
27 Airyhall Drive	11	Erection of fencing to front/ side of the dwelling	Certificate of lawfulness granted (Ref: 191736/CLE) as the applicant demonstrated that the works were carried out more than 4 years ago

485 Great Western Road (Co-op Store)	11	Redundant equipment	No breach of planning. No further action.
183 Morrison Drive	11	Formation of unauthorised driveway	Retrospective planning permission granted (Ref: 200057/DPP)
39 Craighton Terrace Mannofield	11	Building works associated with approval granted in 2017 (Ref. 171217/DPP) not in accordance with approved plans.	Remains pending. Planning permission (Ref: 191756/DPP) was refused in January 2020. Local review has been requested
60 Cranford Road	11	Extensive demolition works carried out on site without planning consent.	Planning permission granted for unauthorised works (200284/DPP)
6 Stell Road (Geany Motors)	12	Car sales business operating on site.	Request for owner to resolve planning breach complied with. No further action.
Wellington Road (Arnold Clark Volvo)	12	Erection of unauthorised signage.	Application lodged Dec19 seeking consent for hoarding sign approved Feb.20 - Resolved.
32 Bridge Street (Zulus)	12	Installation of unauthorised signage.	Proprietor asked to resolve breach - formal enforcement action may be initiated if not fully complied with.
Union Street (various bus shelters)	12	Breach of condition re. animated adverts on display within a number of bus shelters.	Request for breach to be rectified complied with. Resolved.
27 Walker Road Torry	12	Alleged that a timber furniture fabrication business may be operating from rear of tenement property.	Site inspection found no evidence to substantiate allegation of unauthorised use. No further action to be taken at this time.
11 Gairn Circle	12	Large storage building erected to rear of property without planning consent.	Site inspection confirmed that the new storage structure does not require formal planning consent. No further action.
42 Sycamore Place	12	Erection of 2 timber modest sized structures within front garden area without PP	No positive response to requests for modest structures to be moved to rear of property - minor planning breach not considered expedient to enforce.
18 Whinhill Road	12	Additional fence panels erected on top of mutual boundary wall without planning consent (Con. Area)	No positive response to requests asking for an application to be lodged. - not expedient to enforce as works carried out are likely to be approved were an application to be submitted.
179 Victoria Road Torry	12	Unauthorised use re. storage of household related items within unoccupied shop unit.	General storage of household related items not considered to be a breach of planning control. No further action.

13 Crown Terrace (ground floor right)	12	Installation of unauthorised PVCu windows to rear of Cat. B listed building	Property owners have been asked to replace unauthorised PVCu with new timber sash & case windows as per the original. - Enforcement action to be considered if owners to not comply.
73-75 Victoria Road (Dobry) Torry	12	Installation of unauthorised signage	Initial letter has not been responded to, will likely proceed with further action if no response
11 Holburn Street (Middle East Restaurant)	12	Unauthorised fascia signage	Alternative scheme granted via 200236/ADV - not yet implemented
58-60 Justice Mill Lane	12	Unauthorised use and shop front	Unauthorised signage has been removed, use has not been implemented
23 Holburn Street (Na Na Nails)	12	Unauthorised fascia signage	Letter issued to proprietor asking for the existing fascia signboard to be replaced with signage in line with adopted guidelines.
167 Union Street (Sallys/Ambals)	12	Ambal's signage unauthorised, Sally sign only 'temporary', high level vegetation and boarded window	CARS Area - Permission recently granted to convert the upper floors to residential - signage at ground floor level has been implemented in accordance with the approved plans
171-173 Union Street	12	Boarded up windows	CARS Area - Planning permission recently granted to convert the upper floors to residential - this included the replacement of the window in question.
189 Union Street (former Shapla)	12	Poor signage and cladding falling off	CARS Area - no response received from owner. Amenity notice to be prepared.
207 Union Street (Newsbox)	12	Poor signage	Premises recently become vacant - letter to be sent to owner
207 Union Street (William Hills)	12	Unauthorised signage	Deemed consent
215 Union Street (Sylvan)	12	Unauthorised signage	Signage installed in accordance with the approved plans - no breach of planning control
227 Union Street (formerly Greggs)	12	Stone part of bottom of fascia falling off	Letter sent to owner - no response. Permission has been granted for conversion of premises so works likely to be undertaken
263 Union Street (vacant unit)	12	General amenity	Letter sent to owner - no response. Amenity notice likely to be served.

67-69 Victoria Road (Polski Sklep B & M Sausages)	12	Installation of unauthorised advertisements	Initial letter has not been responded to, will likely proceed with further action if no response
24 Victoria Road (former Bank of Scotland)	12	Installation of unauthorised signage to shop front and associated alterations	Owner has responded to initial correspondence. Planning Authority to respond advising of works required to regulate breach of planning control
36 Bridge Street (Zuhayrat Alsham)	12	Unauthorised alterations to shop front	Shopfront has been repainted from yellow to blue - application to be submitted for unauthorised advertisements
15 Bon-Accord Crescent	12	Non compliance with plans associated with 170473/DPP	Breach rectified by offender
40 Brunswick Place	12	Breach of condition 1 - colour of proposed flue to be agreed prior to commencement of development	Breach rectified by offender
6A Devanha Gardens West	12	Installation of satellite dish	Works have not commenced on site. No breach of planning control
13 Dee Place (car parking area)	12	Formation of unauthorised commercial car park	Church has been asked to submit a formal application seeking consent for removal of grassed area to form additional car parking - confirmation received Mar.20 that Church will arrange for an application to be lodged.
244 North Balnagask Road The Golden Tee)	12	Beer garden structure being erected within car park area without P.P.	Letter to be issued to owners of premises asking for the structure to be removed or for an application to be lodged to seek the required retrospective consent.
Boyne Villa' Old Stonehaven Road, Charleston, Cove.	13	Breach of Condition re. provision of site landscaping as per planning approval. (Ref.181545/DPP)	Request for breach of condition to be resolved and landscaping implemented complied with. Resolved.
Charleston Road Cove	13	Water from adjacent development flooding into properties on Charleston Crescent	Overall general site inspection revealed no evidence to confirm that any flooding issues on Charleston Crescent related to planning related issues from adjacent site. No further action to be taken at this time.

The Washbay' Braehead Cove Road Cove	<b>13</b>	Large enclosure erected on forecourt area of premises without planning consent.	Request for a formal planning application to be lodged seeking retrospective consent complied with. Application lodged Jul.19 (Ref.191104/DPP) approved Aug.19. Resolved.
Cove Harbour Cove	<b>13</b>	Various works carried out around harbour area without consent.	The various minor works carried out by landowner not deemed to be 'development' requiring formal planning consent. No further action at this time.
Whitehills Place/South Loirston Cove	<b>13</b>	Large earth bund formed on land between Whitehills Place & South Loirston.	Formation of earth bund not thought to in breach of landscaping requirements for development. No further action.
100 Tollohill Crescent, Kincorth	<b>13</b>	Timber shed/outbuilding erected to gable end of property without planning consent.	Site inspection established that the erection of new shed/structure does not require formal planning permission. No further action.
Moss-side Croft Charleston Nigg	<b>13</b>	Various works in progress on site without planning permission.	Investigation established that planning permission has been granted for the works in progress on the site. (Ref.160131)
Moss-Side Croft Charleston	<b>13</b>	Non-compliance with various conditions	A number of conditions have not been complied with. Applicant to be contacted in order to rectify the breaches of planning control
8 Buchanan Gardens Kincorth	<b>13</b>	Shed erected close to rear garden boundary mutual to neighbouring property without consent.	Erection/placement of shed not subject to formal planning permission. No further action.
3 Redwood Crescent Cove	<b>13</b>	Untidy land & property in poor condition.	Request for land to be tidied-up and some maintenance to be carried out to house complied with. No further action.
1 Spark Terrace Cove	<b>13</b>	Non-compliance with approved plans for rear extension. (Ref.170759/DPP)	Minor discrepancies from approved plans not considered expedient to enforce. No further action.
32 Earn's Heugh Crescent Cove	<b>13</b>	Erection of car port to side	Permitted development
11 Abbotswells Drive	<b>13</b>	Large extension being built to rear elevation of property without planning permission.	Permitted development
21 Burnbutts Crescent Cove	<b>13</b>	Formation of driveway	Permitted development
29 Fittick Place Cove	<b>13</b>	Formation of driveway and erection of extension	No breach of planning. No further action.

### Pending Cases Pre April 2019

ADDRESS	WARD	COMPLAINT	CURRENT STATUS
Craibstone Golf Course Club House	1	Importing and storage of large amount of soil onto site.	Planning application was due to be submitted prior to the outbreak. Will be chased up again.
Woolard and Henry	1	Tree removal and boundary alteration works carried out without planning consent.	Previous refusal by PDMC. Currently at appeal.
Former Royal Cornhill Hospital	5	Type of surfacing materials used in footpaths not in accordance with approved scheme as part of condition relating to hard and soft landscaping attached to approval P130381.	Temporary stop notice served previously - negotiations taking place with applicants - Enforcement Notice may be required to rectify breaches
1 Donside Street	6	Boarding up of shop windows	Current planning application pending
Voluntary Service Aberdeen - 38-45 Castle Street	8	Replacement door and frame to shop	Planning permission recently granted for alternative scheme. To be implemented ASAP
North Linn Farm - Peterculter	9	Several large steel storage containers erected on agricultural land without planning consent.	Structures remain in situ despite numerous pieces of correspondence with the application. Enforcement Notice in process of being prepared/ served
23 Rubislaw Den South	10	Partial demolition of rear boundary wall & erection of new sliding rear access gate without consent.	Permission refused for works undertaken. Alternative scheme currently pending consideration.
Wellington Green/ Garden	13	Landscaping associated with applications (Ref. 110064 & 110065) not carried out in accordance with approved plans.	Applicants were due to plant required trees within planting season. To be checked

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# Planning Enforcement Charter

**a guide to enforcing planning controls**

March 2020



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# 1. Introduction

In Scotland, you need planning permission for most development, except for some minor works (known as permitted development). Sometimes however, someone may carry out work without planning permission, or they don't follow the permission they have been given. The credibility of the planning system depends on effective enforcement action.

This charter outlines how the planning enforcement system operates and the standards of service that we seek to achieve when enquiries are made. Like all Councils in Scotland, Aberdeen City Council has legal powers to enforce planning controls. We do this where we believe that it is in the public interest to do so. We also monitor development that has been given permission, to make sure that it is in line with the approved plans and any conditions that may apply.

Enforcement is one of the most complex parts of the planning system, but it is something that concerns many people and may be their first experience of the planning process. We therefore encourage you to play a role by letting us know if you think planning controls may have been broken.

In Scottish Planning Policy the Scottish Government sets the upholding of the law and the terms of planning decisions as one of the core values expected of the Planning Service. The Council has statutory powers to investigate breaches of planning control and breaches of planning conditions. Formal action can be taken where a satisfactory outcome cannot be achieved by negotiation. A planning authority is not necessarily required to take action in respect of a breach of planning control and any action that is taken must be reasonable and proportionate to the breach.

**THIS CHARTER SETS OUT THE PLANNING ENFORCEMENT POWERS CURRENTLY AVAILABLE TO THE COUNCIL AND EXPLAINS HOW WE INTEND TO USE THEM.**



A planning authority may issue an enforcement notice where it appears to them to be expedient to do so, having regard to the development plan and to any other material planning considerations.

It is important to remember that a breach of planning control is not a criminal offence unless an enforcement notice has been issued and not complied with. The aim is to resolve breaches rather than punish those who carried out the work. This may be achieved through a retrospective planning application, for example.



## 2. Identifying and reporting possible breaches of planning control

Members of the public have a vital role to play in the enforcement system by reporting breaches of planning control to us. If you are concerned that someone is carrying out work without permission, or that the works are not in line with the related planning permission, please contact the Enforcement Section of our Development Management Team within Strategic Place Planning. You can phone or email us on the contact details found at the end of this document.

Possible breaches of planning control can include:

- **work being carried out without planning permission or other consent (this includes conservation area consent, listed building consent or advertisement consent);**
- **unauthorised change of use of land or buildings;**
- **undertaking development which is not in line with the approved plans or consent;**
- **carrying out work which is not in line with conditions attached to a permission or consent; or**
- **carrying out work to trees that are protected by a planning condition, a Tree Preservation Order, or by virtue of their location in a Conservation Area.**

The Council does not have the staff resource to actively monitor the implementation of consents or search for breaches of planning control and it is therefore useful if members of the public report information to the planning service if they think that a breach of planning permission has taken place.

You can check if works have consent online through the Council's Planning Portal using the site address:

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

The following information is important and helpful to us when you report a suspected breach in planning control.

- **the address or location of the property or land concerned;**
- **details of the suspected breach of planning control (for example, the nature of the building work or activities being carried out and information on who may be responsible for it); and**
- **dates and times of when the activity is carried out, where appropriate.**

If the suspected breach in planning control directly affects you, or you simply wish to know the outcome of our investigation, please also provide us with contact details for yourself including:

- **your name, telephone number, address and e-mail address (if submitted online).**

In accordance with the Environmental Information (Scotland) Regulations 2004 we will treat the identity of complainants in confidence. We will only release information regarding the identity of a complainant where it is in the public interest to do so, as a result of a ruling by the Scottish Information Commissioner or directed to do so by a court of law.

It is important to understand that planning enforcement is a discretionary power. This means that it is for the Council to determine if it is appropriate to exercise that power. Even if there is a breach of planning control, the Council must consider if it is in the public interest to take enforcement action. In doing so, the Council will consider the level of material 'harm' that the unauthorised development is causing, or, is likely to result in. Although not exhaustive, 'harm' in planning terms can include:



- **impact on the character and appearance of the built and natural environment;**
- **loss of protected trees;**
- **loss or damage to a listed building and demolition of buildings in a conservation area;**
- **impact on amenity including privacy, daylight, overshadowing, noise.**

It may be that these matters require to be properly considered through a planning application.

Some enquiries are about matters that are not breaches of planning control; these may be civil/legal matters, fall under different legislative regimes or cannot be controlled or conditioned through the powers available to planning. These can include the following:

- **private dispute over landownership/title deeds/right of access/maintenance;**
- **devaluation of property;**
- **loss of view;**
- **competition between businesses;**
- **on street parking or allocation of parking spaces.**

Where appropriate, planning will pass enquiries onto the relevant Council service to investigate.

### Page 342 **3. Time-Limited Procedures**

In some cases, the Council is time-barred from taking enforcement action. The time is limited to four years for enforcement action for “unauthorised operational development” (i.e. the carrying out of building, engineering, mining or other operations in, on, over or under land) and change of use to a single dwelling house. This could include development such as replacement windows, extensions or satellite dishes. ‘After four years following the breach of planning control, the development becomes lawful and no enforcement action can be taken’

A time limit of ten years for enforcement action applies to all other development including change of use (other than to a single dwelling house) and breaches of conditions, after which the development becomes lawful if no enforcement action has been commenced within the 10-year time limit.

There is no time limit for breaches of Listed Building Control (works undertaken to a Listed Building).

You can read further information on the use of enforcement powers on the Scottish Government website at: <https://www.gov.scot/publications/planning-enforcement-charter-guide-enforcing-planning-controls/>

Planning enforcement also covers the display of advertisements such as signs, billboards and advertisement hoardings, although slightly different procedures will apply). Planning control does not cover the actual content of an advertisement, and any complaints about this should be made directly to the Advertising Standards Authority.

## **4. Monitoring planning conditions**

In a large number of cases, conditions will be included within the decision notice attached to the granting of permission. These conditions are part of the approval and must be met in order for the development to be considered lawful.

Monitoring these conditions is undertaken by the Enforcement Section of our Development Management Team. However, as we grant such a large number of permissions each year, it is not possible for the Council to monitor all conditions at all times.



## 5. Planning enforcement: our processes

Any information that we receive is checked to ensure that the matter raised firstly involves a possible breach of control and secondly includes all the details we need for a possible investigation. After these preliminary checks, the complaint will be registered. We will then send an acknowledgement by letter or e-mail to the person who made the complaint.

When a complaint is registered, it is recorded on the Council's Enforcement Register and delegated to the appropriate officer. Complaints relating to previous / ongoing applications will generally be dealt with by the Planning Officer responsible for that application. The Council's Tree Officer will deal with complaints relating to tree works.

A member of the Planning Service will then visit the site in order to establish if a breach has occurred, and if so, to what extent. The main concern when investigating any breach is whether the development or activity requires planning permission, or breaches a planning permission or planning condition, or has a harmful effect on the area. Where this is the case, we must then decide if action is needed. In some cases, additional investigation or consultation with external bodies (such as Historic Environment Scotland) may be needed.

Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome of the investigation. Example outcomes may include the submission of a retrospective planning application, or confirmation that an operation may be exempt from planning control.

Enforcement investigations and any related discussions or meetings will be clearly documented by the appropriate officer in the electronic case file to ensure transparency and clarity in the process.

If it is decided that an unacceptable breach has occurred, there are three main routes that we may take:

**Negotiate a Solution:** we will encourage the person responsible for the breach to resolve the problem through discussion and negotiation. They may either choose to stop the activity and carry out work to correct the problem, or they may wish to submit a retrospective application. The time afforded to the person responsible to undertake either of these actions will depend on the severity of the breach and its impact.

**Retrospective Application:** a retrospective application is an application for development that is submitted after the work has actually started or has been completed. It should be noted that an owner or developer should never carry out work with the expectation of getting retrospective permission for the work. To do so is taking a considerable risk and may lead to formal enforcement action.



**Formal Enforcement Action:** where a breach in planning control is considered to have caused unacceptable harm to the area, and where negotiations have failed to deal with the problem successfully, we will typically pursue formal enforcement action. This may also occur if we have received a retrospective application that is considered to be unacceptable in planning terms and cannot be rendered acceptable by applying conditions to a planning approval.

When considering taking formal enforcement action, we will take the following into account:

- **the Development Plan, enforcement policies and relevant Scottish Government Circulars;**
- **the severity of the breach and its impact on the surrounding area, including:**
  - ▲ **visual impact;**
  - ▲ **environmental impact;**
  - ▲ **effect on residential amenity; and**
  - ▲ **effect on road safety.**

Current Council priorities will also be relevant in determining whether to pursue enforcement action, for example the current focus on regeneration in Aberdeen City Centre may result in amenity notices being served on properties on Union Street.

### Service standard

The most significant breaches of planning control will be given highest priority to ensure the most effective use of the staff resource available in the enforcement team to rectify breaches that are in the long term public interest. Such cases include:

- **significant negative effects on amenity;**
- **those which have a negative impact on the amenity of the City Centre**
- **breaches of condition for major developments;**
- **damage to listed buildings; and**
- **unauthorised felling of, or damage to trees protected by tree preservation orders.**

If you provide us with information, you will receive a formal response within the timescales set out in the customer charter. (See below)

Following our investigation, you will also be advised of any proposed action to be taken. This may include the need for additional investigation prior to deciding on a course of action.

We will let you know if the matter does not involve a breach of planning control.

The length of time required to resolve a case or take action can be affected by a number of factors. Progress can be delayed for the gathering of further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also delay resolution of the case.

The Council recognises that delays can cause considerable frustration to those people who have submitted information, particularly if they consider their amenity is affected. Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome.

## 6. Acting on breaches of planning control

In some cases, action may not be appropriate, even though planning controls have been breached. As stated previously, the purpose of planning enforcement is to resolve problems, not to punish mistakes. The planning authority must consider each case on its merits and decide on the best solution. We are will not? take formal action, for example, over developments which we consider to be acceptable in planning terms. It may be more appropriate in such cases for us to ask for a retrospective planning application to be submitted.

Only a relatively small number of cases require formal enforcement action. This begins with either an enforcement notice or a breach of condition notice being served on those involved in the development. Both notices include the following information:

- a description of the breach of control that has taken place;
- the steps that should be taken to remedy the breach;
- the timescale for taking these steps;
- the consequences of failure to comply with the notice; and
- where appropriate, any rights of appeal the recipient has and how to lodge an appeal.

Appeals against enforcement notices are considered by Scottish Ministers and dealt with, in most cases, by Reporters from the Planning and Environmental Appeals Division (DPEA). There is no right of appeal against a breach of condition notice.

### Service standard

Where a planning breach cannot be resolved and action is justified, a formal notice will be served cant think of a circumstance were we wouldn't serve?. This will be either an enforcement notice or a breach of condition notice. The council will write to the recipient of the notice to explain what is required, the timescales involved and the available options to resolve the issue.

If someone does not comply with a notice, we may take further action. This can include a range of possible options including:

- referring the case to the Procurator Fiscal for possible prosecution;
- carrying out work and charging the person for the costs involved;
- seeking a Court interdict to stop or prevent a breach of planning

Where the terms of any enforcement notice are not complied with, every effort will be made to resolve the case to the satisfaction of the council. These options include:

- direct action by the council and/or
- the matter being referred to the procurator fiscal for possible prosecution.

Details of enforcement notices, breach of condition notices, wasteland notices and stop notices are entered into an Enforcement Register. You can inspect these documents in our offices.

The Council has powers to enter any land to:

- establish if there has been a breach of planning control;
- check if there has been compliance with a formal notice; and
- check if a breach has been satisfactorily resolved.

## 7. Enforcement and advertisements

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with what is called 'deemed consent' which means they do not require advertisement consent providing they meet the criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land.

Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined. The court can impose further fines for each day the breach of the regulations continues.

The Council has the power to serve an enforcement notice for unauthorised advertisements. This specifies a time period (normally 28 days) for compliance with the notice. However, this period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

An enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even if the original advertisement is removed. Any subsequent advertising on this site without permission would be considered as a breach of the notice.

Planning control does not cover the actual content of an advertisement. Any complaints about this (for example the use of language or symbols which are perceived to be offensive) should be made to the Advertising Standards Authority.

## 8. Making a suggestion or complaint

Aberdeen City Council hopes the public will be satisfied with the planning enforcement service. However, if you have any suggestions, concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any failures.

If you would like to make a complaint about how we have followed our procedures and/or failed to comply with the levels of service set out in this Charter, the following course of action is recommended:

- **Please contact the officer dealing with the enforcement case to discuss your complaint in the first instance**
- **If you need to find out who to contact, please telephone our general enquiries number below or email the address shown below and your complaint will be directed to the appropriate person**
- **If you are not satisfied with the response to the complaint, please contact the officer's line manager, details are on the website of the Council's website.**

If you are still not satisfied your complaint will be dealt with in accordance with the Council's Corporate Weblink to <https://www.aberdeencity.gov.uk/services/have-your-say/make-complaint>. This is also available on paper at Marischal College.

This charter does not comprise an authoritative interpretation of the planning acts.

Planning legislation is complex and therefore if you are in receipt of any formal notice from the council you are advised to seek legal or independent professional planning advice.



## 9. Enforcement powers

Planning Enforcement powers are set out in Part VI of the Town and Country Planning (Scotland) Act 1997, in part VII, regulations 24 to 26A of the Town and Country Planning (Control of Advertisements)(Scotland) regulations 1984, and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The Planning (Scotland) Act 2019 has introduced charging orders to assist in the recovery of costs to the Planning Authority in association with enforcement notices in order to remedy a breach of planning control.

The Planning Authority will also monitor compliance with planning permissions for major developments, with details of how conditions have been discharged uploaded to the associated planning application file, which can be reviewed on our website. Such monitoring is particularly important in relation to conditions placed on ongoing operations and restoration, for example in relation to quarrying operations.

*Government policy on planning enforcement is set out in Circular 10/2009: Planning Enforcement. The Planning Acts and this publication are available online.*

### Types of Notice

**Breach of Condition Notice** - this is used to enforce the conditions applied to any planning permission. It is effective from the date it is served. It may be used as an alternative to an enforcement notice (see below) and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal. Contravening a breach of condition notice can result in the Council deciding to prosecute, with a fine of up to £1,000.

**Enforcement Notice** - this is generally used to deal with unauthorised development but can also apply to breach of planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An enforcement notice will specify a time period

to take effect (a minimum of 28 days); the steps that must be taken to remedy the breach and the time for this to be completed. There is a right of appeal, during which the terms of the notice will be suspended until a decision is reached. Failure to comply with an enforcement notice within the time specified is an offence and may lead to a fine of up to £50,000 in the Sheriff Court. Failure to comply may also result in the Council taking Direct Action to correct the breach (see other powers below).

**Listed Building Enforcement Notice** - this must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are like those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead to an unlimited fine or even imprisonment.

**Stop Notice** - this is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a stop notice is served, the planning authority must also issue an enforcement notice. There is no right of appeal against a stop notice and failure to comply is an offence. An appeal can, however, be made against the accompanying enforcement notice. If a stop notice is served without due cause, or an appeal against the [www.aberdeencity.gov.uk/planning](http://www.aberdeencity.gov.uk/planning) 10 a guide to enforcing planning controls enforcement notice is successful, the Council may face claims for compensation. The use of stop notices therefore needs to be carefully assessed by the Council.

**Temporary Stop Notice** - A temporary stop notice requires the immediate cessation of an activity from the moment it is displayed on a site. Typically, a temporary stop notice would be used to stop an activity that would, in the planning authority's view, cause damage to the environment and/or local amenity. The temporary stop notice might not prohibit the activity over the entire site; for example, it might instead restrict it to certain areas or times.

## Other Powers

**Planning Contravention Notice** - under Section 272 (of the Town and Country Planning (Scotland) Act 1997), this is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, a person with any other interest in the land or someone who is carrying out operations on the land. They are required to provide information about operations being carried out on the land and any conditions or limitations applying to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

**Amenity Notice** - under Section 179 (of the 1997 Planning Act) - this allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. It sets out the action that needs to be taken to resolve the problem within a specified period.

**Interdict and Interim Interdict** - an interdict is imposed by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and Councils normally only seek interdicts in serious cases or where enforcement notices have been ignored in the past. However, a Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

**Advert Removal Notice** - under Section 187 (of the 1997 Planning Act) - this allows planning authorities to remove or obliterate certain advertisements.

**Direct Action** - failure to comply with the terms of an enforcement notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

**Discontinuance Notice** - having regard to the provisions of the Development Plan, and to any other material considerations, the Planning Authority may consider serving this Notice to discontinue the use of land, or impose conditions on the continued use of the land, or that any buildings or works should be altered or removed.

**Request the Submission of a Planning Application** - Section 33A of the 1997 Act (introduced by section 9 of the 2006 Act) gives planning authorities the power to issue a notice requiring a retrospective planning application to be submitted.

**Fixed Penalty Notice** - Where a planning authority believes that a person is in breach of an enforcement notice or breach of condition notice, it may issue that person with a fixed penalty notice. They may do so on condition that: the notice is served within the six months period immediately following the compliance period stated in the enforcement notice; and that no prosecution proceedings have been started in respect of the breach.



## 10. Performance Targets

The Development Management weblink contains our performance targets:

Performance Indicator	Target
Telephone calls answered within 6 rings	85%
Telephone message returned by the end of the next working day	85%
Response to written correspondence received within 10 working days	90%
Response to formal emails within 10 working days	85%
Response to informal emails by the end of the next working day	85%
Visitors to reception with an appointment seen by an officer within 5 minutes of their appointment	90%
Visitors to reception without an appointment seen by an officer within 10 minutes	85%

## 11. How to contact us

T: 01224 523470

E: [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk)

W: [www.aberdeencity.gov.uk/services/planning-and-building](http://www.aberdeencity.gov.uk/services/planning-and-building)

Our address:

Development Management  
Strategic Place Planning  
Commissioning  
Business Hub 4  
Ground Floor North  
Broad Street  
Aberdeen  
AB10 1AB

Development Management Manager: **Daniel Lewis**

Chief Officer – Strategic Place Planning: **Gale Beattie**

Opening Hours: Monday to Friday 8:30 am – 5 pm  
(except for public holidays)

## 12. Useful Links

Aberdeen City Council planning information:

<https://www.aberdeencity.gov.uk/services/planning-and-building>

Aberdeen City Council Corporate Complaints procedure:

<https://www.aberdeencity.gov.uk/services/have-your-say/make-complaint>

Scottish Government Planning - for legislation:

[www.scotland.gov.uk/Topics/Built-Environment/planning](http://www.scotland.gov.uk/Topics/Built-Environment/planning)

Strategic Place Planning, Marischal College, Business Hub 4,  
Ground Floor North, Broad Street, Aberdeen AB10 1AB



## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	30 April 2020
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Pre-determination hearings procedure
<b>REPORT NUMBER</b>	GOV/20/087
<b>DIRECTOR</b>	To be confirmed
<b>CHIEF OFFICER</b>	Fraser Bell
<b>REPORT AUTHOR</b>	Alan Thomson
<b>TERMS OF REFERENCE</b>	6 and 7

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### 1. PURPOSE OF REPORT

This report sets out the criteria for when pre-determination hearings will be triggered, and the process that will follow for reporting to this Committee and referral to full Council if appropriate.

### 2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Note the contents of the report; and
- 2.2 Agree that the Chief Officer – Strategic Place Planning will report to this Committee when a pre-determination hearing is, or may be required, for any application with a recommendation as to :
  - (i) whether a hearing should be held for the application and
  - (ii) whether it should be determined by this Committee or by Full Council.

### 3. BACKGROUND

**Planning (Scotland) Act 2019 changes**

3.1 Section 27 of the Planning (Scotland) Act 2019, which came into force on 1<sup>st</sup> March 2020, removed the requirement that certain applications subject to a pre-determination hearing must be determined by full Council. Although the 2019 Act removed the requirement, full Council can still determine these applications or delegate to a committee if this is deemed appropriate. This would be assessed on a case by case basis.

3.2 The Council agreed the revised Scheme of Governance on the 2<sup>nd</sup> March 2020 which came fully into force on the 1<sup>st</sup> April 2020. The revised Terms of Reference now allow for PDMC to determine applications that have been subject to a pre-determination hearing.

### **Criteria for a pre-determination hearing**

3.3 The 2019 Act did not change the criteria for when a pre-determination hearing must be held. Regulation 27 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 states the circumstances when the planning authority must give the applicant and persons who have submitted representations an opportunity of appearing at a pre-determination hearing. The classes of development where there must be a pre-determination hearing (the “*statutory criteria*”) are:

- (a) national developments; and
- (b) major developments which are significantly contrary to the development plan.

3.4 In addition to the above criteria, under Section 38A(4) of the Town and Country Planning Scotland Act 1997, a planning authority may elect to give an applicant or persons who have submitted representations the opportunity of appearing at a pre-determination hearing. At the Development Management Sub-Committee on 17<sup>th</sup> June 2010, it was determined that the following criteria would trigger a report to that committee to determine whether a pre-determination hearing should be heard. The criteria (the “*discretionary criteria*”) were that the application had been subject of:

- (a) more than 20 objections; **and**
- (b) the Council had a financial interest; and/or
- (c) the application is a departure from the development plan

### **Proposed procedure**

3.5 It is proposed that when an application triggers either statutory criteria or discretionary criteria, the Chief Officer – Strategic Place Planning will initially report to PDMC recommending whether PDMC should determine the application after the pre-determination hearing, or if it would be advisable for the pre-determination hearing and determination to be carried out by full Council. If the report is about an application that has triggered discretionary criteria, the relevant report will first ask PDMC to determine whether a pre-determination hearing is required, giving a recommendation in this regard.

3.6 This would therefore be a two-stage process for those applications meeting the criteria for a hearing, with a further report, after the hearing, making a recommendation for determining the application. If it is decided not to hold a hearing, then the application would be brought back to a future Committee with a recommendation for determination.

3.7 This proposal is recommended as providing stronger governance, greater transparency and scrutiny of decision making for these applications as they are often contentious. Although PDMC will continue to hold pre-determination hearings and subsequently determine the majority of applications, this proposal allows a mechanism for applications that have a major impact on the entire city to be referred to full Council if PDMC decide that this would be prudent.

3.8 Previously, when full Council was determining an application, there was not a legal requirement for all members to attend the pre-determination hearing. Members should note that when an application is to be determined by full Council or PDMC that all members who wish to participate in the determination should attend the pre-determination hearing as well. This represents best practice in decision making and provides consistency with Standing Order 34 (Quasi-Judicial Items of Business) that members should be present for the entire discussion.

#### 4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from approval of this report.

#### 5. LEGAL IMPLICATIONS

5.1 The new Planning (Scotland) Act 2019 removed the requirement that full Councils must determine certain applications that are subject to a pre-determination hearing. Although the Act removed the requirement, full Council can still determine an application including those subject to pre-determination hearings if this is deemed appropriate.

#### 6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
Financial	No direct financial implications.	L	The criteria for pre-determination hearings are not changing, so it is not anticipated that there will be an increase in hearings.
Legal	Applicants and objectors may challenge a decision	L	By inserting this additional step of governance into the decision-making process,

	to not hold a pre-determination hearing, or the forum decision by judicial review.		decisions can be fully justified with clear reasoning and transparent discussion.
<b>Employee</b>	Hearings may result in increased workload for officers	L	The criteria for pre-determination hearings are not changing, so it is not anticipated that there will be an increase in hearings.
<b>Customer</b>	Applicants and objectors may have different views on the appropriate forum for determination of an application.	M	By reporting to PDMC, the reasons for a decision will be fully public and transparent, minimising risk of complaint.
<b>Environment</b>	No direct risk	L	None
<b>Technology</b>	No direct risk	L	None
<b>Reputational</b>	There may be reputational damage to the Planning Authority and to the Council more widely if it is perceived that decisions are not being taken fairly and openly.	M	The recommendations in this report will strengthen the governance arrangements and will allow PDMC to openly determine if a pre-determination hearing is required and the appropriate forum.

## 7. OUTCOMES

The proposals in this report have no impact on the LOIP or the Council Delivery Plan.

## 8. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Impact Assessment</b>	Not required
<b>Data Protection Impact Assessment</b>	Not required

## 9. BACKGROUND PAPERS

Development Management Sub-Committee on 17 June 2010 - Guidelines: When to hold public hearings in relation to planning applications:  
<http://councilcommittees.acc.gov.uk/ieListDocuments.aspx?CIId=348&MIId=1533&Ver=4>

**10. APPENDICES (if applicable)**

None

**11. REPORT AUTHOR CONTACT DETAILS**

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