

# Public Document Pack



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

Town House,  
ABERDEEN 15 April 2021

## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE**

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet remotely on **THURSDAY, 22 APRIL 2021 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 available on the Committee page on the website.

### **BUSINESS**

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

#### **MOTION AGAINST OFFICER RECOMMENDATION**

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

#### **DETERMINATION OF URGENT BUSINESS**

- 2.1 Determination of Urgent Business

#### **DECLARATION OF INTERESTS**

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

## **MINUTES OF PREVIOUS MEETINGS**

- 4.1 Minute of Meeting of the Planning Development Management Committee of 18 March 2021 - for approval (Pages 9 - 10)
- 4.2 Minute of Meeting of the Planning Development Management Committee Pre Determination Hearing of 25 February 2021 - for approval (Pages 11 - 20)

## **COMMITTEE PLANNER**

- 5.1 Committee Planner (Pages 21 - 24)

## **GENERAL BUSINESS**

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

- 6.1 Detailed Planning Permission for the erection of a one and half storey extension to the rear - 9 Royfold Crescent Aberdeen (Pages 25 - 46)

Planning Reference – 201627

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

[Link.](#)

Planning Officer: Jamie Leadbeater

- 6.2 Detailed Planning Permission for a change of use of land for the erection of a temporary chalet/mobile home - Baads Farm, Anguston Road Aberdeen (Pages 47 - 78)

Planning Reference – 201480

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

[Link.](#)

Planning Officer: Jane Forbes

- 6.3 Detailed Planning Permission for installation of entrance gates and CCTV camera - Stoneywood House, Stoneywood Park Aberdeen (Pages 79 - 96)

Planning Reference – 201037

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

[Search.](#)

Planning Officer: Lucy Greene

- 6.4 Detailed Planning Permission for change of use from class 3 (food and drink) to hot food takeaway (sui generis) and installation of extract duct at 81 Charleston Road North Aberdeen (Pages 97 - 128)

Planning Reference – 201397

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

[Search.](#)

Planning Officer: Alex Ferguson

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

- 7.1 Detailed Planning Permission for the erection of 4 residential units (3 apartments and 1 house) with associated works - 19 South Avenue Aberdeen (Pages 129 - 154)

Planning Reference – 201630

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

[Link.](#)

Planning Officer: Dineke Brasier

- 7.2 Detailed Planning Permission for the formation of external dining area at roof level, including balustrade, decking and associated works - Chester Hotel, Queens Road Aberdeen (Pages 155 - 182)

Planning Reference – 201454

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

[Search link.](#)

Planning Officer: Gavin Evans

### **OTHER REPORTS**

8.1 Planning Enforcement Activity Report - PLA/21/102 (Pages 183 - 198)

**DATE OF NEXT MEETING**

9.1 Thursday 20 May 2021 at 10am

To access the Service Updates for this Committee please click [here](#)  
Website Address: [aberdeencity.gov.uk](http://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.

This page is intentionally left blank

## **DECLARATIONS OF INTEREST**

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

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

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

### **OR**

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

### **OR**

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

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

### **OR**

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

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



## PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 18 March 2021. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Stewart, Vice Convener, the Depute Provost; and Councillors Allan, Cooke, Copland, Greig, MacKenzie, Malik and Alex Nicoll (as substitute for Councillor Cormie).

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

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

### MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 18 FEBRUARY 2021

1. The Committee had before it the minute of the previous meeting of 18 February 2021, for approval.

**The Committee resolved:-**

to approve the minute as a correct record.

### COMMITTEE PLANNER

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

**The Committee resolved:-**

to note the information contained in the Committee business planner.

### A GUIDE TO PLANNING CONSENTS FOR THE ABERDEEN MULTIS - PLA/21/053

3. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which sought approval to consult on the content of a new guide on Planning Consents for the inner-city multi-storey blocks which had recently been listed at Category A by Historic Environment Scotland.

The Committee heard from Ross Wilson, Senior Planner, who spoke in furtherance of the report and answered questions from members.

**The report recommended:-**

that the Committee -

- (i) approve the content of the Draft 'A Guide to Planning Consents for the Aberdeen Multis' (Appendix 1) for a minimum 6-week period of public consultation; and

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE**

18 March 2021

- (ii) instruct the Chief Officer – Strategic Place Planning to report the findings of the public consultation to a future meeting of this Committee, but no later than 12 months of this date.

**The Committee resolved:-**

to approve the recommendations.

**LEGGART BRAE - PRE-DETERMINATION HEARING**

4. The Committee had before it a report by the Chief Officer – Strategic Place Planning, which considered whether planning application 201558/DPP, which triggered the statutory criteria requiring that a Pre-Determination Hearing be held, should be determined by the Planning Development Management Committee or if it would be advisable for the Pre-Determination Hearing and determination to be carried out by Full Council.

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

**The report recommended:-**

that the Committee –

- (a) note the contents of the report; and
- (b) agrees that the application be subject of a statutory Pre-Determination Hearing by a special meeting of the Planning Development Management Committee (PDMC) and that the application is then determined at a subsequent scheduled PDMC meeting.

The Convener, seconded by the Vice Convener, moved:-  
that the recommendations in the report be approved.

Councillor Cooke moved as an amendment, seconded by Councillor Copland:-  
that the application be subject of a statutory Pre-Determination Hearing by a special meeting of Full Council and that the application then be determined by Full Council.

On a division, there voted – for the motion (5) – the Convener, the Vice Convener and Councillors Allan, MacKenzie and Malik– for the amendment (4) – Councillors Cooke, Copland, Greig and Alex Nicoll.

**The Committee resolved:-**

to adopt the motion.

- **Councillor Marie Boulton, Convener**

## PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION HEARING

25 February 2021

ABERDEEN, 25 February 2021. 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, MacKenzie, Malik and Radley (as substitute for Councillor Cooke)

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

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

### **ERECTION OF RESIDENTIAL LED, MIXED USE DEVELOPMENT OF AROUND 100 TO 150 UNITS INCLUDING FACILITIES CONSISTING OF APPROXIMATELY 1000-3000 SQM OF CLASS 1 (SHOPS), 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) AND CLASS 3 (FOOD AND DRINK) WITH ASSOCIATED WORKS – SILVERBURN HOUSE, CLAYMORE DRIVE ABERDEEN - 191904**

1. The Committee heard from the Convener who began by welcoming those present at the remote Hearing and provided information on the running order. 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 advised that the application site was that of the former Silverburn House office complex, located immediately to the east of Ellon Road (A92), adjacent to its junction with the Parkway. The 3.7 hectare site was enclosed by roads on three sides, and to the north lay the Silverburn Gymnastics Centre and Silverburn Lodge, which was understood to contain both office and nursery uses.

Mr Evans displayed a number of photos of the site in order to give members a better sense of the application site. The application was for the erection of a residential led, mixed use development of around 100 to 150 units including facilities consisting of approximately 1000-3000 sqm of Class 1 (shops), 2 (financial, professional and other services) and Class 3 (food and drink) with associated works.

Mr Evans noted that the application was subject to statutory Pre Application Consultation, which included a public meeting at the gymnastics centre, advertised in advance in the local press. The applicant/agent and officers presented to the Pre Application Forum in

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

September 2019, which gave members early notice of major proposals ahead of submission.

Mr Evans advised that the application was for Planning Permission in Principle which meant that the layout shown was merely indicative and intended to demonstrate the feasibility of satisfactorily accommodating development at the scale proposed in general terms. If approved, conditions would be used to set out which matters required further consideration and these would be the subject of further applications for the approval of Matters specified in conditions, with further consultation and opportunity for public engagement on the detail at that time.

Mr Evans highlighted that due to the scale of the proposal, a Masterplan was required, and the applicants had prepared a Masterplan document in support of their proposal, which established key design principles against which subsequent applications would be compared. This noted that little change in ground levels was anticipated, and highlighted opportunities for the realignment of the Silverburn route, which was currently within a steep-sided channel.

Mr Evans explained that the indicative layout showed eighty private 2 and 3 bedroom terraced dwellings, two 3-bed maisonettes, 290sqm of commercial space suitable for a small-scale retailer and coffee shop, and 30 affordable flats within a 3-storey block at the Ellon Road side of the site, for a total of 112 units with 211 car parking spaces. The layout offered a number of pedestrian connections to the surrounding area, which included to Ellon Road.

It was noted that an existing access off Claymore Drive, which served Silverburn Lodge and the Silverburn Gymnastics Centre, would be modified to provide access to the northwest corner of the site. In addition, a new access would be formed directly off Claymore drive at a roughly central point. The indicative layout incorporated shared surfaces and variety in street surfacing materials, with two central areas of open space provided via a play area/community green and a 'pocket park'. A SUDS pond was indicatively shown at the southern end of the site.

Mr Evans indicated that the applicants' submissions recognised that the residential proposal represented a departure from the current 'Specialist Employment Area' zoning and highlighted both the re-zoning of the site in the Proposed Aberdeen Local Development Plan and the current supply of employment land in Aberdeen City and Shire, identified through the Council's Employment Land Audit for 2018/19, which demonstrated a marketable supply of available sites. Submissions also highlighted the benefits of developing brownfield sites before newly released greenfield land and the Strategic Development Plan gave support for 40% of all new housing in Aberdeen to be on Brownfield sites.

In regards to the Adopted Aberdeen Local Development Plan (ALDP) position, Mr Evans indicated that the site was zoned within a 'B2' area in the ALDP, which related to

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

'Specialist Employment Areas'. Policy B2 encouraged business (class 4) uses and could also provide for industrial and storage/distribution (classes 5 & 6), with a focus generally on quality environment and less heavy industrial uses. B2 made no provision for residential use and represented a 'significant departure' from the Development Plan.

Mr Evans explained that the proposed Aberdeen Local Development Plan was approved by Council on March 2020, and it represented the 'settled view' of the Council on what the next LDP should contain. It proposed the re-zoning of the Silverburn House site for residential use. There was a statutory consultation on the Proposed Plan from May to August 2020, and responses were currently being reviewed and processed, with five representations in response to the proposed plan consultation in relation to Silverburn House site, both for and against re-zoning.

In regards to the application, two representations were received, and there was also an objection from the Bridge of Don Community Council, a statutory consultee. An objection was also received from SEPA due to lack of information on flood risk and realignment of watercourse. The Council's own Flood Prevention and Coastal Engineering Team had not objected but had indicated that a suitable Flood Risk Assessment should be secured via condition.

Mr Evans also noted that ACC Roads response noted no objection. Conditions would be required to secure various matters for further assessment/agreement.

Mr Evans also indicated that a response from the education team highlighted capacity at Scotstown School and Bridge of Don Academy to accommodate additional pupils generated, based on consideration against current 2018 School Roll Forecasts. The Developer Obligations response identified sums payable in respect of Core Paths, Healthcare, Open Space, Community Facilities and Sports and Recreation, and these sums were calculated based on the scale of development and the rates set out in Supplementary Guidance to the Local Development Plan. A Noise Impact Assessment had been provided, which assessed potential impact from:

- 2 wind Turbines within the Aberdeen Energy Park;
- Road Traffic Noise; and
- Industrial Noise

Mr Evans explained that noise levels from road traffic and industrial noise were found to exceed the recommended limits without mitigation, however indicative proposals for mitigation could reduce noise within the development to acceptable levels, through a combination of acoustic barriers (including 2m barrier to the A92), acoustic glazing and trickle ventilation in the affected building facades. Environmental Health colleagues were satisfied with these findings, subject to conditions relating to further assessment and agreement of mitigation as necessary, based on final design proposals.

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

Mr Evans also highlighted that a Tree Survey had been submitted in support of the application, which indicated that most tree removals related to trees in poor condition. Extensive landscaping was proposed throughout, which could compensate for any necessary tree loss. Further details based on the final designed proposals would be required.

The Convener then invited Mr Scott Lynch, Senior Engineer, to address the Committee. Mr Lynch explained that as this was a Planning Permission in Principle application, the specifics were not under assessment however the Roads Department were looking to be satisfied with the principles and whether the applicant was willing to engage in discussions which would lead to meaningful and potential changes. As a result lots of details were still required, however the Roads Department were satisfied that at this stage everything appeared to be sufficient.

Mr Lynch noted that the site was very accessible by public transport with a bus stop within 400 metres of each side of the road, however he explained that bus stop upgrades would be required.

In regards to discussions with the applicant, Mr Lynch advised that the applicant was willing to put a foot crossing to the south of the site which would help with safe routes to school. The Roads team also asked that they consider a 3m wide footway to the west of the site on the A92. This would be carried to the Cloverhill site boundary and Mr Lynch advised they would ask the applicant for the Cloverhill site to do the same, to assist with accessibility for cyclists and walking.

Mr Lynch advised that parking was not assessed at this stage however noted that the proposed use of the site would reduce the traffic impact.

Mr Lynch finally explained that a residential travel plan would be required and also the drainage impact assessment required more information from the applicant.

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

- The type of crossing to be installed was yet to be determined;
- The floorspace for the retail element had been reduced and the size of the retail was to cater for the local residents within the site, rather than a large retail unit which would encourage people to travel to it;
- Roads department were now content with the safe routes to school, following the agreement from the applicant to install a crossing;
- In regards to capacity at the local schools, this application would not bring the schools over capacity;
- There was no significant flood risk to the site;
- The specifics in relation to glazed windows were not available at this stage, however it was noted there would not be a need for a closed window strategy; and

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

- It was suggested that the applicant consider the use of shrubs, fencing etc to break the noise for the residents in the site, as it was considered to be a very open site.

The Convener then invited the applicant to address the Committee, and the speakers consisted of Angus Smith, Space Solutions and Maggie Bochel, Aurora Planning.

Mr Smith commenced the presentation for the applicant and spoke about the development aims as objectives, as being:-

- To create a high quality living environment with all of the benefits of urban city and coastal living in one location on the edge of Aberdeen;
- To capitalise and expand upon excellent existing local services, employment, public transport routes and recreational opportunities, which would make it an ideal location for new homes in a popular residential community to the north of the city;
- To provide new amenities with the new neighbourhood focused on an attractive heart where there would be a village square with shops and community facilities, enclosed within the new linear park and benefitting from existing sporting facilities and creche on the north boundary of the development;
- To create a new place with a strong sense of community and identity and embody all that was good about modern house design combined with a layout that acknowledged aspects of traditional north east towns and villages;
- To create character areas within the development, with differences in house types or densities, from apartment style through to smaller starter homes to slightly larger family properties offering affordable and desirable lifestyle and living choices; and
- To embody sustainability through a mixture of sustainability measures.

Mr Smith went on to explain that the proposal would help to create a place with a full mix of uses integrated into the area, which would help to provide an attractive location where new businesses and new residents could/would choose to locate. There would be:-

- Access to services and facilities;
- Schools, sports facilities and a range of amenities already in existence in the surrounding area;
- Sufficient capacity within the schools to accommodate the development and along with developer obligation contributions and increased population density there would be opportunities for enhancement to these services and facilities;
- Close proximity of the Park and Ride site to provide excellent access by public transport to services and facilities in the city centre; and
- Positive connectivity to the surrounding areas.

In regards to public consultations, Mr Smith advised that those who attended the event had been very positive about the proposals, and they appreciated this type of development which appeared to offer a sense of community. There was also support for

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

the proposal of no private parking on driveways, plenty open space and private gardens and street trees which created attractive spaces which were not cluttered by vehicles.

In relation to the design element, Mr Smith advised that there would be an increase in one bedroom homes, vehicle access removed around the village green and from the pocket park, a SUDS pond relocated out of the village green to the south boundary of the site, a children's play area relocated to the village green location, and a community "growing space" relocated adjacent to the public square. There would also be residents amenity gardens incorporated to the west of flatted properties, an area around the public square enhanced with streetscape and landscape, new pedestrian links provided west to Ellon Road, and an adoptable access route through the site to be revised in accordance with Vehicle Tracking analysis. Finally it was proposed to widen the footpath adjacent to Ellon Road to accommodate a segregated footpath and cycleway and proposed pedestrian crossing and lane realignment on Parkway East.

The Committee then heard from Maggie Bochel, Aurora Planning, who provided details on the relevant planning policies in relation to the proposed development and noted that the land was currently zoned as "Specialist Employment Areas", however indicated that within the new proposed Aberdeen Local Development Plan, it had been recommended to re-zone the site for residential use.

Mr Steve Smith then undertook a virtual 3D tour of the development with the members.

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

- In regards to the retail element, the applicant had looked at the Chapleton development for inspiration;
- There would be 24 visitor spaces and homeowners would have access to all parking provision and also parking within the public square;
- It was hoped to reduce car use by encouraging individuals to walk and cycle to local places;
- The applicant had investigated single-storey properties for use by elderly people, however it was concluded that the location of the site meant that 2 and 3 bedroom properties were what was required, rather than bungalows;
- The terraced two storey buildings could be adapted to incorporate a stair lift if required; and
- 18 electric vehicle charging points were allocated for the site but this might increase.

The Committee then heard from **Ms Stella Adam**, Bridge of Don Community Council, who advised that the Community Council had a number of significant concerns about the proposed development. Ms Adam explained that it had been stated that Bridge of Don was the largest suburb in Europe and had a larger population than many towns in Scotland. She stated that Bridge of Don was a fragmented area of housing estates,



**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

without the supporting infrastructure and this proposed development was another estate attached to the Bridge of Don.

Ms Adam advised that plans included shops such as retail, pharmacy and a coffee shop but noted that previous developments in Bridge of Don never materialised, namely in the Sheilhill, Seaview and Dubford housing estates. Ms Adam noted that the volume of traffic from the development would impact on the flow of traffic on the A92 which was already a busy dual carriageway north and south with a speed limit of 70 miles an hour.

Ms Adam also indicated there was an issue on safe crossing, especially for school children and any crossings or reduction of speed limit would impact further on the traffic flow. She advised that the Parkway would also be affected by increased volume, and further increases on to the Diamond and Persley bridges.

Ms Adam advised that the development was also close to the Blackdog junction which gave access the A90, and noted that this area also had a proposed housing development of almost 300 houses.

In relation to public transport, Ms Adam advised that the nearest to the site was the Park & Ride which had a half hour service with no buses in evenings or weekends. Out of town buses drove along the dual carriage but many of these were express services with limited stops. Ms Adam highlighted that there was no service into the Bridge of Don area to access schools, shops, medical services, sports and community centres etc, which would mean that individuals would be encouraged to use their cars more frequently.

Ms Adam also advised that local schools were all a distance from the development and indicated her concerns about safe travel for children having to cross the A92 and Scotstown Road. As a result there would be an increase in the number of parents driving their children to school, increasing congestion and carbon emissions.

Furthermore, Ms Adam explained that medical practices in the area were at their limits, and waiting times for appointments were lengthy and any additional housing would only increase pressure on already stretched resources.

Ms Adam concluded that the Community Council had raised many concerns in regards to the Bridge of Don and the lack of amenities, yet there were more and more developments being approved, without taking residents' concerns into account and this was a major concern for the Community Council.

Members then had the opportunity to ask Ms Adam questions.

The Committee was then addressed by **Mr Chris Miller, Avison Young**, who was representing the Bon Accord Centre Aberdeen.

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

Mr Miller explained that his comments only related to the retail and commercial aspect of the site and that he had no comment in regard to the residential and associated development aspect of the proposals.

Mr Miller advised that as set out in their original representation back in January 2020 the Bon Accord Centre did not offer any objection to the principle of the proposals on the basis that appropriate conditions were attached to any approval to control the possible size, function and impact of future detailed commercial retail proposals on the site.

Mr Miller indicated that the planning application description proposed up to 3,000sq.m of Class 1, 2 and 3 floorspace. However Mr Miller noted that the applicants' planning application form set out that the application only proposed up to 180sq.m of Class 1 floorspace and 60sq.m of Class 2 floorspace. He also advised that the applicants' Planning Statement prepared by Aurora Planning also set out that the application proposed less than 300sq.m of retail floorspace and this had been reconfirmed in their presentation that morning.

Mr Miller indicated that this highlighted a discrepancy between the description of development and the details within the application submission, which led the Bon Accord Centre to make the original representation and Mr Miller advised that he expected that the description of development would have been aligned with the content of the application submission.

Mr Miller concluded that if the applicants' proposals were to only provide up to around 300sq.m of retail and commercial floorspace within the site, then in order to remove any doubt over the approved quantum of commercial floorspace, any approval should be carefully conditioned in this manner so as to control the possible size, function and impact of future detailed proposals on the site. Proposals should be constrained by imposing limits on the level of commercial floorspace on the site to those which the applicant set out within the application forms and supporting statement.

Members then had the opportunity to ask Mr Miller questions.

The Committee was then addressed by **Mr Findlay Macneill**, Operations Manager for BOC Gases, who advised that their concern was in relation to the lack of adequate noise survey and the absence of a suitably detailed noise mitigation scheme from the applicant.

Mr Macneill advised that their site which was approximately 150 metres from the application site sat on land previously determined for industrial use however in recent years there had been planning granted for leisure facilities next to their site and now with the Silverburn application they were seeing residential properties getting closer to their premises which operated 24/7. He explained that BOC had previous experience of this happening at other locations within the UK which had had a significant impact on their operations due to noise complaints from the new residents. That was the reason why

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**

25 February 2021

they needed to be satisfied that a robust noise mitigation study had been completed, therefore eliminating the current and future operations being deemed a nuisance by future residents.

Mr Macneill highlighted that if the noise mitigation measures identified by the applicant ultimately required windows to be fixed closed and artificial ventilation provided in order to create reasonable living conditions for future residents, then the Council would need to satisfy themselves that this was both reasonable and practical mitigation. He indicated that most people would wish to open their windows on a hot summer night/morning for ventilation and it would become clear that in those circumstances residents would be disturbed by early morning noise from BOC Depot and might complain, which would result in impact on BOC Operations.

Mr Macneill finally advised that to put some perspective on noise generation from the site, it was primarily from a high frequency metal on metal screeching as they loaded/unloaded metal pallets on to the vehicle pintles. This occurred a minimum of 12 times per vehicle and up to a maximum of 52 times per vehicle. The noise from tanker decant operations was at the other end of the spectrum with lower frequency hose purging and venting gas. Mr Macneill advised that both of these operations took place 24 hours a day, 7 days a week.

Mr Macneill advised that the impact of noise from the site was likely to worsen in the early hours of the morning when there would be reduced road noise. Mr Macneill indicated that BOC had previously appointed an independent noise consultant to comment on the adequacy of the applicants' noise report, which they identified as having several flaws in the approach taken by the applicant.

Mr Macneill concluded that Policy T5 of the Aberdeen Local Development Plan stated that housing proposed within close proximity to existing noise producing premises, must be sufficiently designed to ensure the protection of future residential amenity and existing business operations. Mr Macneill indicated it was the view of BOC that insufficient information on the existing and predicted future noise environment had been provided by the applicant, in order to allow the application to be approved in its current form, and in its current form should therefore be refused.

Members then had the opportunity to ask questions of Mr Macneill.

At this juncture, the Convener asked that the applicant's acoustic consultant, Ashley Leiper, respond to the information provided by Mr Macneill.

The Convener thanked all those who attended the remote 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 meeting of the Planning Development Management Committee (PDMC) for subsequent consideration and determination.

**PLANNING DEVELOPMENT MANAGEMENT COMMITTEE PRE DETERMINATION  
HEARING**  
25 February 2021

**COUNCILLOR MARIE BOULTON, Convener**

	A	B	C	D	E	F	G	H	I
1	<b>PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER</b> The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	<b>Report Title</b>	<b>Minute Reference/Committee Decision or Purpose of Report</b>	<b>Update</b>	<b>Report Author</b>	<b>Chief Officer</b>	<b>Directorate</b>	<b>Terms of Reference</b>	<b>Delayed or Recommended for removal or transfer, enter either D, R, or T</b>	<b>Explanation if delayed, removed or transferred</b>
3	<b>22 April 2021</b>								
4	Chester Hotel, Queens Road Aberdeen - 201454	To approve or refuse the application for formation of external dining area at roof level, including balustrade, decking and associated works	On agenda	Gavin Evans	Strategic Place Planning	Place	1	D	Previously delayed as planning were awaiting further information from the applicant on potential noise impact. Environmental Health then to review and provide comment.
5	19 South Avenue	To approve or refuse the application for erection of 4 residential units	On agenda	Dineke Brasider	Strategic Place Planning	Place	1		
6	81 Charleston Road North Aberdeen - 200599	To approve or refuse the change of use from Class 3 to hot-food takeaway	On agenda	Alex Ferguson	Strategic Place Planning	Place	1	D	Previously delayed. Outstanding information required to be submitted.
7	Stoneywood House - 201037	To approve or refuse the installation of security and deer fencing and entrance wall and gates	On agenda	Lucy Greene	Strategic Place Planning	Place	1	D	Previously delayed, Applicant to provide a tree survey and seek legal advice.
8	Baads Farm - 201480	To approve or refuse the application for change of use of land for erection of temporary chalet/mobile home	On agenda	Jane Forbes	Strategic Place Planning	Place	1		
9	9 Royfold Crescent - 201627	To approve or refuse the application for the erection of a 1.5 storey rear extension to dwellinghouse	On agenda	Jamie Leadbeater	Strategic Place Planning	Place	1		
10	Planning Enforcement Activity – April 2020 to March 2021	To inform Members of the planning enforcement work that has been undertaken by the Planning Service from 1st April 2020 to 31st March 2021.	On agenda	Gavin Clark	Strategic Place Planning	Place	GD 8.5		
11	<b>PRE APPLICATION FORUM</b> - Farburn Place Dyce - 201599	To hear from the applicant in relation to the Proposal of Application Notice for a major development for the erection of battery-based energy storage facility at site at Farburn Place Dyce Aberdeen	On agenda	Gavin Clark	Strategic Place Planning	Place			
12	<b>20 May 2021</b>								

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
13	Bingill House - 200750	To approve or refuse the application for the erection of an active retirement community (circa 60 units in mix of apartments, cottages and houses and 20-bed nursing home) including small-scale local shop and café, community allotments and associated infrastructure		Gavin Clark	Strategic Place Planning	Place	1		
14	<b>PRE APPLICATION FORUM</b> - Causewayend Bridge of Don - 201365	To hear from the applicant in relation to an application for Major residential development of approximately 350 units (at least 25% affordable) with associated infrastructure, open space and landscaping		Gavin Evans	Strategic Place Planning	Place			
15	<b>PRE APPLICATION FORUM</b> - Quattro House, Wellington Circle	To hear from the applicant in relation to a application for a major residential development comprising conversion, extension and new-build (approximately 90 units) and associated parking and open space		Alex Ferguson	Strategic Place Planning	Place			
16			<b>17 June 2021</b>						
17			<b>19 August 2021</b>						
18			<b>30 September 2021</b>						
19			<b>04 November 2021</b>						
20	Committee Annual Effectiveness Report	To report on the committee annual effectiveness report		Lynsey McBain	Governance	Commissioning	GD 8.5		
21			<b>09 December 2021</b>						
22									
23			<b>Future applications to PDMC (date of meeting yet to be finalised).</b>						
24	Kings College (May at the earliest)	To approve or refuse the erection of teaching and learning hall, removal of 1954 book stack extension and kitchen extension to old library (James MacKay Hall), external alterations of Cromwell Tower, Old Senate Wing, Elphinstone Hall Kitchen Extension, Linklater Rooms and 1921 book stack, formation of new teaching and learning spaces within existing buildings and associated public realm works.		Matthew Easton	Strategic Place Planning	Place	1		
25	Kings College (May at the earliest)	As above but approval or refusal for Listed Building Consent.		Matthew Easton	Strategic Place Planning	Place	1		
26	City Centre Conservation Area Appraisal - results of consultation	The Committee considered draft consultation report at Committee on 21 January 2021 and agreed that the results come back to committee in 12 months.		Ross Wilson	Strategic Place Planning	Place	4		

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
27	11 Earn's Heugh Crescent (May at the earliest)	To approve or refuse the application for installation of fence to side and rear (part retrospective)		Roy Brown	Strategic Place Planning	Place	1		
28	Land at Craibstone and Walton Farm (May at the earliest)	To approve or refuse the application for the erection of a food hub innovation facility (seedpod) (class 4)		Aoife Murphy	Strategic Place Planning	Place	1		
29	56 Cromwell Road - 200559 (May at the earliest)	To approve or refuse the application for the erection of a single storey ancillary accommodation to the rear.		Jemma Tasker	Strategic Place Planning	Place	1	D	
30	Outside Polmuir Bowling Club, Devanha Gardens - 210094 (May at the earliest)	To approve or refuse the application for installation of 20m high telecoms mast and equipment cabinets.		Alex Ferguson	Strategic Place Planning	Place	1		
31	Craighill Primary - 210038 (May at the earliest)	To approve or refuse the application for the redevelopment of site to form social housing rented accommodation (99 units), comprising a mix of unit types with associated streets, parking and amenity space		Dineke Brasier	Strategic Place Planning	Place	1		
32	Leggart Brae - Pre Determination Hearing - 201558 - to be scheduled	To approve or refuse the application for major residential development of 133 homes, new road junction on to A92, associated infrastructure and landscaping		Alex Ferguson	Strategic Place Planning	Place	1		
33	Coningham Road Tillydrone - 210041 (May at the earliest)	To approve or refuse the application for the erection of 41 flats		Robert Forbes	Strategic Place Planning	Place	1		
34	Kincorth Academy - 210185 (June at the earliest)	To approve or refuse the application for residential development for 213 social rented accommodation comprising a mix of unit types with associated roads, shared residential streets, parking, landscaping and external amenity		Dineke Brasier	Strategic Place Planning	Place	1		
35	62/64 Shiprow - 210397 (May at the earliest)	To approve or refuse the application for the substantial demolition of single storey building (side walls and roof) with Shiprow facing wall remaining unaltered.		Lucy Greene	Strategic Place Planning	Place	1		
36	Former Cults Railway Station - 210140 (May or June)	To approve or refuse the application for change of use to class 3 (food and drink) with outdoor seating area including alterations to a shop front; re-cladding; installation of doors, rooflights and roof repairs with associated works		Jane Forbes	Strategic Place Planning	Place	1		
37	Jessiefield Junction - 200536 (likely to be June)	To approve or refuse the application for a variation of condition 10 (requiring Condition 1 to be implemented in full prior to the occupation of the 1001st house constructed) of planning application ref. P141888		Dineke Brasier	Strategic Place Planning	Place	1		

This page is intentionally left blank



# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



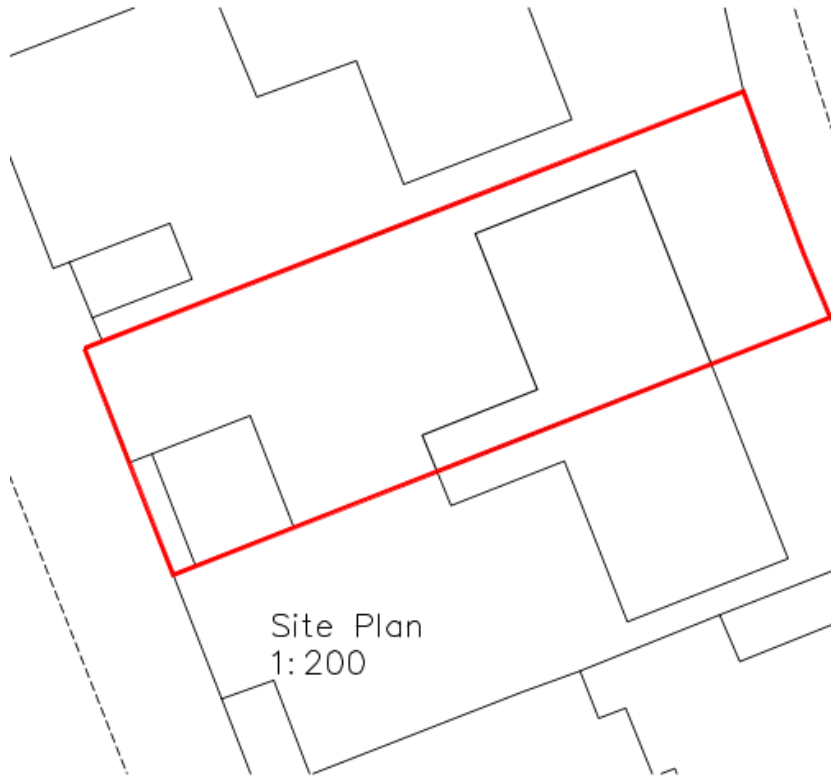
**Description:** Erection of one and half storey extension to rear of dwellinghouse

**Address:** 9 Royfold Crescent

**Type of application:** Detailed Planning Permission

**Application number:** 201627/DPP

# Site Location

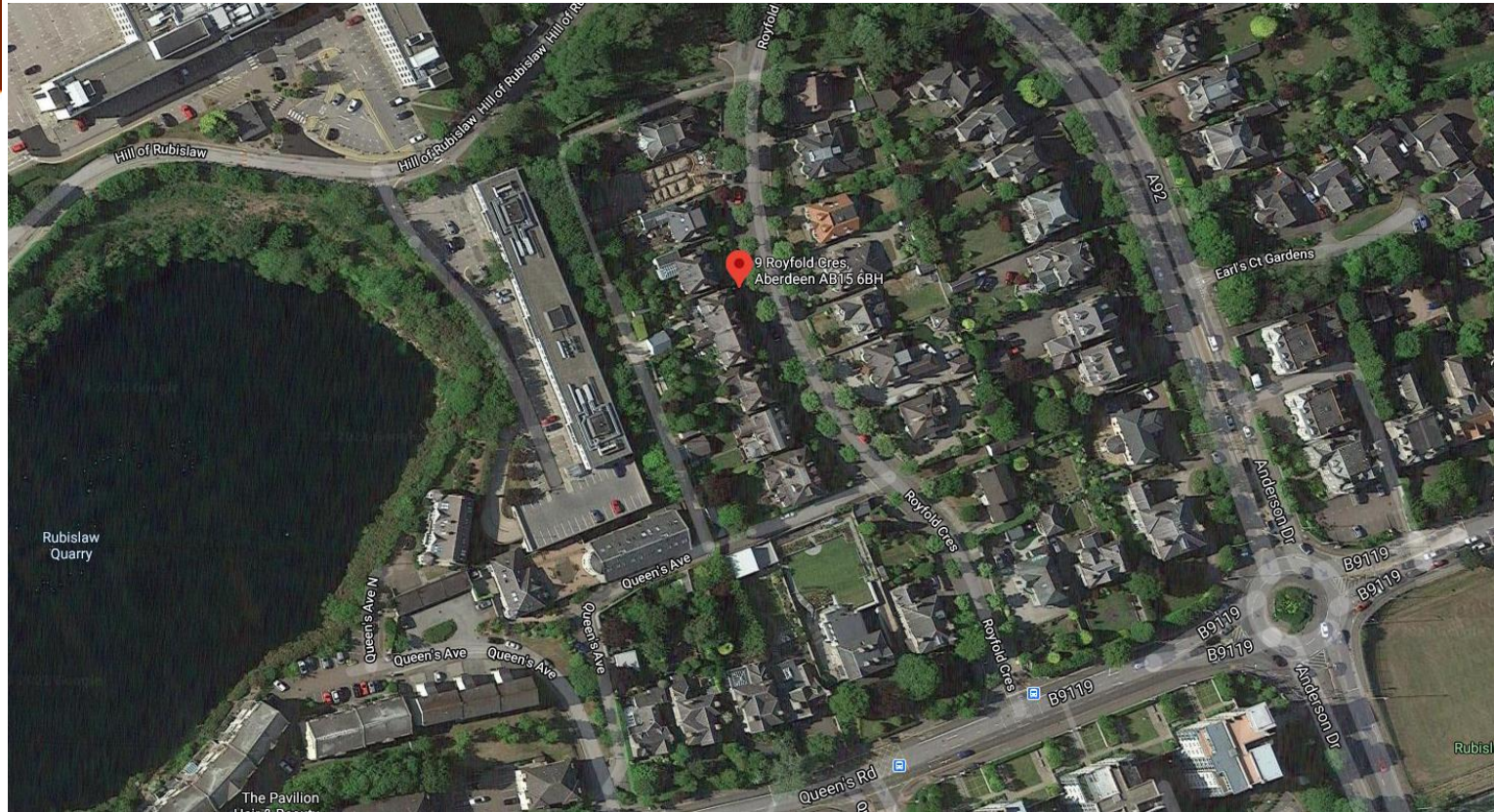


The Contractor shall check all dimensions on site before commencing work  
No dimensions to be scaled off this drawing

<b>Client</b>	
Mr and Mrs C Carry	
<b>Project</b>	
Extension 9 Royfold Crescent Aberdeen	
<b>Title</b>	
Site and Location Plans	
<b>Job No.</b>	<b>Site No.</b>
20/13	06 A
<b>Scale</b>	<b>Date</b>
As noted at A3	Dec. 2020
<b>1 CHATTAN PLACE ABERDEEN AB10 6RB</b>	
TEL 01224 590970 FAX 01224 560977 e-mail admin@agbean.com	

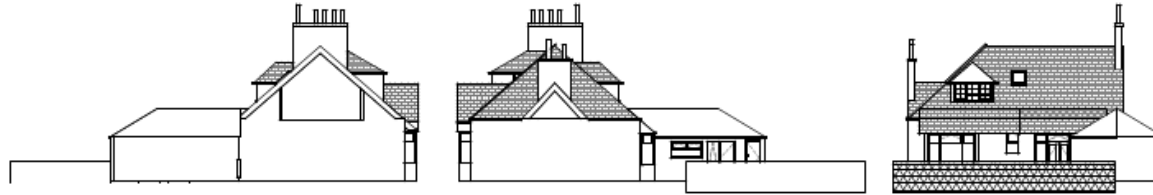


# Site Location (2)



Source: Google Maps

# Existing Plans



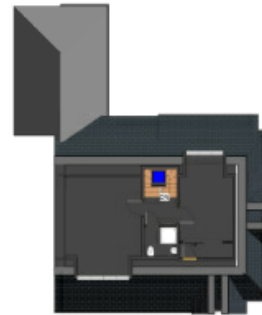
5 Existing South Elevation  
1:100

3 Existing North Elevation  
1:100

4 Existing West Elevation  
1:100



1 00 Existing Ground Floor  
1:100



2 01 Existing First Floor  
1:100

Rev	Description	Date

**agBEAN**  
CHARITY ENGINEERING BUILDING SURVEYORS

1 Claxton Place  
Aberdeen  
AB11 9PB  
Tel: 01224 660 875  
Fax: 01224 660 877  
e-mail: admin@agbean.com

REGISTERED  
Incorporated in Scotland  
Scott's Charities (No. SC04562)

PROJECT  
**9 Royfold Crescent**

TITLE  
**Existing Drawings**

CLIENT  
**Mr and Mrs C Carry**

Drawn by R	Checked by C	Date 06/25/16
Scale 1:50 A3	Project Number 20/30	
Drawing Number 01		REV

# Existing building (1)



Source: Google Maps

# Existing building (2)



## Neighbouring properties (1) – No. 7 Royfold Crescent



## Neighbouring properties – No. 11 Royfold Crescent

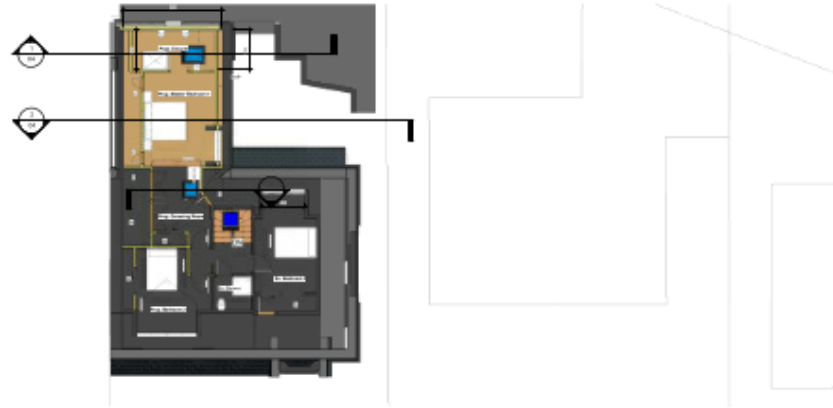




# Proposed Plans



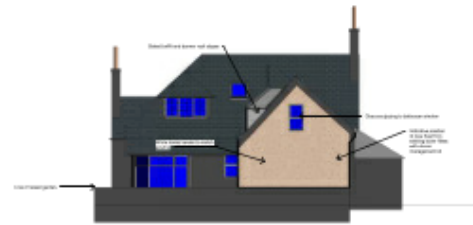
1 00 Proposed Ground Floor  
1:100



2 01 Proposed First Floor  
1:100



3 Proposed North Elevation.  
1:100



4 Proposed West Elevation.  
1:100



6 Proposed South Elevation  
1:100

Rev	Description	Date
1	Two Storey Extension	09/12/20
2	Minor alterations	09/12/20
3	Roof lights altered	22/12/20
4	Extension altered	20/01/21
5	Downer moved & floor added	01/03/21

**agBEAN**  
 CHARTERED BUILDING SURVEYORS  
 1 Chatter Place  
 Aberdeen  
 AB11 1FD  
 Tel: 01224 960 976  
 Fax: 01224 960 977  
 email: admin@agbean.com  
 PARTNER  
 Member of Royal Institute of Chartered Surveyors  
 Mark C Murray (SCS) (M) (MRICS)

PROJECT	
9 Royfold Crescent	
TITLE	
Prop. Plans & Elevations Option 3A	
CLIENT	
Mr and Mrs C Carry	
Drawn by	CHECKED BY DATE
Author	Checker 02/03/21
SCALE (S.A.):	PROJECT NUMBER
20/00	
DRAWING NUMBER	REV
02	5

# Indicative Street Elevations



# Conclusion

## 1. The proposal would:

- Not 'overdevelop' the site
- Be subservient in scale to the existing dwellinghouse
- Respect the character of the existing dwellinghouse
- Not unduly harm the residential amenity of neighbouring properties
- No road safety concerns
- Comply with Policy H1 and D1 in the ALDP 2017

## 2. Application is recommended for approval

**Questions?**

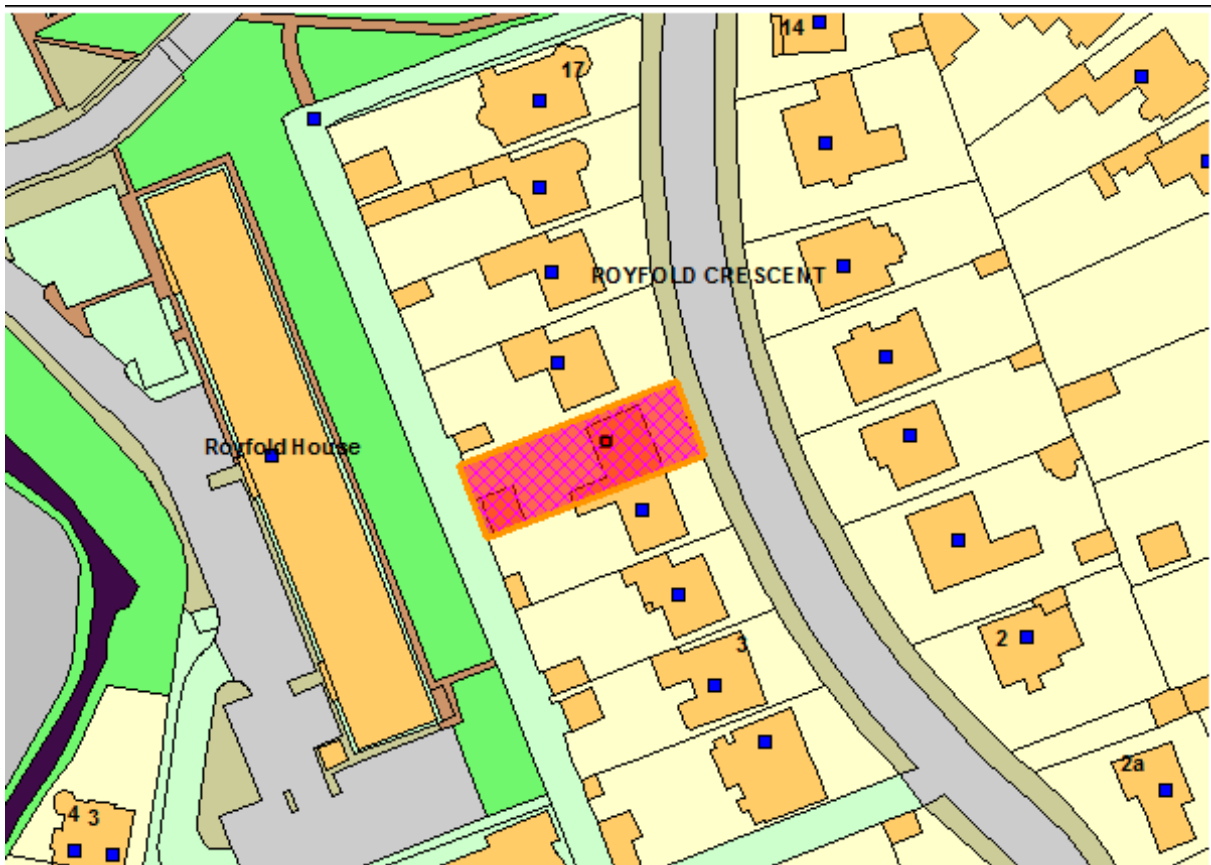


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:**

<b>Site Address:</b>	9 Royfold Crescent, Aberdeen, AB15 6BH,
<b>Application Description:</b>	Erection of one and half storey extension to rear
<b>Application Ref:</b>	201627/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	23 December 2020
<b>Applicant:</b>	Mr Christopher Carry
<b>Ward:</b>	Hazlehead/Ashley/Queens Cross
<b>Community Council:</b>	Queen's Cross and Harlaw
<b>Case Officer:</b>	Jamie Leadbeater



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

### **RECOMMENDATION**

Approve Unconditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site is the residential curtilage of a large 1½ storey semi-detached dwellinghouse with single storey rear annex and associated patio area on the western side of Royfold Crescent in the Queen's Cross and Harlaw area. Though nearby, the site lies c.60m to the north and west of the Albyn Place/ Rubislaw Conservation Area.

In terms of the site's context, a detached neighbouring dwellinghouse (No.11 Royfold Crescent) exists to the north, the adjoining semi-detached dwellinghouse (No.7 Royfold Crescent) sits to the south and a two storey office building (known as Royfold House) to the west of the site.

The application property sits several metres above the street level of Royfold Crescent which runs to the front (east). A rear lane serving the application property's detached pitched roof garage lies to the west of the site. The rear garden area of the application property is split-level, with land sloping uphill from the level of the dwellinghouse towards the garage and rear boundary with the lane. A hedge treats the shared rear garden (southern) boundary with the adjoining semi-detached dwellinghouse No.7 Royfold Crescent which rises up to approximately the same ridge height as the existing hipped roof rear annex, half of which is shared with the adjoining neighbouring property.

### **Relevant Planning History**

Application Number	Proposal	Decision Date
110311	Existing single garage replaced with new double garage	12.04.2011 Approved unconditionally

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed Planning Permission is sought for the erection of a 1½ storey extension to rear of dwellinghouse to form a utility room and family room at ground floor level with an en-suite master bedroom at first floor level.

The proposed extension would measure 5.1m wide and have an asymmetric gable form with the eaves level on the southern boundary set at 3.5m following the roofline of the existing single storey annex and the eaves on the northern elevation would be set at the same level as the main house (3m). The projection of the extension would be c. 6.8m and ridge height of the extension would be set at 6m.

The extension would be finished in a white harled render and slate tiles to match the existing dwelling. The proposed hipped dormer would be finished in a slated roof and haffits with white UPVC linings on its frontage on either side of a large casement window. The window in the gable serving the en-suite bathroom would contain obscured glazing. Two rooflights would be set in the north-facing roof slope, one over the en-suite and one set close to the roof junction with the main rear roof slope of the application property.

### **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=QLS8WSBZFKE00> .

- Design Statement

- Supplementary Planning and Design Statement

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

The application has been referred to the Planning Development Management Committee because the local community council has objected to the proposal and more than 5 letters of objection to the application were received.

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No concerns. Two parking spaces which serve the dwellinghouse and the existing garage are to remain.

**Queen's Cross & Harlaw Community Council** – Object. The proposed extension would not comply with policies D1 and H1 in the Aberdeen Local Development Plan 2017 and would not comply with the relevant projection guidance set out in the Householder Development Guide SG. Specifically, the proposal result in overdevelopment of the site. Furthermore, the community council endorses the concerns expressed by the adjoining neighbour (No.7 Royfold Crescent). These concerns include suggesting the proposal would have an adverse impact on the residential amenity of adjoining neighbouring in respect of privacy, sunlight and daylight to the properties rear windows and garden, the proposal would set a negative precedent for further overdevelopment of properties on Royfold Crescent, the proposed gable end design would be out of keeping with the street, as well as citing the extension would present issues for maintenance of the neighbours roof and boiler flue.

### **REPRESENTATIONS**

A total of 6 representations have been received, all of which object to the application. Their reasons can be summarised as follows:

- Proposed extension would have an adverse impact on the residential amenity of adjoining property No.7 Royfold Crescent in terms of privacy, daylighting and sunlighting to rear windows and garden space;
- Extension would not be in-keeping with the character of the adjoining semi-detached house in terms of scale and roof formation;
- Extension would be at odds with the character and layout of other properties on Royfold Crescent;
- Extension would not be visually subservient to the main building and would overdevelop the site;
- Extension would set a precedent for similar developments on Royfold Crescent;
- There is no precedence for an extension to semi-detached properties on Royfold Crescent;
- The projection of the extension would exceed the planning guidelines limitations for semi-detached dwellinghouses;
- The proposed extension would cause maintenance issues for No.7 Royfold Crescent's boiler and guttering in their half of the single storey rear annex; and,
- The proposal is at odds with one of the Householder Development Guide's main aims which is to "restrict the incremental expansion of traditional buildings";
- The proposed extension would not be 1½ storey in scale as described on the application, but instead 2 storey and therefore is misleading.

### **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 was approved on 18 December 2020. In February 2021, a Judicial Review of the decision of the Scottish Ministers on 18 December 2020 to amend Scottish Planning Policy (2014) as set out in 'Scottish Planning Policy Finalised Documents' and to publish 'Planning Advice Note 1/2020' was lodged with the Court of Session. As it stands, SPP2020 remains in place and is a relevant consideration in the determination of all planning applications.

### **Aberdeen Local Development Plan (ALDP) 2017**

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

### **Supplementary Guidance (SG)**

- Householder Development Guide

### **Proposed Aberdeen Local Development Plan (2020)**

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 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 –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies in the Proposed Plan are considered relevant:

- Policy H1 – Residential Areas
- Policy D1 – Quality Placemaking
- Policy D2 – Amenity

## **EVALUATION**

### **Principle of Development**

The site falls within a "Residential Area" designation on the ALDP Proposals Map to which Policy H1 in the Aberdeen Local Development Plan (ALDP) applies. Policy H1 supports new residential development within such areas providing it satisfies the following criteria:

- 1) Does not constitute "overdevelopment";
- 2) Does not have an unacceptable impact on the character and amenity of the surrounding area;
- 3) Does not result in the loss of valuable and valued open space; and,
- 4) Complies with supplementary guidance (the Householder Development Guide in this case).



## Overdevelopment

Guidance over what constitutes “overdevelopment” is primarily considered against General Principles 4 and 5 under Section 3.1.4 in the Householder Development Guide SG, which states that the built footprint of a dwellinghouse as extended should not exceed twice that of the original dwelling and no more than 50% of the rear curtilage of a dwelling should be covered by development. The interpretation of ‘overdevelopment’ can also have a three-dimensional element arising from the scale and massing of an extension relative to its parent building, which could be interpreted from varying surrounding viewpoints to a development which relate to the requirements of General Principle 1 in the SG. In this regard overdevelopment can arise from and be related to a sense of ‘overbearing’ from a structure. This matter is covered in both the following subsections on “character impact” and “residential amenity impact’ as they are intrinsically connected considerations.

Upon review of the proposal’s footprint relative to existing building and size of the rear garden area, the extension would neither more than double the application property’s original footprint nor would it take up more than 50% of the rear garden ground. As such, the proposal would not result in overdevelopment of the site in that the proposed development is proportionate in scale to the site area without significantly compromising the level of amenity space afforded to the applicants within their residential curtilage

## Character Impact (including scale and design considerations)

### *Scale and Design*

Section 3.1.4 of the SG states that extensions should be architecturally compatible in scale and design with the existing building, ensuring they do not overwhelm/dominate the existing building. Furthermore, Section 3.1.5 of the Householder Development Guide SG states that single storey extensions to semi-detached dwellinghouses should have a maximum projection of 4m along mutual boundaries and two storey extension should have a maximum projection of 3m in the same circumstance.

The proposed extension would exceed the proposed projection limits for both single storey and two storey extensions as suggested by the SG, as pointed out by objectors, but equally the extension would maintain the same projection (6.8m) as the existing single storey rear annex to the application property. As such, it would be reasonable to allow the applicant to maintain the same projection, subject to demonstrating that the additional height and massing of the extension is acceptable from a design and amenity perspective, the latter of which shall be covered under the “residential amenity impact” sub-heading below.

It is accepted that the extension would result in a notable increase in the height, width and massing of the existing single storey annex, however given the application property’s unusually large roof proportions the extension could be absorbed into the rear roof plane and yet appear visually subservient. In being more specific, the ridge of the extension would sit significantly below the principal ridgeline of the existing roof and the width (5.1m) of the extension would extend across half the width of the application property – as opposed to the current rear extension/annex being 2.5m wide. In addition, the eaves height of the extension on the western elevation would also tie in with the main eaves height of the existing building and the eastern eaves height would tie-in with the ridge of the adjoining properties rear annex, and would therefore read as an extension to this existing roof. As such, collectively, this design would render the proposal as being subservient in scale to the application property. The applicant’s submitted 3D model best conveys this. Not only would the scale of the extension appear subservient to the application property, but the proposed external finishes to the extension would be complementary to existing finishes to the building. Furthermore, the form and finishes of the proposed dormer window would

be in-keeping with the character and appearance of the existing dormer on the rear of the application property.

The proposed straightened gable end roof formation would alter the form of the roof to the rear of the application property, as pointed out by objectors, but there is no specific policy restricting this. The merits of this change need to be evaluated within the site's context and relationship to the street. As set out above, the extension would not be visible from the street and therefore the change in roof formation would not fundamentally alter the character of the application property or its adjoining semi when viewed from Royfold Crescent. It should also be noted that gable end features are already present on the streetscene within the envelope of properties at Nos. 3 and 6 Royfold Crescent. Taking the aforementioned considerations into account, the use of a straightened gable roof formation is considered acceptable in this context. The Planning Authority would, however, need to assess the amenity implications of such a roof formation on the amenity of adjoining neighbours which is covered in the "residential amenity impact" sub-heading to follow.

The owner in the adjoining semi-detached dwellinghouse has objected to the proposal on the basis that increased scale and massing of the extension would result in 'overdevelopment' of the site. As set out in the "overdevelopment" subsection above, the proposed extension would not 'overdevelop' the site when considered in the context of General Principals 4 and 5 of the SG. The adjoining neighbour raises concerns regarding the increased height and mass of the application property along the shared boundary, giving rise to a feeling of the applicant's garden becoming overdeveloped, and thus reducing their outlook from their garden. These concerns really relate to a perceived 'overbearing' impact which is addressed under the "residential amenity impact" subheading below. For the avoidance of doubt, given it has been concluded that the scale of the extension would be proportionate the site area, without unduly compromising the level of amenity space afforded to the application property and the scale of the extension is subservient and would not overwhelm the application property, then proposed development would not result in 'overdevelopment'.

The owner of the adjoining semi-detached property has also suggested that the description of the application is misleading insofar that the proposed extension should be described as 'two storey extension' rather than a 'one and half storey' extension. Although the extension would provide two floor levels of accommodation inside the extension, the proposed first floor bedroom and en-suite bathroom would be contained within the roofspace and served by both a single dormer window and rooflights, both of which are appropriate design features which both sit comfortably within the northern roof plane and respect the character and appearance of the existing dwellinghouse. Although the location of the proposed dormer would be in an off-set position, there is considered reasonable justification for this as set out in the "residential amenity impact" section to follow.

#### *Wider streetscape and townscape impact*

As indicated above, given the subservient height of the extension relative to the application property's main ridge height, the proposed extension would not be visible from Royfold Crescent and therefore would have no overt visual impact on the character of the Royfold Crescent streetscene. Furthermore, although a lane serving properties 1 – 9 Royfold Crescent exists to the rear (west), the extension would be set 15m back from the lane with the applicant's garage set in front of it and it is already enclosed by tall vegetation of the eastern side and an office block on the west side. As such, the proposed extension would have no undue prominence from the lane.

In terms of wider perspective, the proposed extension would not be visible from the Hill of Rubislaw to the north-northwest or neither from Queen's Avenue nor Queen's Road to the south. There would also no clear views from Anderson Drive to the east. As such, it is considered the proposed extension would have no townscape impact at all.

Subsequently, it is considered the proposed extension would be of a scale and design that ensures it has an acceptable impact on the character of the surrounding area. It is hoped this may allay the community council's and objector's relevant concerns.

### Residential Amenity Impact

The three main considerations for assessing the impact of the proposed development on neighbours' residential amenity in line with the guidance set out in appendices 2 and 3 in the Householder Development Guide SG are: privacy, daylighting and sunlighting (overshadowing). In addition, the Planning Authority may wish to consider any potential 'overbearing' impacts arising from a development should extensions increase the height and massing of a property close to neighbouring properties.

#### *Impact on 7 Royfold Crescent*

In terms of privacy, the proposed extension would have no adverse impact on this property given no new windows within the extension would be directly orientated towards the neighbour's garden ground or look directly into windows serving the neighbour's habitable rooms. The concerns from the adjoining neighbour are noted in relation to the window in the gable serving the en-suite bathroom, but the applicant has proposed obscure glazing. Notwithstanding, even if obscure glazing were not installed it is not felt the proposed en-suite window would have an undue impact on the neighbour's privacy in their rear garden given the window is set c. 2.3m off the mutual boundary and is orientated down the applicant's garden. Furthermore, even if views into No. 7's rear garden ground could be obtained they would be very limited and would likely impact a small area inside the shared boundary which is covered by vegetation. The risk of overlooking is further reduced by the fact bathrooms are regarded as 'non-habitable' rooms in the Householder Development Guide SG and are used very intermittently.

With regards to daylighting, upon applying the 45-degree assessment method set out in Appendix 2 of the Householder Development Guide, given the proposed extension would maintain the same roof pitch angle as the single storey annex on the neighbour's property, the proposed extension would have an acceptable daylighting impact on windows serving habitable rooms on the rear elevation of the neighbour's property. Furthermore, given the proposed extension's eaves height on the southern side would mirror the ridge height of the existing extension and would align its southern roof plane with the angle of the neighbour's single storey annex roof couple with the proposed extension's roof ridge being set 2.5m off the shared boundary, it is not considered the proposed extension would have an unacceptable overbearing impact on the adjoining neighbouring property window or the neighbour's garden ground.

With regards to sunlighting (overshadowing), given the extension would lie to the north of the neighbour's garden ground and the sun sets in the west, then the proposed extension would not give rise to any significant additional overshadowing to the neighbour's garden area at any time of the day. Shadow study diagrams on pages 12 and 13 of the applicant's submitted Design Statement show that even at 5pm and 9pm in the height of summer – when the neighbour's rear garden is likely to be in greatest use – there would not be any significant changes to shadows cast over the neighbouring property other than part of the roof which does not contain windows.

Taking into account the above considerations, the proposed extension would have an acceptable amenity impact on this property.

#### *Impact on 11 Royfold Crescent*

In terms of privacy, whilst the proposed dormer window serving a habitable bedroom would be orientated to face this property, it would directly face the roofspace of the property as opposed

to be directly overlooking the neighbours rear garden area. Other mitigating factors in suppressing concern that the proposed dormer would adversely harm this neighbouring property's private amenity include existing mature vegetation along the shared boundary and also the fact that an existing dormer window exists in the application property which lies much closer to the shared boundary and may also afford some degree of overlooking into No. 11 Royfold Crescent's rear garden ground. As such, the proposed dormer is not considered to raise any significant material change in the privacy relationship between the application property and neighbouring property No. 11.

With regards to the daylighting and sunlighting (overshadowing), although the proposed extension would sit to the south of No. 11, there would be a circa 8m separation between the proposed extension and the shared northern site boundary. This separation distance would be sufficient to mitigate any undue loss of daylight to the neighbour's rear (west facing) windows or creation of additional overshadowing within the neighbour's rear garden area. It should also be noted that the neighbour's rear garden is already well populated with trees and other vegetation which causes overshadowing within the neighbour's own garden ground, particularly during later times in the day.

Taking into account the above considerations, the proposed extension would have an acceptable amenity impact on this property.

#### Loss of open space

The application site lies within a defined residential curtilage and therefore the proposal would not give rise to the loss of valued or valuable public open space.

#### Compliance with Householder Development Guide Supplementary Guidance

It is accepted that the projection of the proposed 1½ storey extension would not accord with the desired limits set out in section 3.1.5 the SG, but the extension builds upon an existing footprint. Furthermore, it is considered the scale and design of the extension would ensure the proposal complies with General Principles 1, 4 and 5 in Section 3.1.4 of the SG for house extensions. In addition, it is considered the proposal would not have an unacceptable residential amenity impact on immediate neighbouring properties and therefore the proposal would comply with the requirements of General Principle 2 in the same section of the SG. As such, taking all these considerations into account, it is considered reasonable to conclude that the proposal would comply with the SG.

Subsequently, given this is considered to be the case and mindful that the proposal is considered to satisfy all other requirements of Policy H1, the proposal is considered compliant with Policy H1 in the ALDP. Furthermore, given the requirements of Policy H1 align with the relevant expectations placed upon the proposal under Policy D1, the proposal is also considered compliant with this policy in the ALDP.

#### **Roads safety impact**

The Council's Roads Development Team has been consulted on the proposals to determine if they would create any road safety concerns. Upon receiving confirmation from the applicant that the existing car parking provision is to remain, they have no concerns arising from the proposal.

#### **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.

## **Matters raised in representations not yet addressed**

- *The proposed extension would cause maintenance issues for No. 7 Royfold Crescent's boiler and guttering in their half of the single storey rear annex* – These are civil matters and not material planning considerations. Therefore, they cannot be taken into account in determining the merits of the proposal;
- *Extension would set a precedent for similar developments on Royfold Crescent* – Each application is determined on its own merits;
- *There is no precedence for an extension to semi-detached properties on Royfold Crescent* – The application property and adjoining property No. 7 Royfold Crescent are the only semi-detached dwellinghouses on the street. Just because neither of these properties have been extended, should not mean that no extensions are permissible to these properties both now and in the future;
- *The proposal is at odds with one of the Householder Development Guide's main aims which is to "restrict the incremental expansion of traditional buildings"* – Whilst the application property is regarded as 'traditional' in design, it has not been extended to date and the proposed development would represent the first significant expansion to the building. As such, the proposal is not at odds with this aim. The aim seeks to restrict extension upon extension to a traditional building.

## **Conclusion**

Overall, whilst the concerns of Community Council and objectors are acknowledged, it is considered, the scale and design of the proposed extension would have an acceptable impact on the character of the surrounding area and the residential amenity of neighbouring properties. As such, the proposal is considered compliant with policies H1 and D1 in the Aberdeen Local Development Plan 2017. In the absence of any other overriding material considerations, the application is recommended for approval.

## **RECOMMENDATION**

Approve Unconditionally

## **REASON FOR RECOMMENDATION**

The proposed extension - by virtue of its siting, scale and design – is considered to be compatible with the scale and architectural style of the application property, without unduly affecting the existing level of residential amenity afforded to neighbouring residents. As such, the proposal is considered compliant with Policy D1 (Quality Placemaking by Design) and Policy H1 (Residential Areas) in the Aberdeen Local Development Plan 2017, policies D1 (Quality Placemaking), D2 (Amenity) and H1 (Residential Areas) of the Proposed Local Development Plan and Supplementary Guidance: The Householder Development Guide. No other material considerations dictate otherwise and therefore the proposal is considered acceptable.

This page is intentionally left blank

# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



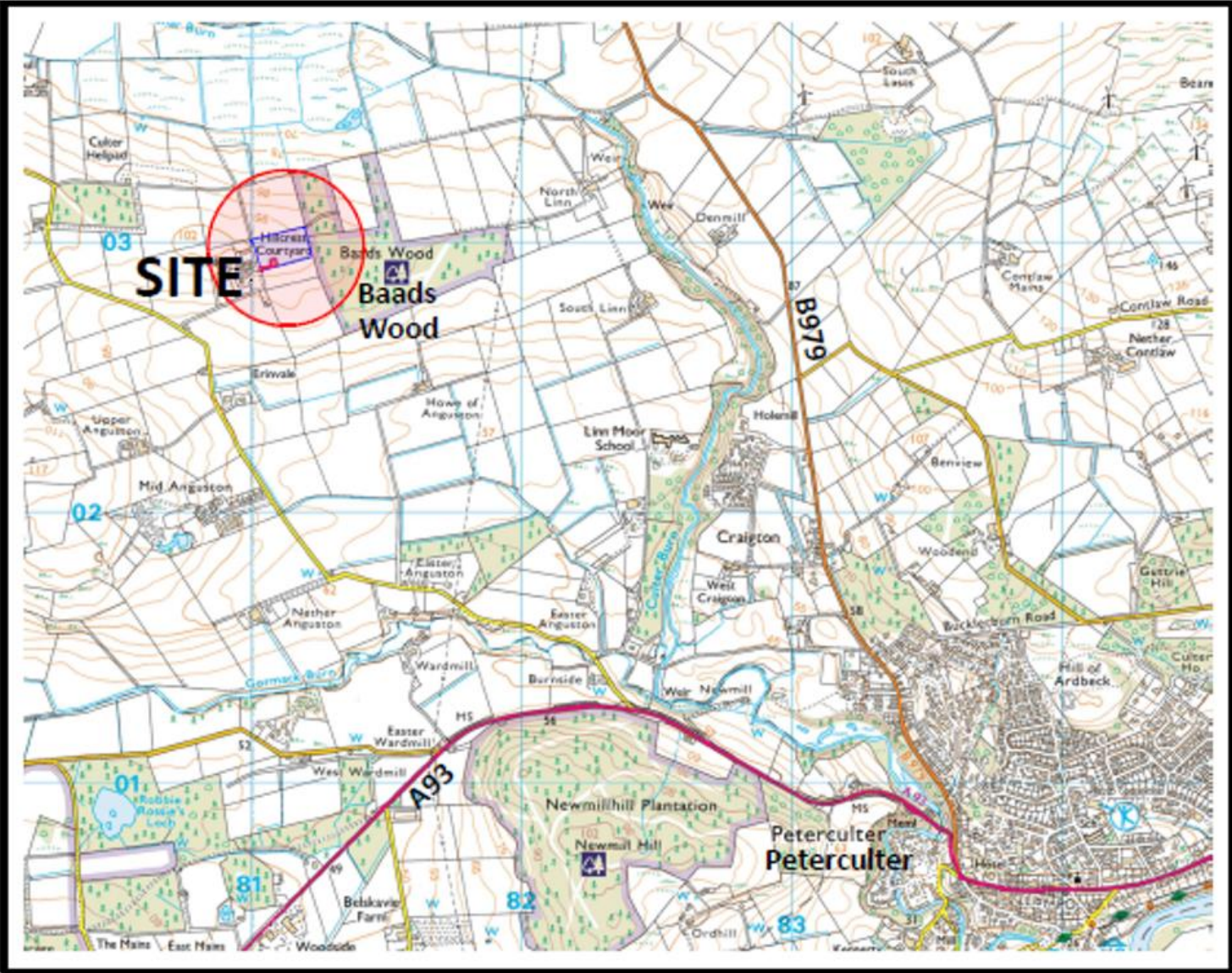
22 April 2021

Change of use of land for the erection of a  
temporary chalet/mobile home

Baads Farm, Anguston Road, Peterculter

Detailed Planning Permission  
201480/DPP

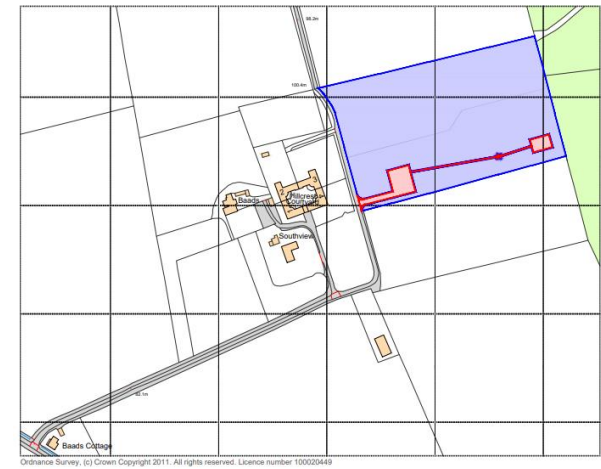
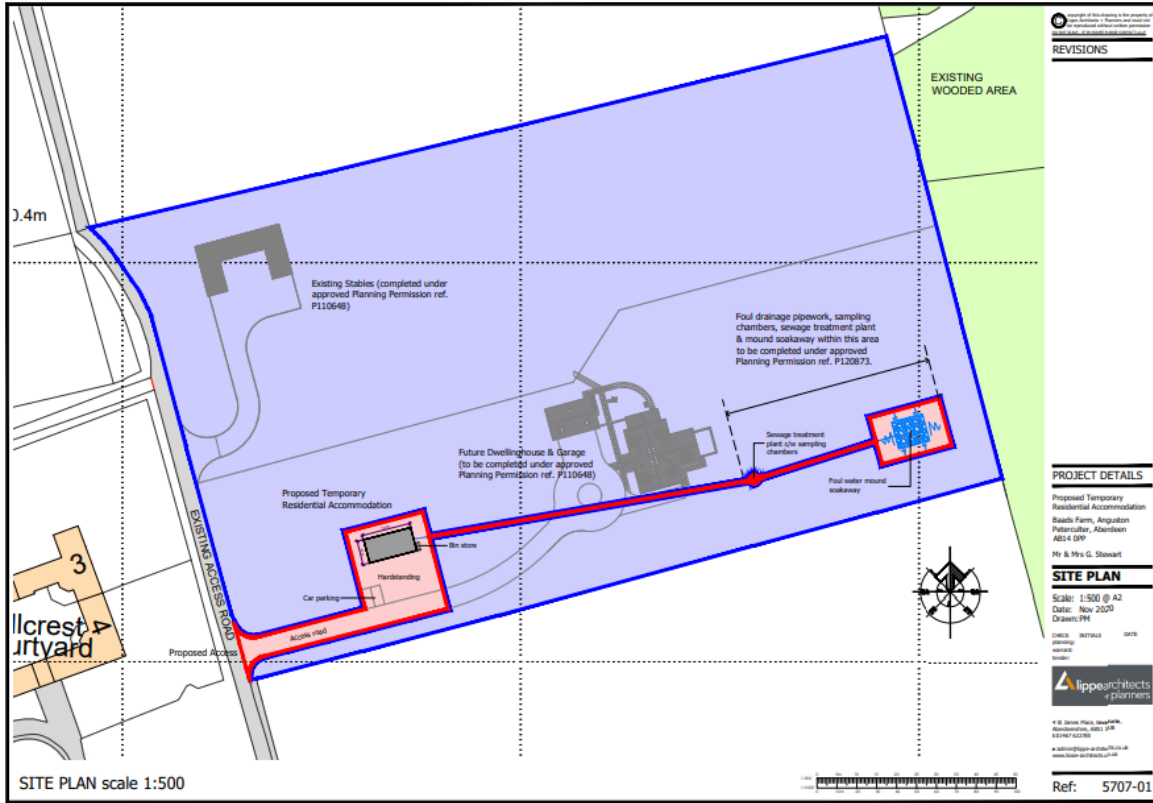
# Site Location





# Site Layout Plans

Page 49



# Aerial Photo



# Site Photos – Stable Building & Boundary Fencing



# Site Photos – Gate Piers, Drive & Boundary Fencing



# Site Photos – Stable Building & Paddock



# Site Photos – Fencing & Site Access



# Site Photos – Stable Building



# Site Photos – Stable Building



**IMG\_001 Stables complete**



**IMG\_002 Stables complete**



**IMG\_003 Stables complete**



**IMG\_004 Surface water drainage around outside of stable complete.**



# Site Photos – Drainage Works



# Infrastructure Works on Site



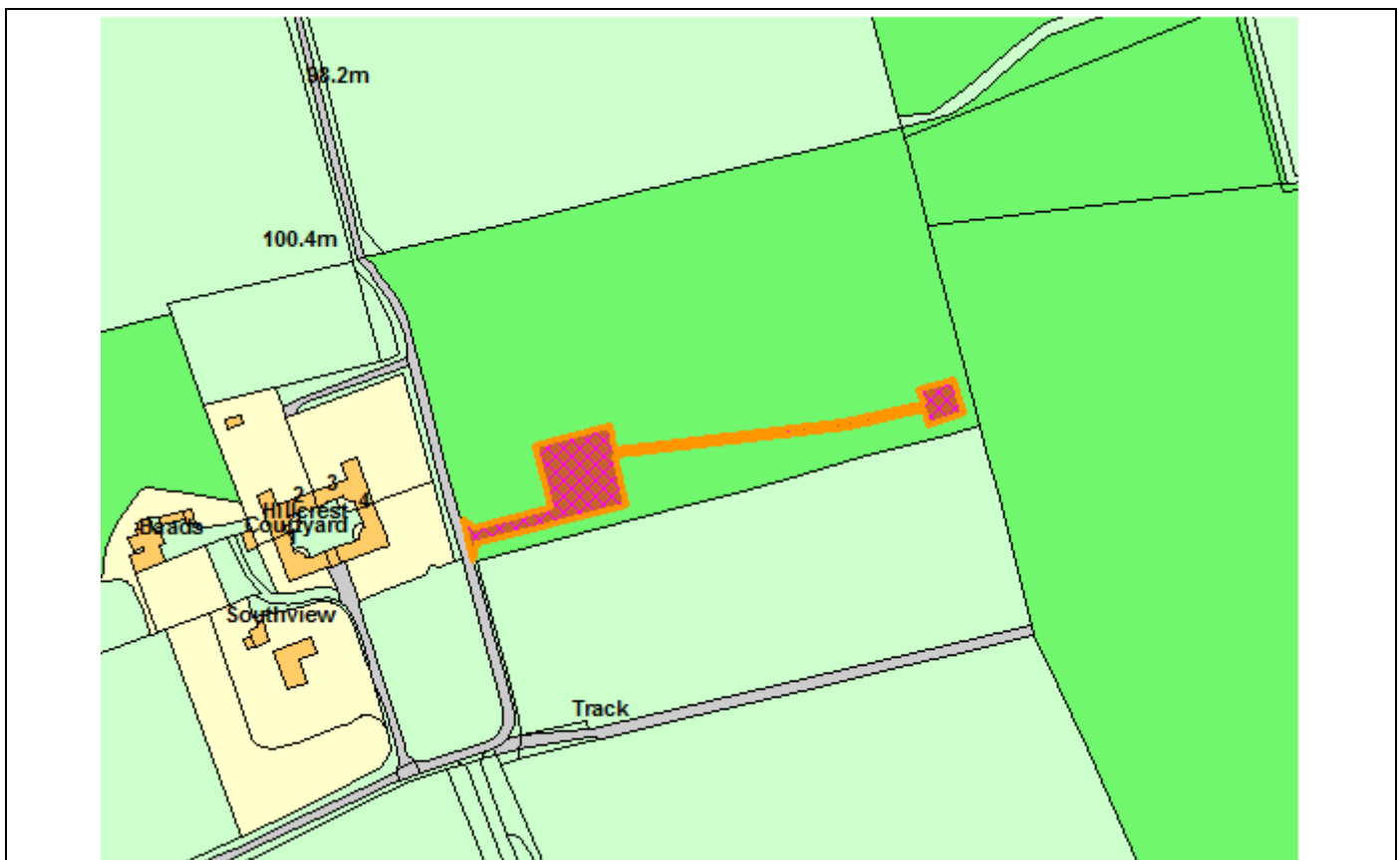


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 22 April 2021

<b>Site Address:</b>	Baads Farm, Anguston Road, Aberdeen, AB14 0PP
<b>Application Description:</b>	Change of use of land for erection of temporary chalet/mobile home
<b>Application Ref:</b>	201480/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	2 December 2020
<b>Applicant:</b>	Mr & Mrs G. Stewart
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Culter
<b>Case Officer:</b>	Jane Forbes



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

### **RECOMMENDATION**

Approve Conditionally

## **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 906m<sup>2</sup> and forms part of a wider area of uncultivated 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 the 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.

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.

Finally, an application was submitted in January 2020 for detailed planning permission (Ref: 200040/DPP), seeking a change of use of land to a caravan site to allow for the erection of a residential chalet/mobile home on the site for a period of up to 5 years. The application was refused at Planning Development Management Committee on 30 April 2020. The decision was subsequently appealed through the Scottish Government's Planning & Environmental Appeal's Division, and the appeal dismissed by Scottish Ministers in July 2020, with planning permission refused and a separate claim for an award of expenses declined.

## **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 temporary chalet/mobile home. The drawings submitted with the application indicate the chalet/mobile home, which the applicants have stated would be located within the site for a period of up to 18 months, 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 906m<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 originally granted in 2011 for a stud farm, residential dwelling and garage. Works relating to that consent have been carried out, including the clearing of overgrowth, fencing, construction of a stable building with associated infrastructure, formation of formal entrances with gate piers serving both the stable building and the area identified for the dwelling and garage.

### **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=QKLT44BZMN400>

- Supporting Planning Statement
- Correspondence from Lambridden Stud in Ayrshire, dated 21<sup>st</sup> October 2020
- Correspondence from Donview Veterinary Practice in Inverurie, dated 26<sup>th</sup> October 2020
- Copy of correspondence from the British Horse Society (H Mauchlen, National Manager for Scotland), dated 12<sup>th</sup> February 2021
- Copy of correspondence from Scotland's Rural College (G Turnbull, Lecturer in Equine Business Management, Grassland Management & Breeding Units), dated 26<sup>th</sup> February 2021
- Copy of correspondence from Scottish Water dated 2<sup>nd</sup> April 2021

### **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.

### **Pre-Application Consultation**

None

## **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection on the basis that the proposed development would be a temporary feature with adequate parking provided.

**ACC - Environmental Health** – No objection. Note that the applicants propose to connect to the Scottish Water mains water supply and confirm that such a connection is the most appropriate supply type due to 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. Recommend that suitable demonstration is given that the mains water supply as proposed by the applicants is established.

**Culter Community Council** – Reflecting extensive representation from the community, the Community Council object to the proposal submitted for the following reasons:

1. Whilst there may be a strong preference for running a stud business by living on the site and providing 24-hour supervision of stallions it is clear that a stud farm can operate in what is now the usual way, using artificial insemination and not having stallions at the stud farm, and therefore having no need for accommodation on the site.
2. Refusal of the application does not affect the applicant's ability to establish and operate a stud business, as provided-for in the existing planning permission P110648/P120873.
3. Refusal of the application maintains the integrity of Green Belt protections, and in particular "the principle of a temporary change of use to a caravan site within the green belt would not meet the provisions of policy NE2", as set out by the Reporter hearing the appeal to the earlier application 200040/DPP (Appeal Decision Notice, PPA-100-2111)
4. The sole difference we can see between this present application and the earlier 200040/DPP is that the applicant now asserts that it is vital to live on-site from the outset. Their logic is that they intend to operate a stud business; and that business requires stallions to be kept on-site; and therefore the owners must live on-site.
5. Operation of stud business: "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." (letter from the applicant's agent during application 200040/DPP). How come the current application (for the same owner, less than a year later) makes the assertion that "the business cannot be established without the applicant living on the site to allow the supervision and care required for stud horses, who quite simply could not be introduced safely to the stables without the 24 hour presence of the owners on site."?
6. Keeping of stallions: The British Horse Society confirmed to local residents that the majority of stud farms use artificial insemination and do not have stallions. Keeping stallions at a stud farm is therefore a choice by the applicant, and not a necessity.
7. Care of stallions: The British Horse Society wrote to local residents stating that stallions do not require 24-hour supervision, and this was confirmed by SSPCA.
8. The current application does not, in our view, introduce any new material consideration in support of the applicant's position and therefore does not offer any grounds for changing the decisions made by the Planning Authority – first, PDMC, then the Reporter – in refusing 200040/DPP. The points we raised then remain valid, and are attached for reference.
9. There is a new matter raised by the current application which we believe is material and should be added to the assessment of this application: the safety of the local residents. As the application itself makes clear, "stallions in particular, can be very fractious, especially during the covering season and the close proximity of mares in heat." The fencing installed by the applicants is not, we believe, capable of restraining stallions at such times. The western side of the application site is adjacent to a track, immediately beyond which are gardens where residents, including children, may be present.

## **REPRESENTATIONS**

11 representations have been received in relation to this application, all of which state their objection to the proposal. The matters raised can be summarised as follows:

1. The proposal is not consistent with Green Belt Policy (Policy NE2) of the Aberdeen Local Development Plan.
2. Any form of residential accommodation on this site in advance of the stud farm being brought into use would undermine the policies which protect the integrity of the Green Belt and safeguard against unsustainable development and suburbanisation of the area.

3. The planning restrictions that apply to the planning permission for the house and stud farm business continue to be perfectly reasonable and remain essential. These required that the stud farm become operational before the associated dwelling is constructed.
4. The supporting veterinary advice submitted with this application is not new information and hence need not be taken into consideration.
5. The previous proposal was for a caravan that required 5+ years on site to demonstrate a viable new business and subsequently build the house. This has now been condensed into an 18 month project, with a very considerable risk of the applicant ending up homeless or further extensions being required to this planning application for temporary accommodation.
6. The stud farm business does not appear ready to be brought into use. There are no services on-site other than electricity. Drainage arrangements are inadequate with heavy rains in December 2020 causing flooding in the vicinity of the stable block. This is contrary to Policy NE6 (Flooding, Drainage and Water Quality).
7. No evidence has been submitted showing the new business venture is a success and has a viable future, and no new evidence has been submitted since the previous application was turned down in 2020.
8. The proposed design and material finish of the chalet/caravan is not 'high quality' as required by policies NE2 (Green Belt), D1 (Quality Placemaking by Design) and D2 (Landscape) and its appearance would be out-of-keeping with properties in the surrounding area;
9. Approval of the proposal would set a terrible precedent for similar development in the green belt.
10. Any form of residential accommodation on the application site in advance of the equestrian stud farm being brought into use would undermine the policies which protect the integrity of the Green Belt and safeguard against unsustainable development and suburbanisation of the area.
11. The requirements for operating a stud farm must have been fully understood prior to submitting the original application for development of the site. This was demonstrated in the correspondence submitted in support of the previous application.
12. It was previously stated that the applicant bought the land knowing that the equestrian use had to be established before the dwellinghouse was built and occupied. The reasoning provided for the proposed development, that "without the presence of any on-site accommodation, the introduction of stud animals to the stables is impossible" is therefore disingenuous.
13. The current applicant and previous applicant have continuously tried to remove or circumvent the planning restrictions associated with the initial application focussing on the ability to live on site.
14. Improvement of the land and further development of the stud farm business and building of the dwellinghouse as per the original application approval is welcomed.
15. The mobile home/chalet would be located on a hilltop site and would be clearly visible from Peterculter and the main Deeside Road to the south. It would be a blot on the landscape.
16. Temporary structures such as a mobile home/chalet have a habit of becoming permanent.
17. If granted permission for 18 months, there would likely be reasons given by the applicant for the use of the chalet/mobile home being extended beyond this and for it not being removed from the site, including the need for additional time to build the dwelling or establish the business.
18. An application for further planning change appears likely in the future, regardless of whether this current proposal is approved or rejected.
19. There are no rules or regulations that require the carers of horses to live on-site, and no clear evidence that onsite accommodation is a requirement for establishing a stud farm. There is no need for 24 hour on-site supervision of horses. The Government UK code of Practice for Welfare of Horses does not stipulate the need for on-site supervision of horses, but merely states that regular checks are undertaken.
20. The British Horse Society stated in writing to us that stallions do not require 24 hour supervision and confirmed that there exist no stipulations regarding the presence of stallions to establish a stud farm. Indeed the majority of stud farms do not have stallions on site and use artificial insemination. We contacted the SSPCA and, in agreement with the British Horse Society, they confirmed that stallions do not require 24 hour supervision. No evidence exists within the law or

amongst equestrian or animal welfare experts to support the applicants' assertions regarding the supervision of stallions, let alone the need for their presence.

21. It could be suggested that a view has been taken by the applicants that the planning authorities will eventually relent and allow the installation of a residential chalet/mobile home. An area of hardstanding has been in place on the area of the proposed residential chalet/mobile home since early in the development of the site in 2020, before the time of the last refusals by Aberdeen City Council and the Scottish Government. Moreover, the hardstanding had water and electricity installed exactly where the proposed mobile home would be sited, further supporting the view that the applicants believe their application for the erection of a temporary chalet/mobile home will eventually be approved.
22. Concerns raised about the implications with regards to a potential caravan site which would be extremely detrimental to the Anguston community and to the Green Belt.
23. If insurance cover is difficult to obtain because there is no 24 hour on-site supervision for the stud farm, then there are examples where the terms and conditions of existing stud farm insurance cover can address this.
24. Aberdeen Riding Centre is located about a mile from this proposed development. It is a much larger business and has been established for many years, with no need for someone staying on site full time.
25. There are a number of residential properties for sale and rent in close proximity to the site which would be available for the applicants to occupy whilst establishing the business. The applicant is relying on the approval of a change of use to allow the use of the chalet/mobile home to establish the business. No explanation has been offered on how the applicant has tried to mitigate this risk of not getting approval for a change in use.
26. The proposed stud farm business adjacent to our home will adversely impose on and impact our quality of life due to noise, odours and increased traffic. The long term siting of an unsightly mobile home/chalet so close to our home would compound this impact and have a very detrimental effect on our quality of life due to the negative/adverse visual impact and on the character of the local area.
27. Concerned that if this planning application is approved then one or more mobile units will be erected on the site, and once on site may well remain long into the future. This could lead to overdevelopment of this Green Belt site and that in the long term the chalet/mobile home would remain alongside the approved dwelling.
28. If this application is approved there is less urgency to complete the development from the original planning approval.
29. In the planning application, the residential use of the chalet/mobile home is not stated to be solely for the use of the manager of the stud farm.
30. If approved, this would allow for the change of use to caravan site and subsequent residential occupancy of that site to occur without any obligation to progress the previously approved planning 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 was approved on 18 December 2020. In February 2021, a Judicial Review of the decision of the Scottish Ministers on 18 December 2020 to amend Scottish Planning Policy (2014) as set out in 'Scottish Planning Policy Finalised Documents' and to publish 'Planning Advice Note 1/2020' was lodged with the Court of Session. As it stands, SPP2020 remains in place and is a relevant consideration in the determination of all planning applications.



### **Aberdeen City and Shire Strategic Development Plan (2020) (SDP)**

Aberdeen City and Shire Strategic Development Plan (2020) (SDP) The Strategic Development Plan 2020 was published in August 2020. The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years and promotes a spatial strategy for the next 20 years. All parts of the Strategic Development Plan area will fall within either a Strategic Growth Area or a Local Growth and Diversification Area. Some areas are also identified as Regeneration Priority Areas. The following general targets are identified; promoting diversified economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change and limiting the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

### **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. A period of representation in public was undertaken from May to August 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 –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their 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)

### **Other Material Considerations**

Scottish Ministers Appeal Decision of 20 July 2020 (Planning Appeal Ref: PPA-100-2111) which relates to an appeal against the decision by Aberdeen City Council to refuse planning application Ref 200040/DPP which sought a change of use of land at Baads Farm, Anguston for the erection of a chalet/mobile home. Scottish Ministers dismissed the appeal and planning permission was refused.

## **EVALUATION**

### **Development Plan**

The application requires to be determined in accordance with the Aberdeen City Local Development

Plan (ALDP), so far as material to the application unless material considerations indicate otherwise. The relevant policies of the ALDP are considered below.

### **Scottish Planning Policy**

Scottish Planning Policy (SPP) states that the main purpose of designating green belt around a city is to support a spatial strategy which will allow for development to be directed to the most appropriate location; protect and enhance the character, landscape setting and identity of towns and cities; and protect and provide access to open space.

### **Strategic Development Plan**

In terms of assessment against the Aberdeen City and Shire Strategic Development Plan (SDP), the proposal is not considered to be regionally significant or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

### **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.

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.”*

Finally, a fifth application was submitted in January 2020 for detailed planning permission (Ref: 200040/DPP), seeking a change of use of land to a caravan site to allow for a residential chalet/mobile home to be located on the site for a period of up to 5 years. The application was refused at Planning Development Management Committee on 30 April 2020. The reasoning for refusal was as follows:

*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).*

*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.*

The decision was appealed to the Scottish Ministers and the appeal dismissed in July 2020, with planning permission refused. A separate claim for an award of expenses was also declined. The reasoning provided by the Scottish Government Reporter for refusal was as follows:

*Overall, whilst I find that the appeal proposal is acceptable in terms of policies D1, T2 and NE6, the principle of a temporary change of use to a caravan site within the green belt would not meet the provisions of policy NE2. Therefore, I find that, overall the appeal proposal is not in accordance with the provisions of the development plan. I also find that there are no material considerations, including those of personal circumstances, which would warrant setting aside the provisions of the development plan in this case. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.*

In relation to the current status of the application site it should be noted that 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 was 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 applicants 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 and the site did indeed change hands following determination of the 2018 application. In recent months works have continued on site including the clearing of overgrowth and erection of fencing, and the construction of the approved stable building with associated infrastructure, with formal entrances including gate piers erected at the entrance to the stables and to the area identified for the approved dwelling and garage development. Drainage works across the site and connection to the mains water supply have also taken place, with Scottish Water confirming connection was completed on 6 April 2021.

### **Supporting Document**

The agent has submitted a Planning Statement on behalf of the applicants, and in support of the application. This supporting document states that: *"The applicants, since purchasing the ground with permission for the stud business, stables and a dwellinghouse, have established Green Pasture Stud Farm. However, without the presence of any on-site accommodation, the introduction of stud animals to the stables is impossible due to the nature of the business and the care required on site. They seek permission to house the temporary mobile residential lodge at the site for a period of*

*eighteen months while the house is being constructed, but most importantly, the business cannot be established without the applicants living on the site to allow the supervision and care required for stud horses, who quite simply could not be introduced safely to the stables without the 24 hour presence of the owners on site."*

The supporting document further outlines that *"Since purchasing the ground, the applicant has already invested a significant amount of money in preparing the ground for all of the development, has erected the stables for the stud farm and created the access points for both the stables and stud farm and the dwellinghouse. The stud farm is ready to be brought into use but without on-site supervision and care the stud horses cannot be brought to the farm. Given this, the stud farm cannot be brought into use."*

### **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). Scottish Planning Policy (SPP) is clear in identifying that the purpose of green belt designation in the development plan is: to direct planned growth to the most appropriate locations; protect and enhance the quality, character, landscape setting and identity of towns and cities; and, protect and give access to open space within and around towns and cities. 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 18 months. The principle of erecting a dwellinghouse within the wider site was supported under planning application Ref P110648 (and subsequently P120873), however as part of the assessment of this current application it is relevant 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, be 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 applicants stated requirement for the proposed chalet/mobile home, as explained in the Supporting Planning Statement submitted by the applicants agent, is as follows: *“They seek permission to house the temporary mobile residential lodge at the site for a period of eighteen months while the house is being constructed, but most importantly, the business cannot be established without the applicants living on the site to allow the supervision and care required for stud horses, who quite simply could not be introduced safely to the stables without the 24 hour presence of the owners on site.”*

As was made clear in terms of the previous application, this is a stand-alone application, therefore it is once again important to note and to take into account in considering this proposal, that if planning permission were to be granted for a change of use of land to a caravan site to allow for a temporary chalet/mobile home to be located within the site, the permission for such a change of use could be implemented independently of the stud farm becoming fully operational or any part of the 2011 permission, or subsequent 2012 permission, being progressed. Similarly, the original application for the stud farm, dwellinghouse and garage could be implemented alongside any permission granted for the caravan site, with the potential cumulative impact of both consents being delivered also a relevant consideration. Suitably restrictive conditions can however be applied with a view to addressing issues resulting from the above, namely, by ensuring that only a single chalet/mobile home is permitted on site at any one time, applying a time limit on the use of the chalet/mobile home, and that its occupation is limited to a person or persons employed full-time in the stud farm.

It should be noted that planning permission 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 does not require planning permission. As such, 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 largely outwith the control of the planning authority, albeit a condition will be applied which requires prior approval of the external material finish to the walls and roof of the chalet/mobile home, thereby providing some degree of control on the visual impact.

With this in mind, if consent were to be granted for the change of use of the land as proposed, it is worth noting that the applicants 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/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 has remained 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 constructed and brought into use, would be contrary to the terms of Policy NE2 (Green Belt), and there have been no substantive changes with regards to green belt policy, either in terms of Scottish Planning Policy or the Aberdeen Local Development Plan, which would give support to a different approach being taken.

The Planning Statement submitted in support of the proposed change of use which would allow for temporary residential accommodation on site for a period of 18 months does however provide particular personal circumstances which demonstrate that there is a specific need for such accommodation in advance of the stud farm becoming fully operational, and on this aspect of the proposal it is necessary for the planning authority to take cognisance of the Scottish Government Reporter's appeal decision of 20 July 2020 (Planning Appeal Ref: PPA-100-2111) whereby it was acknowledged that personal circumstances could be considered in establishing whether there was '*an overriding need for on-site temporary accommodation*', and if special or exceptional circumstances were indeed evident, that these could be deemed '*sufficient to set aside the provisions of the development plan and in particular Policy NE2.*'

The aforementioned Supporting Statement outlines that '*The stud farm and stables are established but cannot be put into operation without accommodation on-site, given the essential supervision and care needs of the stud horses*'. The Supporting document states that '*There is no doubt that the need for 24 hour on-site security is essential to address potential theft or damage and that on-site presence is critical to the health and wellbeing of the horses*' and further detail is provided on the specific health and safety requirements of the stud farm, outlining that the owners cannot fully establish the business and introduce the horses due to the risk this would bring to the animals in the absence of a permanent residential base at the site. Such health and safety requirements have been backed up in correspondence received in support of the application and submitted by an existing long-standing stud operator and by a local veterinary practice.

The aforementioned correspondence states that horses, and especially stallions, should not be kept on a site where there is no on-site accommodation, temporary or otherwise, to allow for the required 24hr on-site supervision. In the absence of on-site presence, it was envisaged that there could be problems regarding liability insurance. It was also made clear in the correspondence submitted that early identification of any injury sustained by horses kept on site would be essential on welfare grounds, and having someone staying on the stud farm enabled regular inspection of the horses to be carried out throughout the day.

Taking the above into account it is worth noting at this point that in terms of the previous application, there was no clear explanation or justification provided as to why a permanent on-site presence was necessary during the construction of the stud farm. It was at the time acknowledged by the planning authority that a case could potentially be made following the construction of the stud farm, and it having become operational, for on-site temporary accommodation to be allowed whilst the permanent dwellinghouse was being built. This was on the basis that such an arrangement would be deemed reasonable and relatively commonplace where residential development is taking place on a site which lies outwith an urban setting.

As outlined above, it is of particular relevance in terms of our assessment of this current application that consideration is given to the findings of the Scottish Government Reporter's appeal decision (Ref PPA-100-2111). The Reporter stated in 2020 that the proposal had been determined in accordance with the development plan, with the main issues considered being as follows: the principle of development; the proposal's impact upon the character and appearance of the area; and whether there were personal circumstances that would support the proposal. With regards to the

personal circumstances which were presented, the Reporter stated that *'In regard to welfare and security issues, until such time that the proposed stud farm is completed and becomes operational (or at least until its operation is imminent), I do not consider that these considerations can be given weight.'*

With this in mind, the current status of the stud farm is therefore quite critical in terms of our assessment and determination of this application. The stable building has now been constructed including appropriate drainage infrastructure, thus permitting a temporary completion certificate to be issued which allows its use and occupation, and a full connection for the site to the mains water supply has also been confirmed by Scottish Water. So whilst the stud farm business is not yet in operation, it has been suitably demonstrated that the essential infrastructure is now in place and its operation could therefore be deemed imminent, thereby giving more weight to welfare and security requirements, if these are indeed deemed to be valid. This aspect is discussed in more detail below.

### **Material considerations**

Having considered the correspondence submitted in support of the proposal and taken into account the points raised which relate primarily to the need to ensure appropriate levels of animal welfare and security for the stud farm, whilst also bearing in mind that a number of concerns were raised in letters of representation which questioned the need for on-site accommodation to allow for the 24 hour supervision of the stud farm, the Planning Authority sought guidance on this matter from both the The British Horse Society (National Manager for Scotland) and from the Scottish Rural College in Oatridge, West Lothian, and specifically from a Lecturer in Animal & Veterinary Sciences (Equine Business Management, Grassland Management & Breeding Units). The responses we received confirmed that in their opinion (a) if breeding is taking place on the stud farm, either the proprietors or staff need to be on site 24/7 for foaling; (b) fire is a hazard for equines shut in (stabled); (c) the previous two points could affect insurance; (d) it would be very difficult to operate a professional stud without on-site accommodation; (e) the supporting information provided in relation to the essential requirement for on-site accommodation to allow the 24-hour supervision of horses, including stallions, sounds accurate; and (f) there could potentially be an issue with liability insurance.

Taking all of the above into account, it is apparent that the weight which can be given to the particular circumstances of the applicants and their requirement to be living on site to deliver the necessary levels of safety and welfare for the stud farm is now a material consideration in the determination of the application. Whilst the proposal may well remain contrary to the terms of Policy NE2 (Green Belt) of the ALDP, it has nevertheless been suitably demonstrated that the operation of the stud farm is likely to be imminent, and therefore a reasonable degree of weight can be given to what appears to be a valid argument made by the applicants in terms of their personal circumstances, whereby the need to secure appropriate levels of safety and animal welfare for the stud farm would justify the introduction of temporary accommodation on site.

### **Design, Scale & Siting**

Policy D1 (Quality Placemaking by Design) of the ALDP 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.

In terms of assessing this proposal, there are however limitations in suitably addressing the expectations of Policy D1, given that the planning authority would be granting consent solely for the proposed change of use to caravan site, with the general style and design of chalet/mobile home determined by a separate legislative process. Notwithstanding this, the proposed change of use of the land which would allow for a chalet/mobile home for a period of up to 18 months on the site would have a visual impact on the green belt, and it is therefore a relevant consideration in the



determination of the application. The open aspect of the site and its relative prominence within the surrounding area is such that a chalet/mobile home within this location would be clearly visible from well beyond the curtilage of the site. It is apparent that the consequence of granting consent for a change of use would be the subsequent introduction of a chalet/mobile home to the site, and there are certainly limitations in controlling its overall style and design as part of the planning process, however a condition has been applied which would require details of the external finishing materials to the roof and walls of the mobile home/chalet unit to be submitted for prior approval and for such finishes to be suitably maintained, thus allowing some control over its potential impact on the character of the surrounding area.

Whilst acknowledging that the siting of a chalet/mobile home in this location would not have a positive impact on the character and appearance of the area, given that this current proposal is seeking consent for a period of 18 months, in comparison to the previous application which sought consent for a period of 5 years, then it is considered that the resulting visual impact would be suitably limited and would not be of such significance that it would merit refusal 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 proposed.

It is accepted that the proposal may 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. However, consideration must also be given to the limited site area and the temporary nature of the proposed change of use for a single chalet/mobile home, and with this in mind it is acknowledged that the proposal would raise no significant concerns in terms of the expectations of Policy T2 (Managing the Transport Impact of Development).

### **Drainage/Water Supply**

ACC Environmental Health officers raised no objection to the proposal but advised that suitable demonstration is given that the mains water supply as proposed by the applicants is established at the property. Confirmation has been provided by the agent that a connection to the mains water was carried out by Scottish Water on 6 April 2021. 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 with the exception of Policy NE1 the proposal is suitably compliant for the reasons previously given.

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

The concerns raised by the local Community Council have been addressed in the foregoing evaluation with the exception of the following:

1. *There is a new matter raised by the current application which we believe is material and should be added to the assessment of this application: the safety of the local residents. As the application itself makes clear, "stallions in particular, can be very fractious, especially during the covering season and the close proximity of mares in heat." The fencing installed by the applicants is not, we believe, capable of restraining stallions at such times. The western side of the application site is adjacent to a track, immediately beyond which are gardens where residents, including children, may be present. The management and day-to-day operation of the*

previously approved stud farm is not a material consideration in the determination of this application which seeks consent for a change of use for the erection of a temporary chalet/mobile home.

### **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:

1. *There are a number of residential properties for sale and rent in close proximity to the site which would be available for the applicants to occupy whilst establishing the business. The applicant is relying on the approval of a change of use to allow the use of the chalet/mobile home to establish the business. No explanation has been offered on how the applicant has tried to mitigate this risk of not getting approval for a change in use.* Information has been submitted which supports the view that a 24hr on-site presence is required for the operation of the stud farm, in order to ensure appropriate levels of safety and animal welfare can be provided, therefore securing accommodation outwith the site would not appear to address this requirement.
2. *The proposed stud farm business adjacent to our home will adversely impose on and impact our quality of life due to noise, odours and increased traffic. The long term siting of an unsightly mobile home/chalet so close to our home would compound this impact and have a very detrimental effect on our quality of life due to the negative/adverse visual impact and on the character of the local area.* This current application is for a change of use of land for the erection of a temporary chalet/mobile home which will be assessed against relevant planning policy and any other material consideration, including consideration of any relevant time period for which permission could be granted. Approval has been granted for the erection of the stud farm and therefore its resulting impact is not a material consideration in the determination of this application.
3. *If granted permission for 18 months, there would likely be reasons given by the applicant for the use of the chalet/mobile home being extended beyond this and for it not being removed from the site, including the need for additional time to build the dwelling or establish the business.* The applicants are within their rights to apply for planning permission for a period of 18 months, and for the acceptability of this period of time to be considered by the planning authority in the assessment of the application.
4. *The previous proposal was for a caravan that required 5+ years on site to demonstrate a viable new business and subsequently build the house. This has now been condensed into an 18 month project, with a very considerable risk of the applicant ending up homeless or further extensions being required to this planning application for temporary accommodation.* The applicants have 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 includes considering any relevant time period for which permission could be granted.

### **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 condition remains justified. The applicants now make a case particular to their circumstances to bring that stud farm into full operation.

The applicants' 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 18 months. Their case for this is that they require a temporary chalet/mobile home on site because 24 hour on-site supervision is necessary for the stud farm to begin and become fully operational. This is consistent with the above summarised advice regarding the appropriate level of animal welfare and required security being in place for the site. Taken together, this would therefore appear to be justified and legitimate for the purpose of starting and carrying on the stud farm. The implementation period for the proposed change of use would be limited to a period of 6 months on the basis that it has been demonstrated by the applicants that the commencement of the stud farm business is imminent. It is also recognised that the original planning permission requires the stud farm to be in operation before the dwellinghouse can be constructed. As it is accepted that, for the stud farm to become operational, there needs to be some on-site accommodation, and that the dwellinghouse cannot be constructed until the stud farm becomes operational; some on-site accommodation is necessary in order to progress with the original planning permission.

As such it is considered that the current personal circumstances would carry sufficient weight to allow support of the application, notwithstanding that the requirements of Policy NE2 (Green Belt) may not be fully addressed.

Whilst there does remain a risk that an extension could be sought to retain the chalet/mobile home beyond the 18 month period, if for example the previously approved dwellinghouse is not completed within that timeframe, the status of the stud farm is now such that its operation would appear to be imminent, as evidenced by the works which have taken place on site over recent months, including completion of the stable building and the necessary infrastructure. Any extension sought would need to be justified in the context that the permitted dwellinghouse is the solution to permanent accommodation on the site, and any application which would effect such an extension would need to be justified on the particular planning merits of that application, take into account this application and the length of time a chalet/mobile home has been on-site already, and the situation at the time of that application.

If Members are minded to grant the change of use, conditions have been applied which would include limiting the external material finish and number of chalets/mobile homes on site, in order to protect the landscape character and setting of the green belt, and ensuring the duration of permission reflects the 18 months being sought to allow for the approved stud farm to become fully operational and for the construction of the dwellinghouse.

## **RECOMMENDATION**

Approve Conditionally

## **REASON FOR RECOMMENDATION**

Planning legislation requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Scottish Planning Policy (SPP) sets out the purpose of green belt designation and a caravan site would not be compliant with its intended purpose which includes that of directing planned growth to the most appropriate locations and protecting and enhancing the quality, character, landscape setting and identity of towns and cities. In this instance, the proposal, if considered in isolation, does not sit comfortably with the

general principles of the Aberdeen City Local Development Plan, given that it does not comply with the requirements of Policy NE2 (Green Belt) & therefore with SPP. However, the acceptability of this proposal must be considered in the context of the development which was granted conditional consent in 2011, for the erection of a residential dwelling, garage and associated stud farm at Baads. The current proposal is seeking a change of use of land within the Baads site for the erection of a temporary chalet/mobile home which would provide the applicants with residential accommodation on site for a period of 18 months to allow for the aforementioned approved stud farm to become fully operational as a business, and which would therefore facilitate the dwellinghouse associated directly to the stud farm to be erected on site.

It is considered that suitably robust evidence has been provided and validated, both demonstrating that the business operation of the approved stud farm is imminent, and that the current status of the stud farm is such that a 24 hour on-site presence would indeed now be required in order to suitably address the animal welfare and security requirements of the stud farm.

Taking the above into account, it is considered that there are material considerations, including current personal circumstances of the applicants, which would carry sufficient weight and provide clear justification for the planning authority to support the application in this instance, notwithstanding that the requirements of Policy NE2 (Green Belt) may not be fully addressed.

It is considered that the proposal would not be contrary to the overall expectations of Policies D1 (Quality Placemaking by Design), T2 (Managing the Transport Impact of Development) and NE6 (Flooding, Drainage and Water Quality) of the Aberdeen City Local Development Plan, given the temporary nature of the proposal and the limited scale of development which would result.

It is considered that the relevant policies in the Proposed Local Development Plan 2020 raise no additional concerns beyond those already addressed under current policy. Matters raised in representations are noted, however these are not of sufficient weight to warrant refusal of the application for the reasons outline above.

## **CONDITIONS**

1. That the caravan site hereby granted planning permission, shall not be occupied by any person other than a person employed full-time in the stud farm (approved under application Ref P110648 & P120873) and the dependants, widow or widower of such a person in accordance with the Planning Authority's policy of restricting isolated developments in the countryside unless specifically required in connection with an essential rural occupation.

Reason: to preserve the amenity and integrity of the Green Belt and in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan.

2. That the caravan site hereby granted planning permission shall be limited to one caravan/mobile home/chalet on site at any one time.

Reason: that the justification provided and deemed necessary to allow the stud farm to become fully operational would not support multiple homes on site, and in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan.

3. That the caravan site hereby granted planning permission shall not be occupied unless a detailed scheme for the provision of foul sewerage facilities has been submitted to and approved in writing by the Planning Authority, and that the said scheme has been installed and is fully operational.

Reason: in the interests of public health.

4. That prior to occupation of the caravan site hereby granted planning permission, details of all external finishing materials to the roof and walls of the caravan/mobile home/chalet unit to be located on site have been submitted to, and approved in writing by the Planning Authority and thereafter the approved material finish is maintained for the duration of the caravan/mobile home/chalet unit being located on site.

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan.

5. The following time limits and related conditions on the planning permission hereby granted shall apply:
  - 5.1. The development permitted by this planning permission shall begin no later than six months from the date of this decision notice, and if not begun within those six months this planning permission shall expire.
  - 5.2. The development permitted by this planning permission shall endure for a period of eighteen months from the date that the said development is begun, and for no longer period.
  - 5.3. By the date on which that eighteen month period in condition 5.2 ends, the land on which the development permitted by this planning permission shall be reverted to its previous use (as land for the curtilage of the dwellinghouse or otherwise land clear of any structure permitted by this planning permission and any caravan/mobile home/chalet removed), and without prejudice to the foregoing generality, shall include the following works or operations:
    - 5.3.1. Removal of any caravan/mobile home/chalet and associated structures permitted by this planning permission from the land for which this permission relates.
    - 5.3.2. The completion of any works necessary to restore the land to its previous position before the use of the caravan site was begun.
    - 5.3.3. Restoration of the land's use as curtilage to the dwelling house on the development site.

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan.

This page is intentionally left blank

# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



**Description:** Installation of entrance gates and CCTV camera

**Address:** Stoneywood House, Stoneywood Park.

**Type of application:** Detailed Planning Permission

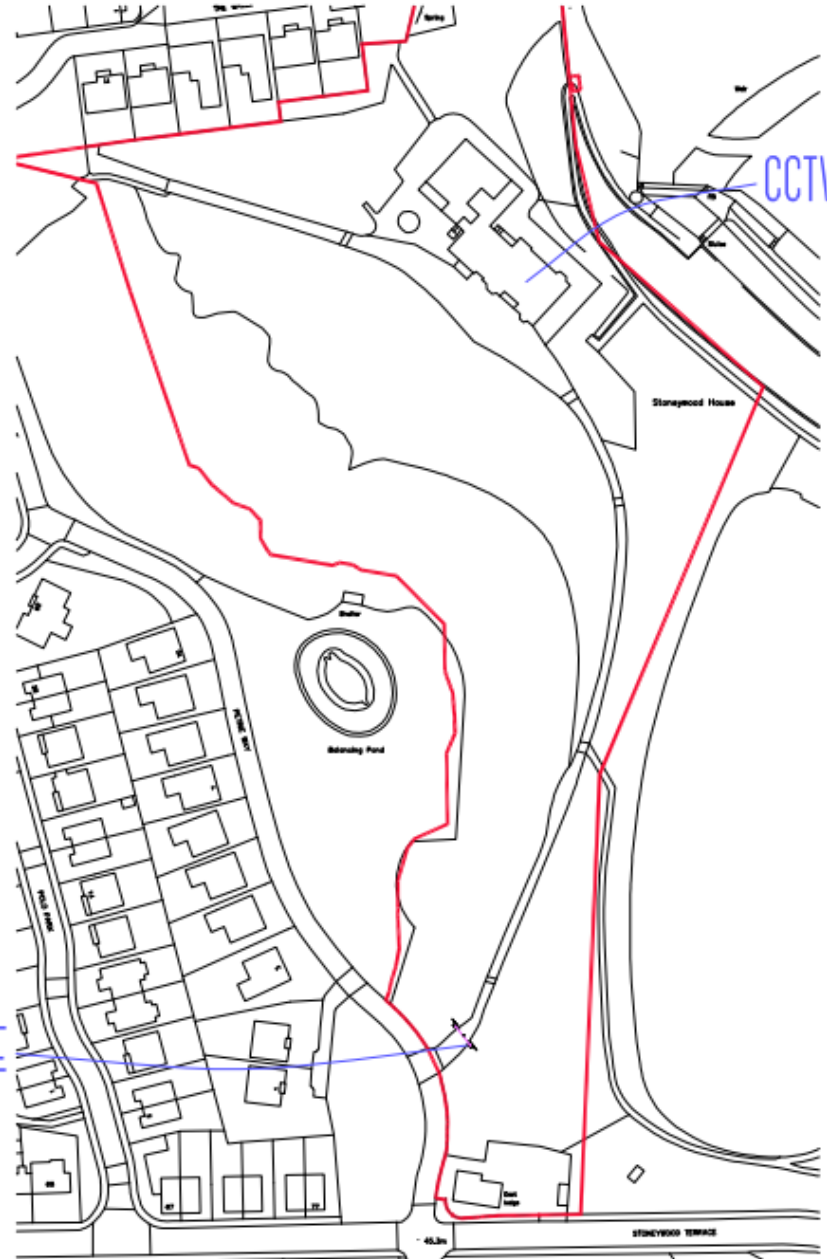
**Application number:** 201037/DPP



# Site Location



ENTRANCE GATE



PROPOSED PART SITE LOCATION PLAN SCALE 1:1250 @ A1



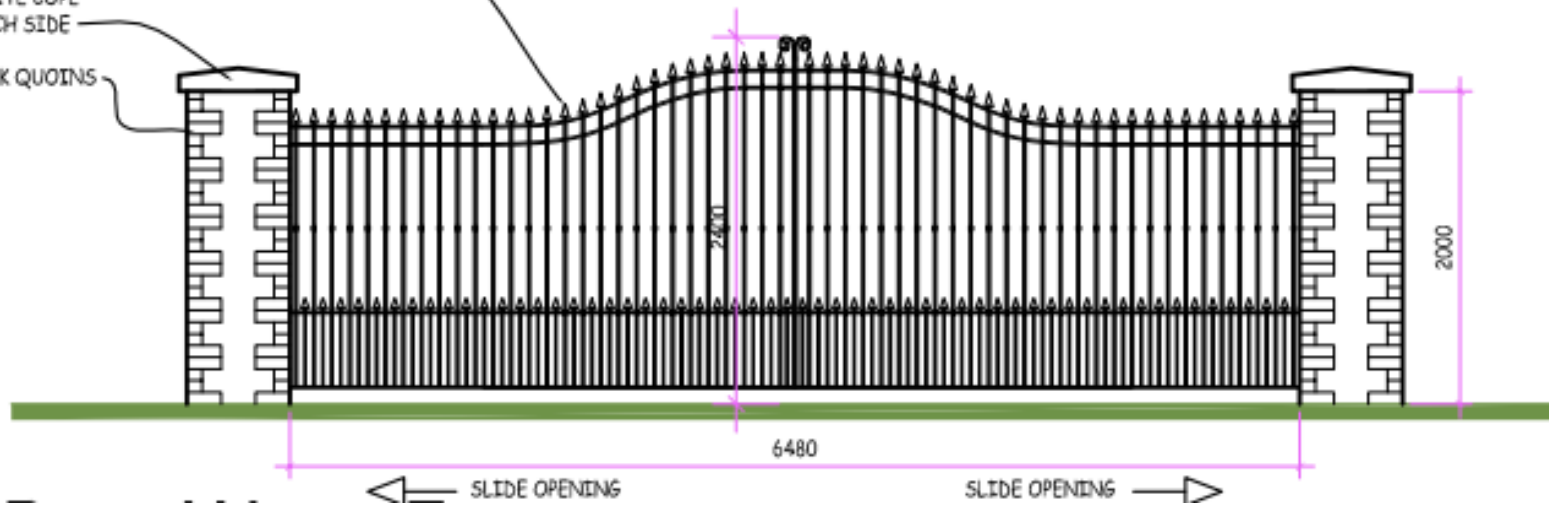


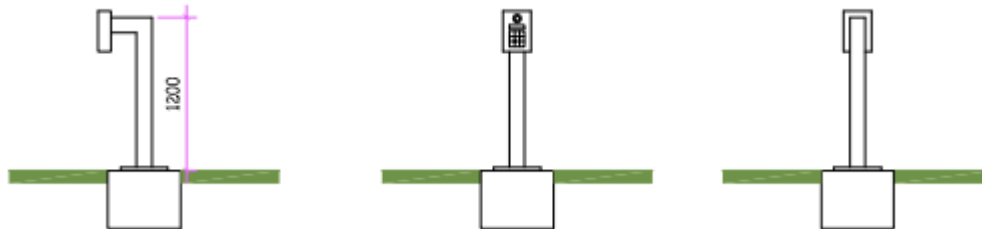


MILD STEEL OPENING GATE COATED BLACK

SYNTHETIC GRANITE COPE  
WITH DRIP AT EACH SIDE

GRANITE PILLAR WITH BRICK QUOINS





STONEYWOOD HOUSE  
PRIVATE ROAD



Page 2

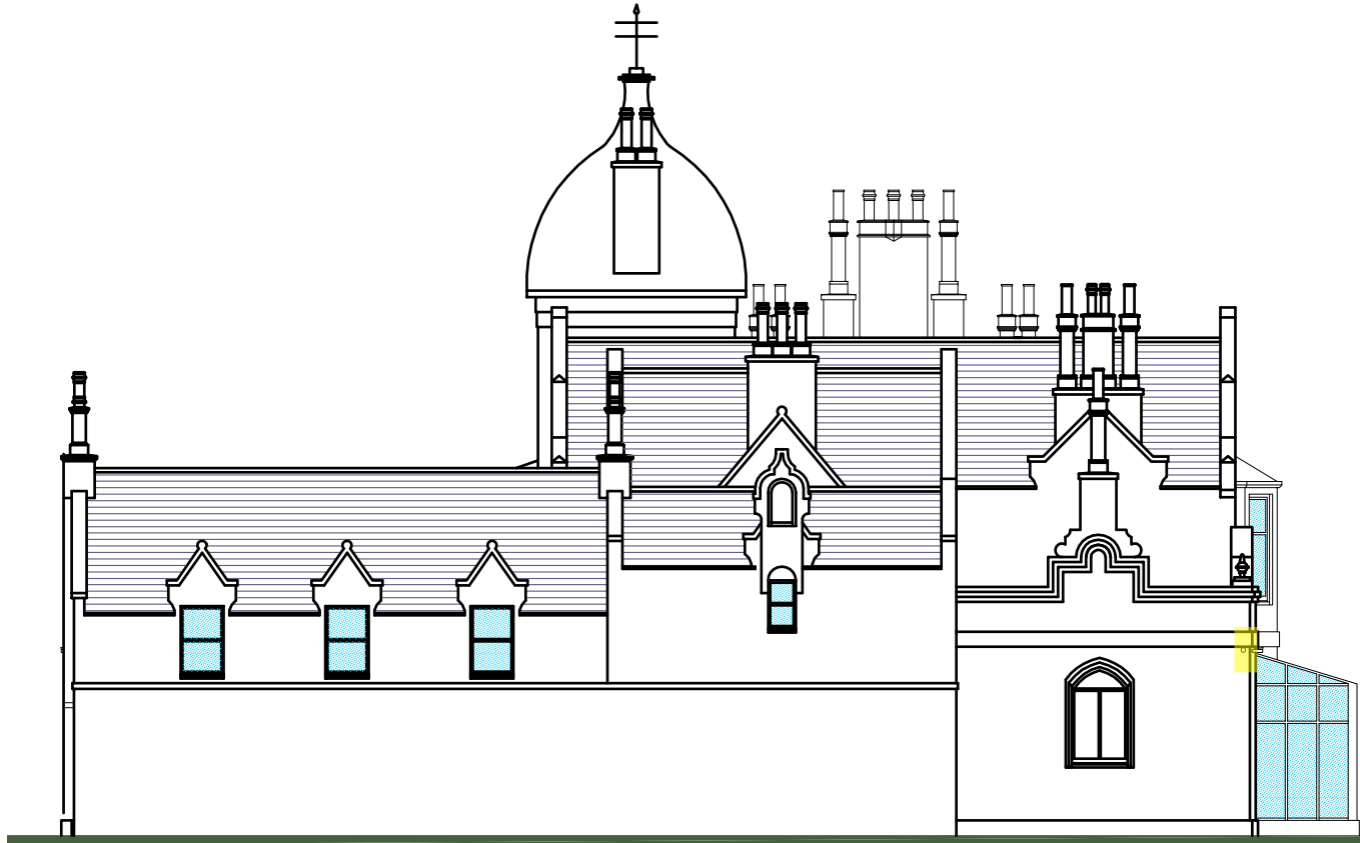
# Camera locations and directions





# West elevation (front)





PROPOSED NORTH WEST ELEVATION





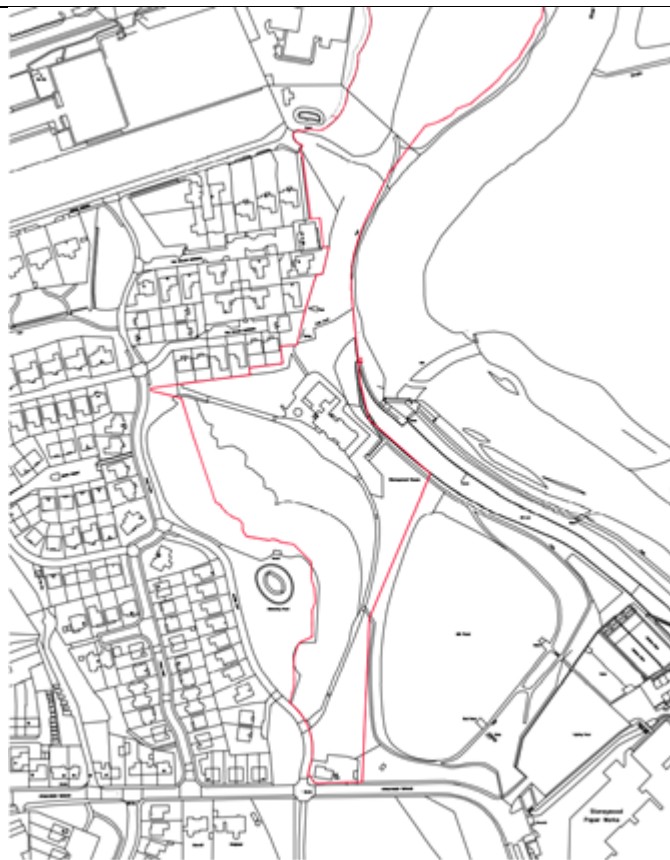


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 22 April 2021**

<b>Site Address:</b>	Stoneywood House, Stoneywood Park, Aberdeen, AB21 9LA
<b>Application Description:</b>	Installation of entrance gates and CCTV camera
<b>Application Ref:</b>	201037/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	23 September 2020
<b>Applicant:</b>	Fleet Investments Aberdeen Ltd
<b>Ward:</b>	Dyce/Bucksburn/Danestone
<b>Community Council:</b>	Dyce and Stoneywood
<b>Case Officer:</b>	Lucy Greene



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

### **RECOMMENDATION**

Approve conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application relates to the Category B listed Stoneywood House and its grounds, which lies within the Stoneywood area of Dyce. The house dates from 1850 and is of mass masonry granite construction, harled with exposed quoins and window surrounds. It is in Jacobean style and of two and half storeys in height. The house was originally built by and used by the owners of the Stoneywood Paper Mill, which lies to the south. It is now in commercial use being used as offices, for meetings and occasional overnight stays in association with the Stoneywood Paper Mill.

The house sits within its parkland style grounds, with a sweeping driveway (taking access from Polo Park to the north and Petrie Way at the southern end) and lawn to the front (west) and the River Don immediately to the east. The riverside and swath of land between the house and residential area, contain a large number of mature trees with rhododendron understorey. Much of the area to the north and west has been developed relatively recently as a residential area and contains detached houses.

### **Relevant Planning History**

Application Number	Proposal	Decision Date
201036/LBC	Installation of CCTV (partially retrospective)	18.02.2021
		Status: Approved Conditionally

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

The application proposal has been significantly amended from what was originally applied for and the application is planning permission for gate posts and double sliding gates together with one of the CCTV cameras only. Previous proposals for the erection of boundary fencing and walls have been removed from this application. The gates would be located on the driveway approximately 10.0m from its junction with Petrie Way, within the grounds of Stoneywood House. The gate posts would be approximately 2.2m in height, faced in granite with brick quoins and artificial granite coping stone. They would stand approximately 6.5m apart with two mild steel railing gates that rise to a height of 2.4m in the centre. A rail would extend to either side of the gate posts to support the gates when in open position, whilst an intercom on a stand would be located on the driver's side of the driveway.

The CCTV cameras have already been granted listed building consent (201036/LBC) and only one of these requires planning permission – it would be within 10m of another camera and therefore falls outside the permitted development rights that cover CCTV cameras.

The cameras are relatively small, measuring approximately 30 cm by 10 cm. There are three cameras currently, all on the front elevation or close to the corners of the building to the front (west elevation) covering the area to the front of the building. A further three cameras are proposed, which would cover the areas to the south and east of the building, of these only the camera on the north elevation, close to the frontage of the house, would require planning permission that is currently sought.

The individual cameras including brackets are approximately 385 × 190 × 180 mm and are encased in pale grey coloured metal. They are capable of being painted. The cameras are located between first and second floor level.

## 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=QFZDGV BZK2Y00>

## Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the number of objections (thirty one) result in it falling outside the Scheme of Delegation to Officers.

## CONSULTATIONS

**Dyce and Stoneywood Community Council** – Object to the proposal for reasons that relate to access and the original proposals for the boundary fences and can be summarised as:

The various fences would unreasonably prohibit public access and are contrary to a number of policies;

The deer fence is intended to prevent public access, being contrary to Policy D1 on Design and NE9- Access and Recreation, which states that new development should not compromise the integrity of existing and potential recreational opportunities;

Apart from the lawn the grounds of the house are designated under Policy NE1: Green Space Network, which provides for access to the outdoors and covers paths and links;

The site is also designated under and at odds with Policy H1 and OP17, with the former stating that proposals should not impact detrimentally on character and amenity or result in the loss of valued open space;

Neither would the proposal be fully aligned with the Land Reform Act which puts a responsibility on landowners to ensure that the public are able to exercise their right to roam over land that they own.

## REPRESENTATIONS

---

Letters of objection have been received from thirty one (31no.) individuals and a letter of support from the applicant. The matters raised are largely relevant only in respect of perimeter fences that are no longer part of the application, with those in support as follows:

- That the Stoneywood Development Framework (DF) indicates that Stoneywood House would be converted into flats, with the setting and privacy of the listed building being respected, with a hedge running around the perimeter of the lawn. This is concluded by the writer to mean that there would always be an intention for this part of the estate to remain private.
- That the DF shows core paths, core public spaces, cycle paths and local open spaces and none of these are within the ground of Stoneywood House. It is stated that 20.69ha of open space is provided and none of this includes the streets, lawns and area around Stoneywood House.
- There is a long standing history between the house and the Stoneywood Papermill, with the conversion to residential proposed by the DF, not having taken place. The mill went into administration in 2019 and there was then a management buy out. During that period many crucial meetings were held in Stoneywood House including with MSPs and the Scottish Government.

- The letter includes a description of various acts of anti-social behaviour from the public, including dog fouling, and invasion of privacy of the house. Due to the situation, fences and CCTV were erected.
- Fencing was taken down by others on more than one occasion and this was reported to the Police.
- A letter was delivered to Stoneywood House from the Stoneywood North Residents Association, which advised that there is a legal right to access to the grounds which is contained within title deeds of houses within Stoneywood. The legal claims are disputed.  
*It should be noted that this is no longer relevant to the application and so far as it relates to deeds is not a relevant material consideration in the planning process.*

The following matters were also raised in objections, and again largely relate to the cameras (that were the subject of listed building consent granted earlier this year), and fences that have been removed from the application proposal:

- That the proposal is contrary to Scottish Planning Policy, Historic Environment Scotland Policy Statement (HEPS) the Aberdeen Local Plan 2017 (LDP) and Proposed Local Development Plan (PLDP)- in particular, policies relating to design, built heritage, access, green space and amenity, the Stoneywood Development Framework and Masterplan Supplementary Guidance, the Land Reform Act and planning permissions that have been granted on the site.
- That the proposals are intended to prevent public access, whilst the character of Stoneywood Estate relies on connectivity including through the grounds of Stoneywood House as per the Stoneywood Development Framework.
- That the CCTV cameras have already been installed (in early 2020) without permission and spoil the look of the listed building. The cameras are unsightly, would materially affect and have a negative impact on the listed buildings character and setting of Stoneywood Estate.
- There is no consideration given to the positioning, colour and fixings of the CCTV cameras, in terms of the historic fabric and that they would obstruct the principal elevation. They could be more sensitively located.
- That there is no justification for the CCTV cameras as there are no incidents that warrant this measure – the fire raising incident quoted by the applicant was in the woods 300 yards away.
- Objection queries the intention of the data collected by the cameras and how this relates to the General Data Protection Regulation (GDPR).
- That the cameras are intended to intimidate people and discourage walking in the grounds, not to prevent dog fouling and prevent vandalism.
- That public access to the area around Stoneywood House would result in passive surveillance, which negates the need for cameras that would compromise the integrity of the listed building.
- That the fences would be detrimental to visual and residential amenity and impact adversely on the setting of the listed building.
- The gates and previously proposed wall would adversely impact upon setting of the Category C listed East Lodge - the gatehouse. *It should be noted that the wall is no longer part of the proposal.*

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the

Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

### **Aberdeen Local Development Plan (2017)**

Policy H1 – Residential Areas  
Policy NE1 – Green Space Network  
Policy T3 – Sustainable and Active Travel  
Policy NE9 – Access and Informal Recreation  
Policy NE5 – Trees and Woodland  
Policy D1 – Quality Placemaking by Design  
Policy D4: Historic Environment  
Opportunity Site OP17

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

Stoneywood Development Framework

### **Proposed Aberdeen Local Development Plan (2020)**

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2<sup>nd</sup> March 2020. A period of representation in public was undertaken from May to August 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:

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis.

## **EVALUATION**

### **Principle of Development**

The issues for consideration are the appearance of the gates and CCTV camera within the context of the site and whether there is any potential impact on access including for recreation or wildlife. The application site lies within an area designated under Policy H1: Residential Areas and Policy NE1: Green Space Network in the adopted Aberdeen Local Development Plan 2017.

Proposals for new development in residential areas shall be assessed on the basis of impact on the character and amenity of the surrounding area under Policies H1 and D1. The gates would be more than 40m from the plots of houses at 1 and 2 Petrie Way and approximately 34m from the boundary of the East Lodge. Although substantial gates at over 2m in height, these would not be out of character with the residential surroundings and are of a scale appropriate to the size of Stoneywood House grounds. The railing style design would allow views through and along the drive, further reducing any visual impact, whilst the use of granite and brick is a traditional approach that would fit with the granite of the main house.

The CCTV camera is part of the scheme that has already been granted listed building consent and requires planning permission due to its location within 10m of an existing camera. It is located on the north elevation close to the west elevation (front) of the building. The overall array of CCTV cameras was reduced as part of the 201036/LBC application in order to minimise impact on the listed building and this is equally applicable to visual amenity. The single camera proposed on the north elevation of the House is considered acceptable. And would not have a detrimental impact on the character or amenity of the House or the surrounding area, in line with the requirements of Policies H1 and D1.

The gateposts would be constructed on the grass to either side of the tarmac driveway, with surface mounted guide runners. To either side of the driveway are grassed areas of varying width with shrubs and mature trees set back from the driveway. With the gates in either an open or closed position, access from the south would not be prevented other than for vehicles. In terms of policies relating to access, recreation and wildlife corridors issues raised by objectors in relation to the originally proposed fences, the content of the revised application would result in the situation with regard to non-vehicular access being no different to that which exists. The proposals are consistent with policies NE9 and T3 relating to access and with the aims of the Stoneywood Development Framework.

There are existing mature trees at intervals along the driveway and set back several metres from it. The gateposts would be 660mm square and would therefore require a limited area of foundation, whilst the guide runners would be surface mounted. There is no proposal for works to trees as part of the development, however, a plan has not been submitted showing the exact position of trees in relation to the gate posts. In order to protect the long term health of trees and given that the exact position of the gateposts could be refined in terms of exactly where the gates cross the driveway, it is proposed to attach a condition requiring a survey of the location and root protection area of trees in relation to the gate foundations to be submitted, along with protection barriers during construction. With this condition attached it is considered that the proposal would be consistent with Policy NE5, which states that any buildings should be sited so as to minimise adverse impacts on existing trees. The proposal would also comply with the aims of the Stoneywood Development Framework which seeks to retain the woodland setting of the estate.

In terms of impact on the setting of nearby listed buildings, the East Lodge and Stoneywood House (Category C and B respectively) the gates are at a distance whereby any impact would be insignificant, whilst the camera is part of a range of cameras that were reduced in number to minimise their impact whilst fulfilling their security function.

The paragraphs above address all relevant issues raised by objectors, whilst a number of the matters relate to the fences that have been omitted from this revised application.

### **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 conditionally

### **REASON FOR RECOMMENDATION**

In terms of their size, design, position and scale, the proposed gates and CCTV camera are acceptable in their impact on visual and residential amenity and the setting of nearby listed buildings.

The gates would not prevent access other than vehicular, with no impact or change to the current situation regarding non-vehicular access and there would be no detrimental impact on the use by wildlife of the Green Space Network that covers part of the site. The proposal would be thereby consistent with Policies H1: Residential Areas, D1: Quality Placemaking, D4: Historic Environment, NE1 – Green Space Network, T3 – Sustainable and Active Travel and NE9 – Access and Informal Recreation.

With the attachment of a condition requiring further details of the foundations in relation to tree roots, the proposal would ensure that impact on trees is minimised and would comply with Policy NE5 – Trees and Woodland.

The site is part of Opportunity Site OP17 ‘Stoneywood’ identified as a residential development, the implementation of which is guided by the Stoneywood Development Framework and Masterplan including guidance on matters including residential character, woodland setting and access.

## **CONDITIONS**

1. That no development shall take place unless there has been submitted to, and approved in writing by, the planning authority, the following details:
  - a. A tree survey showing the location of the gate posts and all trees within 12m of the gate posts, this shall include plotting tree root protection areas;
  - b. Details, including plan and dimensions, of the foundations of the gateposts and methodology for the excavation;
  - c. Details of tree protection measures, including plan and specification including barriers fixed into the ground, where these are identified as necessary following the tree survey.Development shall be carried out only in accordance with the details as so agreed.

Reason: In the interests of minimising damage to trees.

This page is intentionally left blank



# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



Change of Use from Class 3 (food & drink) to hot food takeaway (sui generis) and installation of extract duct

81 Charleston Road North

Detailed Planning Permission  
201397/DPP

# Location



# Location Plan



# Site Photos

Page 100



Looking West along Charleston Road North

# Site Photos



Page 101

Looking North along Langdykes Avenue

# Site Photos – Rear Extension



# Site Photos – Visitor parking behind Sainsbury's

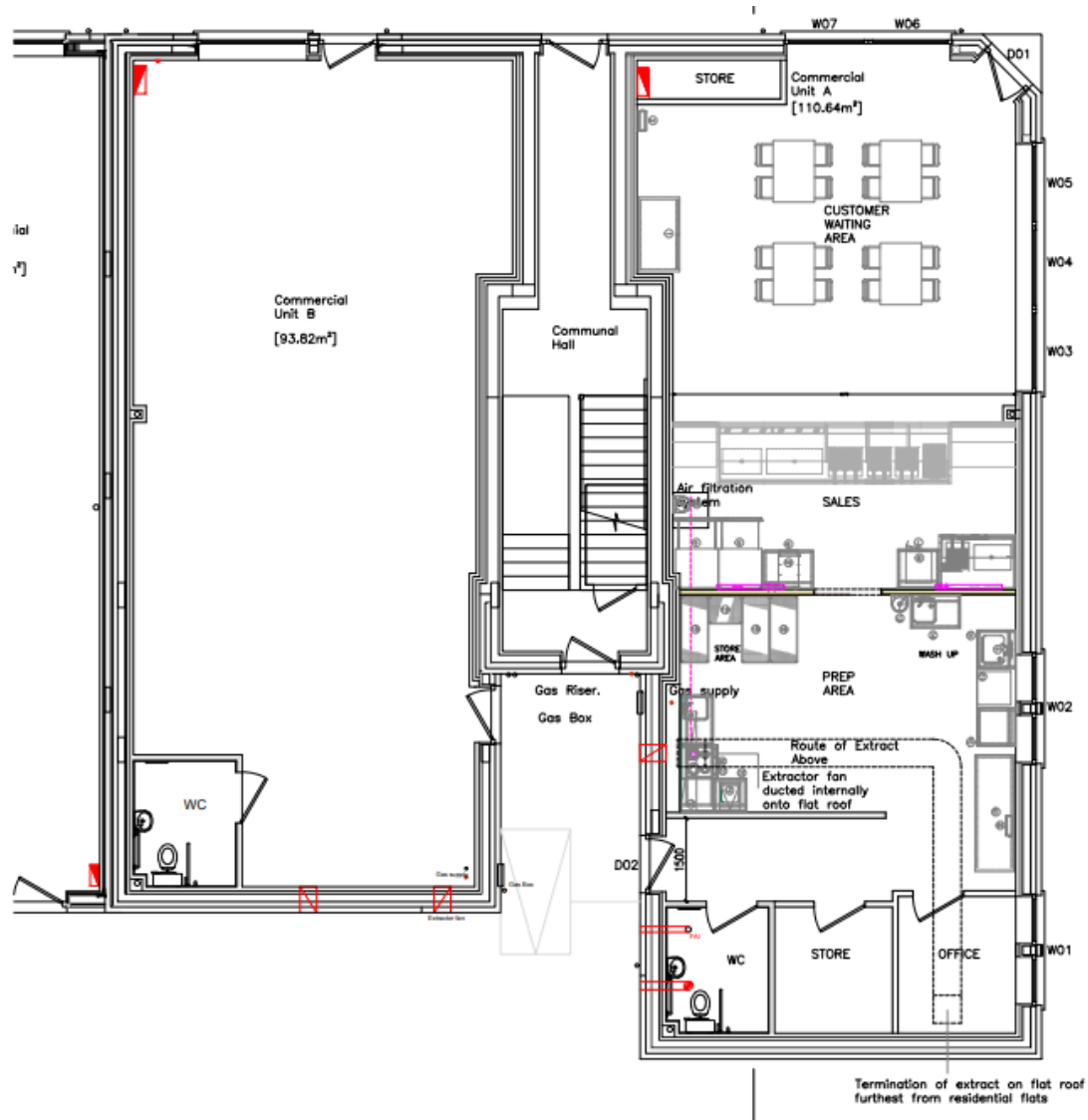


# ALDP Zoning (Adopted and Proposed Plans)





# Proposed Floor Plan



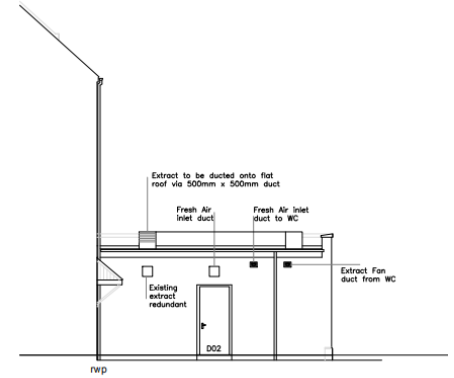
# Proposed Elevations and Sections



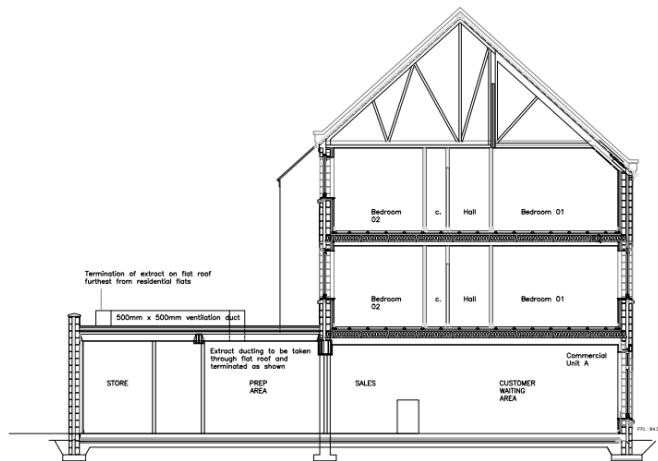
NORTH EAST ELEVATION



NORTH WEST ELEVATION



NORTH EAST ELEVATION (INTERNAL)



SECTION A-A



SOUTH WEST ELEVATION

# Waste Storage



## Representations

- 411 representations received: 404 in support and 7 objecting / raising concerns

### Main matters raised in support of the application:

- The takeaway would be an excellent addition for the local community, with only one hot food takeaway in Cove at present
- The development would be sustainable, within walking distance for many in Cove. Locals currently have to drive further afield for fish & chips.
- The business would boost the local economy, creating jobs and filling a vacant commercial unit
- There is ample car parking available for customers, including behind Sainsbury's
- Due to the nature of a hot-food takeaway, parking spaces are likely to be occupied for a short period of time (compared to the previous café use)

## Representations continued

### Main concerns raised

- There is a lack of car parking for the use in the area
- The development would have a detrimental impact on road and pedestrian safety
- The use would lead to anti-social behaviour and litter
- Local school children would be encouraged to eat unhealthy food
- Impact on amenity of neighbouring properties (due to noise and odour)
- The kitchen extraction system ducts onto a pedestrian walkway and should be re-routed
- A takeaway would be inappropriate in a residential area

## Consultee responses

- **Roads Development Management** do not object, noting the amount of car parking available nearby
- **Environmental Health** accept the findings of the applicant's Noise and Odour Impact Assessments and do not object, subject to the implementation of the mitigation measures recommended in both.
- **Cove & Altens Community Council** do not object but raised various concerns including:
  - Exacerbation of existing parking issues
  - Increased potential for littering
  - Noise & odour impacts on amenity
  - The kitchen extraction equipment could pose a risk to public safety

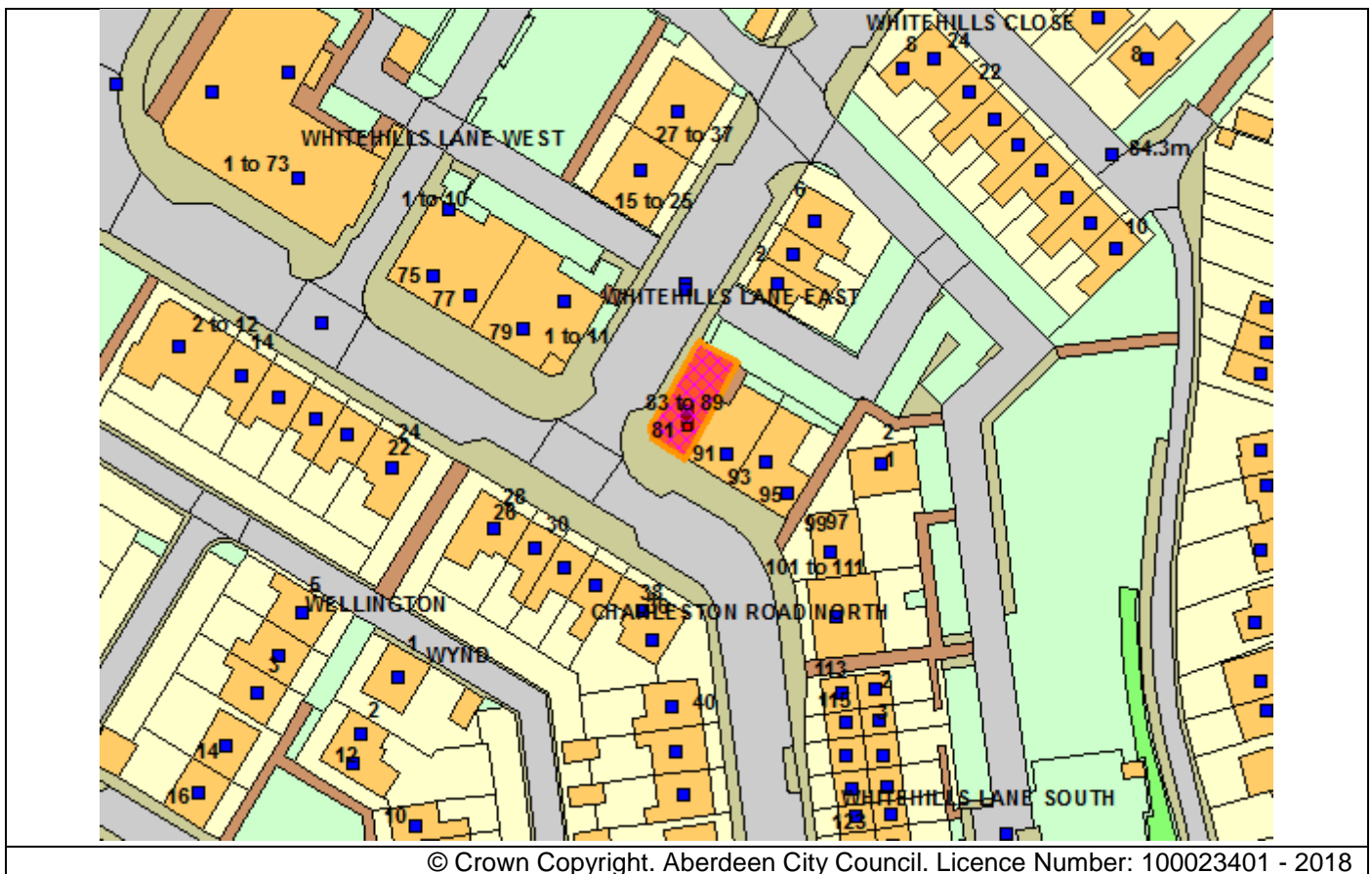


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 22 April 2021**

<b>Site Address:</b>	81 Charleston Road North, Aberdeen, Aberdeen City, AB12 3SZ
<b>Application Description:</b>	Change of use from class 3 (food and drink) to hot food takeaway (sui generis) and installation of extract duct
<b>Application Ref:</b>	201397/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	12 November 2020
<b>Applicant:</b>	5 Loon's Ltd
<b>Ward:</b>	Kincorth/Nigg/Cove
<b>Community Council:</b>	Cove and Altens
<b>Case Officer:</b>	Alex Ferguson



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

## **RECOMMENDATION**

Approve Conditionally

## **APPLICATION BACKGROUND**

### **Site Description**

The application site comprises a commercial unit that occupies part of the ground floor of a three-storey mixed-use building situated on the northern side of Charleston Road North, on the eastern corner of its junction with Langdykes Avenue. The building contains the application property (a vacant unit last in use as a café) and a retail unit at ground floor level, with residential flats on the upper floors. A hair and beauty salon occupies the ground floor of an adjoining two storey building to the east. The café premises incorporate a glazed shop frontage and signage that wraps around the building's south-western corner, giving it an active frontage onto both Charleston Road North and Langdykes Avenue. The commercial unit also occupies a single storey flat-roofed rear outshot that has windows facing west onto Langdykes Avenue, extending to a rear parking court. A kitchen extract duct for the café is sited on the eastern wall of the rear outshot, facing onto a walkway serving the rear communal access door for the upper floor flats. The site lies within the residential suburb of Cove but within a section of Charleston Road North which sees multiple commercial units (predominantly retail) occupy the ground floors of buildings on the northern side of the street, resulting in a commercial hub in this newer western part of Cove.

### **Relevant Planning History**

**110065** – Detailed planning permission was approved in 2012 for the development of 229 residential units and 18 commercial/retail units on land to the east of Wellington Road. The majority of the development has now been built out and the commercial unit at 81 Charleston Road North was one of those consented in 2012.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought for the change of use of the unit from Class 3 (food & drink) to a hot-food takeaway and for the installation of a kitchen extract duct. It is intended to operate the unit as a fish & chip shop.

The kitchen extract duct would comprise a c. 500mm x 500mm metal duct that would vent out of the roof of the premises' single storey rear extension, directly above the kitchen, and would run along the rooftop of the extension before terminating at the northern end of its flat roof.

### **Amendments since original submission**

The rooftop-mounted kitchen extract duct was added to the proposals after being recommended as an appropriate mitigation measure for dealing with cooking odours in the applicant's Odour Assessment.

The applicant has also submitted an updated Supporting Statement, which includes an expanded waste management regime, to include the provision of a portable litter bin positioned outside the premises during operational hours (and taken inside / emptied when premises are closed).

### **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=QJOV1YBZM2O00>



- Supporting Statement
- Noise Impact Assessment
- Odour Assessment
- Odour Assessment Addendum
- Manufacturer Details – Noise Silencer
- Manufacturer Details – Air Purifier (and operation information)
- Letter in support of the application from the premises' landlord

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

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

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection. It is noted that the associated parking provision requirement for the proposed use is less than that of the existing use (café), therefore would be a betterment in terms of the availability of spaces. The site is served by a communal car park to the rear with unallocated spaces which serves the customers of the existing and new uses, which is acceptable.

**ACC - Waste and Recycling** – No objection. Provide general comments and advice for the applicant to be aware of. These have been added as an advisory note for the applicant.

**ACC - Environmental Health** – No objection. The findings of the applicant's Noise and Odour Assessments are accepted and, subject to the implementation of the recommended mitigation measures set out in both, the proposed change of use would not cause undue harm to the amenity of any neighbouring properties.

The recommended mitigation measures include the installation of a kitchen extract duct that would run along the rooftop of the single storey rear extension, terminating at its northern end (farthest away from the neighbouring upstairs flats), as well as the installation of a noise silencer within the duct.

**Cove and Altens Community Council** – Do not object, but do raise several concerns that they wish to be taken into consideration in the assessment of the application:

#### **Parking & Road Safety**

- The proposed use could exacerbate existing parking issues.
- Customers may park on double yellow lines outside the premises, posing a road safety risk.

#### **Litter**

- The proposed use could add significantly to a local litter problem.
- There is no proposed provision of litter bins. If approved, this should be included as a condition of approval.

#### **Noise & Smell**

- Noise and odour from the new use could harm residential amenity, as could noise from

customers.

### Public Safety

- Residents entering their dwellings from their rear door may be subject to blasts of hot air and possible particles ejected via the extract system which at present exhausts at approximately head height, giving rise to possible eye/face injury.

### Other

- Potential issues regarding disposal of waste products for example blocked drains which could cause problems for the drains from the flats.

## **REPRESENTATIONS**

A total of 411 representations have been received, 404 of which are supportive of the proposals and 7 of which either object to the application or raise concerns in relation to the proposed development. The comments made are summarised as follows:

### In support:

- The takeaway would be an excellent addition for the local community;
- The development would reduce private vehicle trips outwith the area as locals currently have to drive further afield for good quality fish and chips (to Torry, Portlethen, the city centre or Dyce);
- The 'Sea, Salt and Sole' business is reputable, with a branch in Dyce that is used by Cove residents;
- Cove does not have a good fish & chips takeaway at present and would benefit from more varied takeaway options;
- The business would boost the local economy, providing further support for the existing shops and services in the area;
- The takeaway would create employment opportunities for locals (estimated potential of up to 20 new jobs);
- The Sea, Salt and Sole shop in Dyce does not have litter outside, is clean and there are no adverse odour emissions;
- The takeaway would be far better than a vacant commercial unit;
- There is ample car parking in the area for customers, including the area behind Sainsbury's which is available for use by all retail units in the area;
- The unit is within walking distance for many potential customers in Cove;
- The current / previous café use has never experienced any odour control issues; and
- Due to the nature of a hot-food takeaway, parking spaces are likely to be occupied for a shorter period of time than they would have for the previous café use;

### Concerns raised:

- There is a lack of parking in the area;
- The proposed development could have a detrimental impact on road safety;
- Teenagers are likely to gather outside the takeaway, resulting in anti-social behaviour;
- The takeaway would lead to excess littering in the area;
- There would be an increase in traffic;
- Local school children would be encouraged to eat unhealthy food during their lunch breaks;
- The takeaway doesn't fit in compared to the local businesses surrounding it;

- The takeaway would encourage seagulls to visit the area;
- There would be increased noise pollution;
- There is an existing chip shop in Cove and no demand / need for another;
- A takeaway would be inappropriate in a residential area;
- There isn't 40+ car parking spaces available as claimed by the applicant. The area behind the building comprises private parking for residents only, with some spaces already used by the neighbouring commercial units, limiting parking available to residents;
- The extraction system terminates onto a pedestrian walkway into a residents' stairwell. The kitchen extract for a hot food takeaway should be re-routed;
- Residents were informed when buying their house that the commercial units would never be used for the sale of fast food; and
- Odour from the premises will adversely affect the amenity for neighbouring properties.

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

### **Aberdeen Local Development Plan 2017 (ALDP)**

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

### **Supplementary Guidance**

- Transport and Accessibility
- Harmony of Uses
- Noise

### **Proposed Aberdeen Local Development Plan (PALDP)**

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. The PALDP 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 PALDP (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 PALDP

are relevant to the assessment of this application:

- H1 (Residential Areas)
- D1 (Quality Placemaking)
- D2 (Amenity)
- R5 (Waste Management Requirements in New Development)
- T2 (Sustainable Transport)
- T3 (Parking)
- WB3 (Noise)

## **EVALUATION**

### **Principle of Development**

The application site lies within a residential area as zoned in the Aberdeen Local Development Plan (ALDP). Policy H1 (Residential Areas) of the ALDP states:

*Within existing residential areas, proposals for non-residential uses will be refused unless:*

1. *they are considered complementary to residential use; or*
2. *it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.*

The Council's Harmony of Uses supplementary guidance (SG) identifies hot food shops as one of a number of uses that: *'can raise sensitive amenity issues for neighbouring properties and land uses due to the adverse effect of noise, smell and litter.'*

It is thus considered that although the proposed hot-food takeaway would provide a service for residents in the surrounding area, the use itself cannot be considered to be complementary to residential use. Thus the proposed development does not comply with criterion 1 of Policy H1 as set out above and it is instead required to assess the proposals against criterion 2.

### **Impact on residential amenity**

The Harmony of Uses SG states:

*'The protection of the living conditions of residents in close proximity to any proposed hot food shops, liquor licensed premises, amusement centres, amusement arcades and casinos will form a major consideration in assessing applications of this nature. These uses can generate unacceptable levels of noise, vibration, odour, traffic disturbance and litter. It is therefore important that such uses are controlled or restricted to protect residential amenity.'*

*Noise and vibrations generated from cooking and essential extraction equipment in hot food shops, along with increased levels of customer movement, can cause disturbance to residents.*

*It is not usually considered acceptable to locate a hot food shop, liquor licensed premises, amusement centre, amusement arcade or casino directly adjacent or beneath residential properties.*

*Applications within close proximity to residential units will be refused where it is*

*considered that there may be significant adverse impacts on residential amenity in terms of noise, vibration, odour, traffic disturbance, litter or hours of operation as a result of the proposed premises.'*

The above aspects of the proposed hot food takeaway that could cause harm to residential amenity can each be assessed in turn as follows:

### Noise & Opening Hours

The applicant submitted a Noise Impact Assessment (NIA) which has been reviewed by the Council's Environmental Health Service. The NIA finds that, subject to appropriate mitigation measures (including the installation of a silencer in the new kitchen extraction duct), the proposed hot-food takeaway would not have a detrimental impact on the amenity of any neighbouring residential properties. The Environmental Health Service (EH) accept the findings of the NIA and do not object to the proposed development, subject to conditions requiring the recommended mitigation measures being implemented prior to the use commencing, and those measures being retained in perpetuity for the lifetime of the use. The proposed development is thus acceptable in accordance with Policy T5 (Noise) of the ALDP.

In addition to noise from within the premises from kitchen equipment, staff and customers, it is noted that the off-site consumption nature of hot-food-takeaways can see a high frequency of customer arrivals and departures, particularly during peak periods (typically in early evenings). It is not considered, however, that noise levels from customer activity would be significant and it is also pertinent to note that although the site lies in a Residential Area as zoned in the ALDP Proposals Map, the commercial unit is one of several that form a mini high-street of ground-floor commercial units on the northern side of Charleston Road North. In this respect, this section of the street is more mixed-use in nature than that of a typical, wholly residential street and this arrangement seeks to create a commercial core with shops and services available for residents of the immediate area and the adjacent older parts of Cove. There is existing activity, traffic and general ambient noise in the immediate locality as a result and it is considered that any noise from customer activity would not have any significant impact beyond the existing situation.

Nevertheless, it is acknowledged that the activity generated by the regular arrival and departure of customers could have a detrimental impact on the amenity of neighbouring properties if the takeaway were to be operational during late evening and early morning hours, which are more sensitive in terms of residential amenity.

It is thus considered necessary and appropriate to attach a condition to any granting of consent for the change of use, restricting the operational hours of the takeaway to between the hours of 9am and 10pm on any given day. Such a condition would thus ensure that there would be no activity during the more sensitive night-time period. It is considered that the activity associated to the new use during the permitted opening hours would not have any undue impact on residential amenity.

### Vibration

It is considered that vibration from cooking equipment is unlikely to be an issue. The kitchen area and all cooking ventilation / extraction equipment would be sited within & atop the single storey rear extension portion of the unit, which is not directly below any residential properties. It is thus considered that, subject to the implementation of the mitigation measures recommended in the

### Odour

The applicant's Odour Assessment acknowledges that the proposed fish & chip shop use would, without any mitigation measures, result in a detrimental impact on the amenity of neighbouring

residential properties as a result of cooking odours from the existing kitchen extract system.

As a result, the Odour Assessment recommends the incorporation of a kitchen extract duct, which would take cooking odours from the kitchen area and expel them at the northern end of the existing single storey flat-roofed rear extension. The Odour Assessment considers that this solution would maximise the distance between the termination of the extract duct and the windows of the neighbouring upstairs residential flats (as well as the communal rear entrance door serving those flats).

The findings and recommended mitigation measures of the Odour Assessment have been accepted by the Council's Environmental Health Service, who are satisfied that, subject to a suspensive condition requiring the implementation of the mitigation measures, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring uses.

### Traffic disturbance

With regard to traffic and road safety issues, the Harmony of Uses SG states:

*'Hot food shops tend to attract a high proportion of car users and short stay customers. Increased noise and traffic disturbance from vehicles can be a nuisance for adjacent land uses.*

*Often, in the vicinity of hot food shops, there is an increased occurrence of obstructed parking and interruption to the flow of traffic adjacent to these premises due to inconsiderate parking. Insufficient parking facilities can also have an adverse impact on the amenity of the immediate and surrounding area.*

*The impact of a proposal on the safety of pedestrians and road users will be considered with regard to:*

- *The existing use of the site;*
- *Existing traffic conditions;*
- *The accessibility of the site by public transport, walking and cycling;*
- *The availability of public parking provision in close proximity to the premises;*
- *Proximity of proposal to lighting junctions, pelican crossings and bus stops;*
- *The availability of safe and legal loading areas in close proximity; and*
- *The implications for the amenity of the surrounding area.*

The application site lies at the north-western edge of the residential suburb of Cove. There are hundreds of residential properties within walking distance of the premises and the entire suburb of Cove is within relatively easy cycling distance. The premises also lie within 80m of bus stops on either side of Charleston Road North, used by the 21A service that serves Cove. As a result, it is anticipated that a proportion of customers would likely travel to the takeaway to collect food either on foot or by bike, with the option of accessing the site on public transport also available. The site is therefore considered to be suitably located such that it could be accessed by sustainable and active modes of travel, in accordance with ALDP Policy T3 (Sustainable and Active Travel).

Nevertheless it is acknowledged that, as per the Harmony of Uses SG, hot food shops tend to attract a high proportion of car users and short stay customers. In this regard, it is noted that there are dozens of unallocated off-street car parking spaces available and dedicated to visitors and users of the commercial units on Charleston Road North, located to the rear of the Sainsbury's retail unit approximately 100m to the north-west of the proposed takeaway. It is anticipated that the other commercial units on the mini high-street are most likely to see the majority of their customers arrive throughout the day, whilst takeaway customers are more likely to arrive in the early evening. As

such, it is considered that the proposed takeaway would not likely compete with the other commercial uses for customer car parking availability.

There is an off-street parking courtyard immediately to the rear of the building which, it is understood, is predominantly used by residents of the upper floor flats and other surrounding residential properties. It is considered, however, that whilst some customers may utilise these spaces whilst collecting food from the takeaway, given the 'fast-food' nature of a hot-food takeaway, they would be unlikely to stay for any significant length of time, thus there should not be any significant long-term impact on the parking availability as there would perhaps for the previous use of the unit as a café, where customers are likely to stay for longer periods of time.

It is also acknowledged that hot-food takeaways can often see instances of indiscriminate car parking by customers whilst collecting food, for example on double-yellow lines and pavements, where there is insufficient off-street parking availability. In this regard, as noted above, there is ample off-street parking available within 100m of the site. Nevertheless, should customers choose to park or wait immediately outside the premises it is noted that both Charleston Road North and Langdykes Avenue have double-yellow lines within the vicinity of the application site. The double yellow lines should ensure that most customers arriving by car choose to park lawfully in the visitor spaces to the rear of the larger commercial units to the north (Sainsbury's).

It is also noted that on Charleston Road North and Langdykes Avenue in particular, the road carriageways are of a sufficient width to ensure that in most places any waiting cars would not cause any disruption to the free flow of traffic. Outside the premises on Langdykes Avenue, the road carriageway is approximately 11.2m wide, which provides ample room for two-way traffic even with cars parked on either side. As such, it is considered that the proposed change of use would not have any adverse impact on road safety.

Policy T2 (Managing the Transport Impact of Development) of the ALDP states:

*'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.'*

*'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.'*

For the reasons noted above, it is considered that the siting of the takeaway within a residential area would maximise the opportunities for customers to access it utilising sustainable and active travel, with sufficient off-street car parking available for those who would seek to drive. As referenced in some third party representations, some locals drive to takeaways some distance away in Torry and Portlethen and it is therefore considered that an increase in takeaway choice in the area would likely result in a decrease in longer distance private vehicle trips. The proposals are thus considered to be compliant with Policy T2 of the ALDP.

### Litter

The Harmony of Uses SG states:

*'Hot food shops, liquor licensed premises, amusement centres, amusement arcades and casinos can generate a significant volume of waste and litter. Consideration must be given to providing bins that are of suitable size, appropriately sited and screened.'*

*Inadequate storage facilities for refuse can result in harm to visual amenity as well as serious risk to public health.'*

The provision of some seats inside would allow customers who wish to eat straight away to do so within the premises, with internal bins to be provided.

The Planning Service considers that due to the takeaway nature of the proposed use, with a level of immediate off-site consumption anticipated, there could be a risk of external littering by customers in the vicinity of the premises that could impact on the amenity of the area. As such, an updated waste management plan was sought from the applicant, incorporating the provision of an external litter bin on the pavement immediately outside the premises. The portable bin would be provided by the applicant during the hours of operation of the use and taken inside / emptied overnight.

Therefore, subject to a condition requiring the waste management plan to be implemented, the Planning Service is satisfied that the risk of littering in the immediate vicinity of the property would be minimised.

It is important to note that any external litter from customers would be dealt with under separate environmental legislation and the Planning Service understands that the applicant would have a duty of responsibility to ensure that areas within the vicinity of the unit would be kept clear from litter. Any persistent littering problems associated to the use would be the subject of enforcement under separate legislation.

### Opening Hours

As noted above, it is considered necessary and appropriate to attach a condition to any granting of consent for the change of use, restricting the operational hours of the takeaway to between the hours of 9am and 10pm on any given day, in order to protect the amenity of the neighbouring residential properties.

### Summary

To summarise it is considered that, for the aforementioned reasons and subject to conditions, the proposed change of use of the premises to a hot-food takeaway would not have a significant adverse impact on the amenity of any neighbouring properties, in accordance with the Council's Harmony of Uses supplementary guidance and Policy H1 (Residential Areas) of the ALDP.

### **Waste management**

Policy R6 (Waste Management Requirements for New Development) of the ALDP requires new development to have sufficient space for the storage of general waste, recyclable materials and compostable wastes where appropriate.

The applicant advises in their supporting statement that the intention is to utilise the existing communal bin store area (to the rear of the building) for the storage of waste. This is considered to be acceptable and there would be adequate space for the storage and collection of waste, in accordance with Policy R6 of the ALDP.

### **Impact on visual amenity & the character of the area**

The only external alteration proposed to the premises is the installation of a new metal kitchen extract duct, to be mounted atop the existing single storey flat-roofed rear extension. The extension has a c. 400mm high parapet on the north-east and north-west elevations and, combined with the proposed routing of the duct relatively centrally within the roof, it is considered that the duct would



not be prominently visible from street level. The extension is also to the rear of the main building and faces onto a parking courtyard. Therefore, even if the duct would be partly visible from public viewpoints it would not cause any significant harm to the visual amenity or character of the area. The proposals are thus considered to be compliant with Policy D1 (Quality Placemaking by Design) of the ALDP.

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

In relation to this particular application, policies H1, D1 R5, T2, T3 and WB3 in the Proposed Aberdeen Local Development Plan (PALDP) substantively reiterate policies H1, D1, R6, T2, T3 and T5 in the adopted Local Development Plan and the proposal is acceptable in terms of those policies in both Plans for the reasons previously given.

Policy D2 (Amenity) is a new policy in the PALDP with no direct equivalent in the adopted ALDP. Policy D2 seeks to ensure that all new developments do not cause undue harm to the amenity of any existing residential properties. Subject to conditions, the proposed change of use would not cause undue harm to the amenity of any neighbouring uses for the reasons noted in the foregoing evaluation. As such the proposed development is considered to comply with Policy D2 of the PALDP.

### **Concerns raised by the Community Council**

The concerns raised by the Cove and Altens Community Council can be addressed as follows:

#### Parking & Road Safety

Parking and road safety matters are addressed in the foregoing evaluation. It is considered that there is sufficient off-street parking available within the vicinity (particularly behind Sainsbury's) that could be used by customers and that the proposed use would not pose a risk to road safety.

#### Litter

- The proposed use could add significantly to a local litter problem and there is no proposed provision of litter bins. If approved, this should be included as a condition of approval.

*The applicant has submitted an updated waste management plan and now proposes to provide an external litter bin to the front of the premises which would be taken inside overnight. A condition is attached to ensure that the bin is provided as per the applicant's waste management plan.*

*Furthermore, any external litter from customers would be dealt with under separate environmental legislation.*

#### Noise & Smell

- This will affect residents entering from the door at the rear of the premises to access their dwellings from the residents' car parking area.

*The Council's Environmental Health Service have accepted the findings of the applicant's Noise and Odour Assessments and consider that, subject to the implementation of the recommended mitigation measures, the development would not cause undue harm to the amenity of any neighbouring properties in terms of noise and odour.*

- This will be an area where persons may congregate and may give rise to possible noise issues affecting the residents in the dwellings not only above the premises but at neighbouring homes on the opposite sides of the street.

*This is addressed in the foregoing evaluation. A condition is attached restricting the opening hours of the premises to ensure that there is no impact on amenity between 10pm and 9am the following day but otherwise it is considered the impact on amenity will not be significant.*

### Public Safety

- Residents entering their dwellings from their rear door may be subject to blasts of hot air and possible particles ejected via the extract system which at present exhausts at approximately head height giving rise to possible eye/face injuries.

*Although it was initially proposed to use the existing kitchen extract vent on the rear extension's eastern side elevation (adjacent to the communal rear entrance door for the upstairs flats), the plans have since been amended and it is now proposed to run a new duct through the roof of the rear extension, terminating at the northern end of the extension's rooftop. As a result, there would be no risk to public safety from kitchen extract duct emissions.*

- Vehicles parked on both sides of the road, at present illegally, will narrow the vehicular movement as it is now and vehicles travelling North from Cove Road could encounter a blind spot created by traffic parking on the highway at the house on the corner opposite iCandy Hair salon. This is more obvious when HGVs are in the area. It should be noted that also this is a bus route.

*The road carriageways immediately outside and adjacent to the application site are double-yellowed, which prevents the legal parking of vehicles that may otherwise pose a road safety risk. The potential for indiscriminate, illegal parking of vehicles on double-yellow lines would be a matter covered by separate legislation and is not a material planning consideration.*

- With Lochside Academy being close to hand and with the opening hours this will be a magnet for pupils from Lochside Academy and being aware of the high spirits generated by the youth of today there may be the risk of a child being involved in a Road Traffic Collision.

*There is not considered to be any increased risk to road / pedestrian safety as a result of the implementation of the proposed use. The pavement outside the premises is of ample width, sufficient to ensure that safe pedestrian movement would not be hindered even in the event of the congregation of customers outside the takeaway.*

### Other

- Potential issues regarding disposal of waste products for example blocked drains which could cause problems for the drains from the flats.

*It is anticipated that waste would be disposed of appropriately. Failure to do so may be subject to action by the Council's Environmental Health service but is not a material planning consideration.*

### **Matters raised in representations**

Concerns raised in respect of parking, road safety, noise, odour, litter and amenity are addressed

in the foregoing evaluation. The remaining matters raised in representations can be addressed as follows:

- Teenagers are likely to gather outside the takeaway, resulting in anti-social behaviour

*Any anti-social behaviour would be controlled via separate legislation and is not a material planning consideration.*

- There would be an increase in traffic;

*It is possible that there would be an increase in localised traffic within the Cove area as a result of customers frequenting the takeaway. However, the potential increase in traffic is likely to be relatively minimal and, given the limited number of alternative takeaway options in Cove, it is possible that the number of longer-distance trips outwith the area for residents seeking hot-food takeaways may be reduced.*

- Local school children would be encouraged to eat unhealthy food during their lunch breaks;

*Although promoting social objectives can be a material consideration, and in this case the promotion of healthy eating is a relevant material consideration, it is not considered that much weight can be applied in this case. The site, although walkable by school children, is not sufficiently close to the school to promote easy access, being 1 km distant. There are also other food businesses closer to the school which supply arguably equally unhealthy food, which could be of equal attraction to school children. Therefore the availability of such food is unlikely to be sufficiently curbed by the refusal of this application, and therefore little weight can be attached to this aspect as a material consideration.*

- The takeaway doesn't fit in compared to the local businesses surrounding it;

*There are no existing takeaways on Charleston Road North and as a result there would be no clustering of that type of use. There is no planning policy requirement or preference for an alternative use based on compatibility with the existing commercial offering.*

- The takeaway would encourage seagulls to visit the area;

*This is not a material planning consideration. Nevertheless, the applicant would provide an external bin outside the premises during operational hours, which would reduce the risk of littering.*

- There is an existing chip shop in Cove and no demand / need for another;

*There is no planning policy or supplementary guidance restriction on the number of hot-food takeaways permitted within Cove. Furthermore, a significant number of representations have been received in support of the application which demonstrate, at least in part, some level of local demand for the proposed use.*

- The extraction system terminates onto a pedestrian walkway into a residents' stairwell. The kitchen extract for a hot food takeaway should be re-routed;

*As noted above, the kitchen extract system has been amended to flue through, and terminate atop, the existing rear extension.*

- Residents were informed when buying their house that the commercial units would never be

used for the sale of fast food.

*There are no Planning conditions or restrictions that prevent the premises from being operated as a hot-food takeaway. Title deed restrictions or private contractual arrangements are not a material planning consideration.*

## **Stop the Clock**

The applicant was requested to submit a Noise and Odour Impact Assessment on 1 December 2020. The information was not submitted until 14 April 2021, therefore the application clock has been stopped to cover the intervening period of time.

## **RECOMMENDATION**

Approve Conditionally

## **REASON FOR RECOMMENDATION**

Subject to conditions requiring the implementation of appropriate mitigation measures including the installation of a new kitchen extraction duct, the proposed change of use would not have a detrimental impact on the amenity of any neighbouring properties, thus the proposals are acceptable in accordance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 (ALDP). The Council's Harmony of Uses supplementary guidance states a general presumption against permitting hot-food takeaways within the same building as residential properties, unless it is considered that there would be no significant detrimental impact on the amenity of those properties. The Planning Service is satisfied that although there would likely be some impact on amenity resulting from the new use, the impact would not be significant, thus the proposals are compliant with the Harmony of Uses supplementary guidance.

The proposed use would not have a detrimental impact on the amenity of any neighbouring properties in terms of noise emissions, in accordance with ALDP Policy T5 (Noise) and the supplementary guidance on Noise. Waste generated from the proposed use would be satisfactorily stored and collected without harm to amenity, in accordance with Policy R6 (Waste Management Requirements for New Development) of the ALDP.

The new kitchen extract duct would be positioned on the flat-roofed rear extension and would not be prominently visible, thus preserving the visual amenity and character of the area, in accordance with Policy D1 (Quality Placemaking by Design) of the ALDP.

There is sufficient off-street car parking available in the surrounding area (including designated spaces for the commercial units on Charleston Road North) to ensure that customers visiting the premises by car would be able to park without detriment to the parking availability for residents or to road safety. The site lies on the periphery of a residential area, in close proximity to a bus route and the use would be accessible by sustainable and active travel, in accordance with ALDP Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) and the Council's Transport and Accessibility supplementary guidance.

The proposed change of use is also compliant with the corresponding and new policies of the Proposed Aberdeen Local Development Plan 2020 (PALDP): H1 (Residential Areas), D1 (Quality Placemaking), D2 (Amenity), R5 (Waste Management Requirements in New Development), T2 (Sustainable Transport), T3 (Parking) and WB3 (Noise).

## **CONDITIONS**

### **(1) OPERATIONAL HOURS**

The hereby approved use shall operate between the hours of 9am and 10pm only on any given day in the week, and at no other time whatsoever.

Reason: In order to preserve the amenity of neighbouring residential properties during the more sensitive late evening and early morning hours.

### **(2) NOISE MITIGATION**

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Noise Impact Assessment (Reference: Project Number: P8322, Issue 4.0, Date: 14 April 2021) have been implemented in full. These must include:

- a) The installation of a local Extract Ventilation (LEV) fan with a sound power level across the frequency spectrum which complies with that detailed within section 4.0 Table 1 (and appendix 2 page 18)
- b) The installation of a fan silencer with sound attenuation across the frequency spectrum at least equivalent to that of the 80/1200 model detailed within section 4.0 Table 2 (and appendix 2 page 17).
- c) The termination point for the LEV aligns with the position detailed within the report.

Thereafter the mitigation measures, or similar as may be agreed in writing with the Planning Authority, shall remain in place for the duration of the use.

Reason: In order to preserve the amenity of neighbouring residential properties from noise emissions associated to the new use.

### **(3) ODOUR MITIGATION**

The hereby approved use shall not commence unless the mitigation measures recommended in the approved Odour Assessment (Reference: Project Number: P8332.02, Issue 3.0, Date: 14 April 2021) have been implemented in full. These must include:

- a) The ventilation requirements detailed within section 4.7.1
- b) The odour mitigation requirements detailed within section 4.7.2
- c) Installation of the rooftop kitchen extract duct shown on hereby approved drawing no. 102 Rev B

Thereafter the mitigation measures, or similar as may be agreed in writing with the Planning Authority, shall remain in place for the duration of the use.

Reason: In order to preserve the amenity of neighbouring residential properties from odour emissions associated to the new use.

### **(4) LITTER BIN PROVISION**

The hereby approved use shall not commence unless internal and external litter bins are provided by the operator during hours of operation, in accordance with the details set out in

the 'Customer Waste' section of the hereby approved Supporting Statement (ref: 201397-01 Rev A). Thereafter litter bins shall be provided in accordance with the agreed details and shall remain in place for the duration of the use.

Reason: In order to minimise the risk of litter from customers and to preserve the amenity of the area.

## **ADVISORY NOTES FOR APPLICANT**

### **(1) WASTE MANAGEMENT**

- Business premises need to be provided with a bin store to accommodate, within the property, the waste and recycling bins.
- Commercial waste bins cannot be stored on the street any day of the week as per Council Policy 2009 (Obstructions- Commercial Waste Bins). Infringement on the Council Policy can lead to a fine of £500 per bin as adopted by the Enterprise, Strategic Planning and Infrastructure Committee on 29th August 2013
- There are many waste contract collection providers operating in Aberdeen and each one provides different collection of waste and recycling services. For this reason, business premises need to liaise with their waste contract collection to ensure the correct management of their waste.
- Business premises have a legal Duty of Care covering all the waste they produce. This means that it is the Business premises responsibility to manage and dispose of any waste correctly.
- The Waste (Scotland) 2012 requires that all businesses from 1st January 2014 are required to separate paper, cardboard, glass, plastic and metals for recycling. Some businesses will additionally be required to separate their food waste (where food waste >5kg per week).

### **General tips for site**

The following is needed:

- An area of hard standing at storage and collections point(s)
- Dropped kerb at proposed bin collection point
- Yellow lines in front of bin collection point
- Bin storage areas to ideally be provided with a gully and wash down facility for the interest of hygiene

For further independent guidance about waste and recycling provision, storage and collection please refer to the following document:

[http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste\\_000.pdf](http://www.lgcplus.com/Journals/3/Files/2010/7/14/ADEPTMakingspaceforwaste_000.pdf) and additional Trade Waste information can be found in the Waste Supplementary Guidance available at <http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=74584&sID=14394>

### **(2) ODOUR MANAGEMENT**

The Council's Environmental Health Service would recommend strict adherence to the managerial controls detailed within section 4.7.3 (Odour Management Plan) of the approved Odour Impact Assessment, to reduce risk of malodour and statutory nuisance going forward.

This page is intentionally left blank



# PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

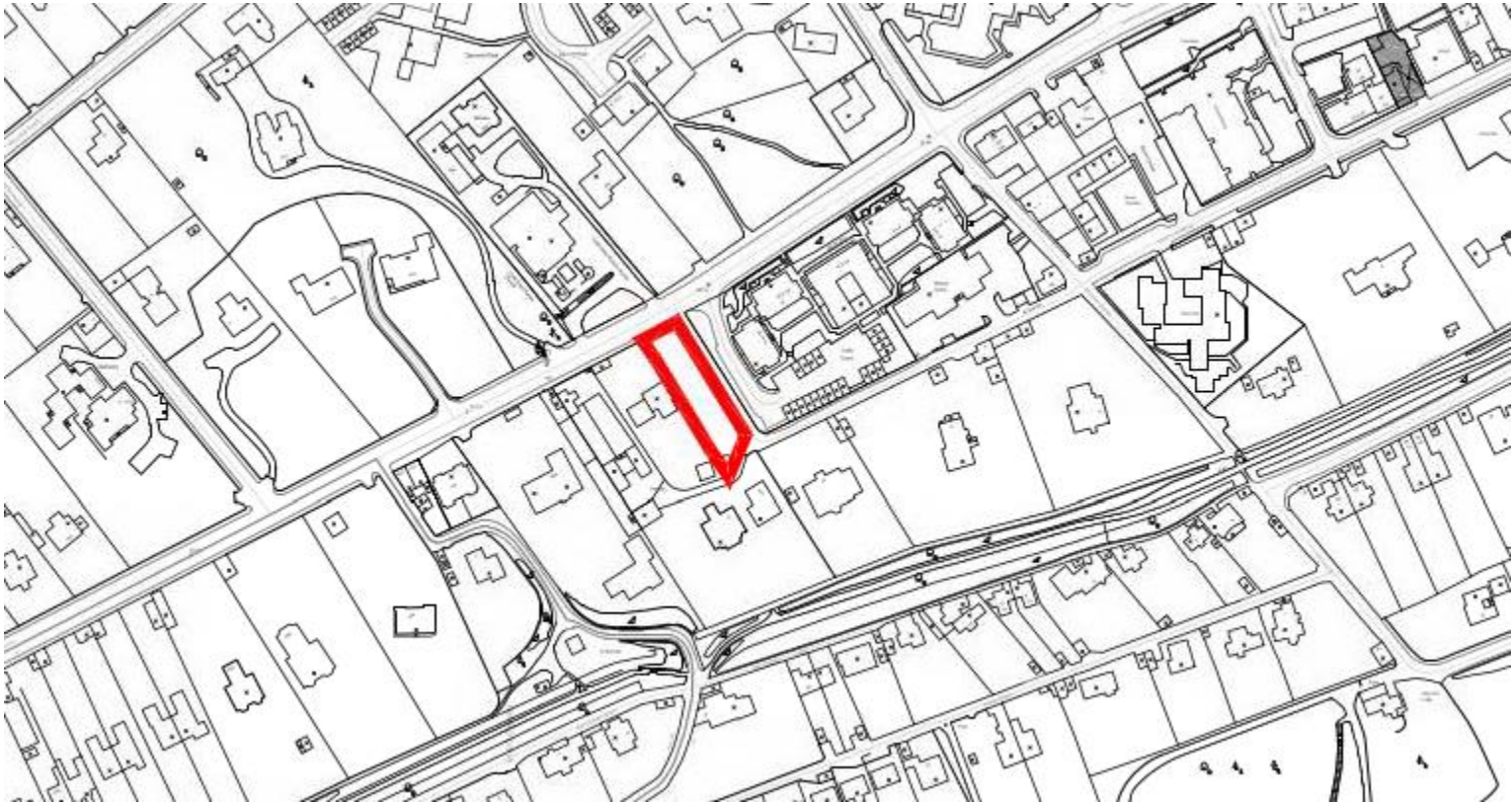


Erection of 4no. Residential units (3 flats and 1 house)

19 South Avenue, Cults

Detailed Planning Permission  
201630/DPP

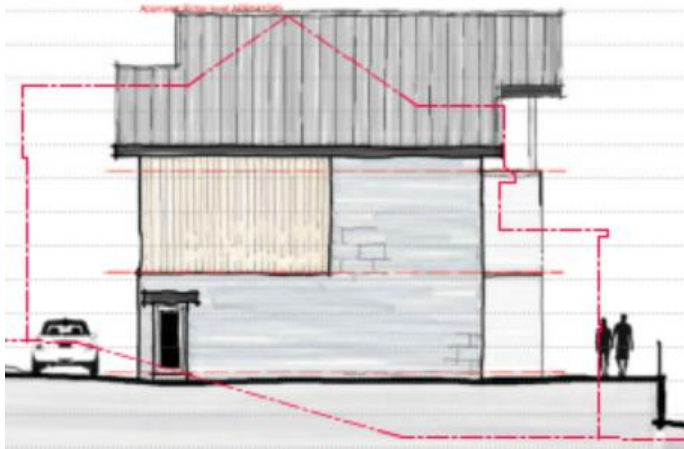
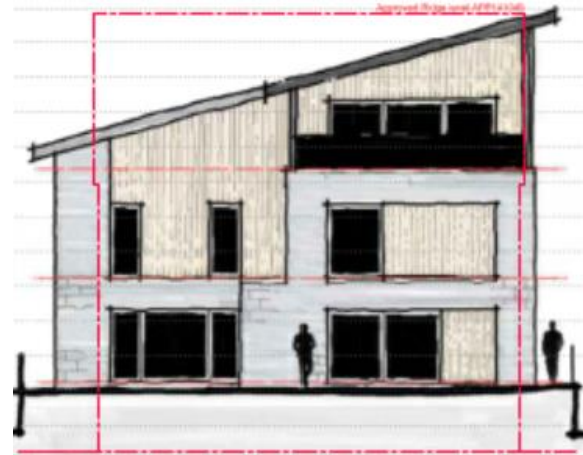
# Location Plan



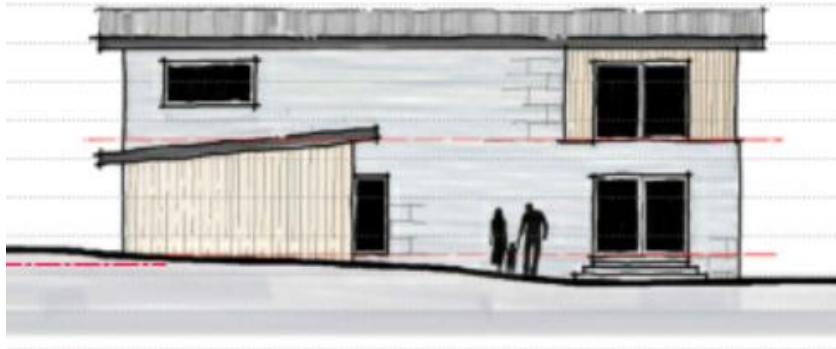
# Aerial Photo



# Proposed Elevations – flatted block



# Proposed Elevations



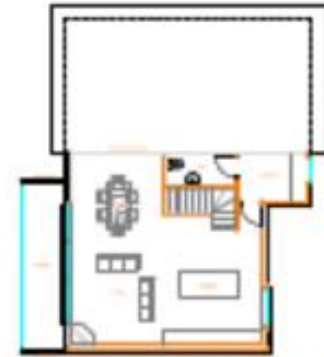
# Proposed Floorplans



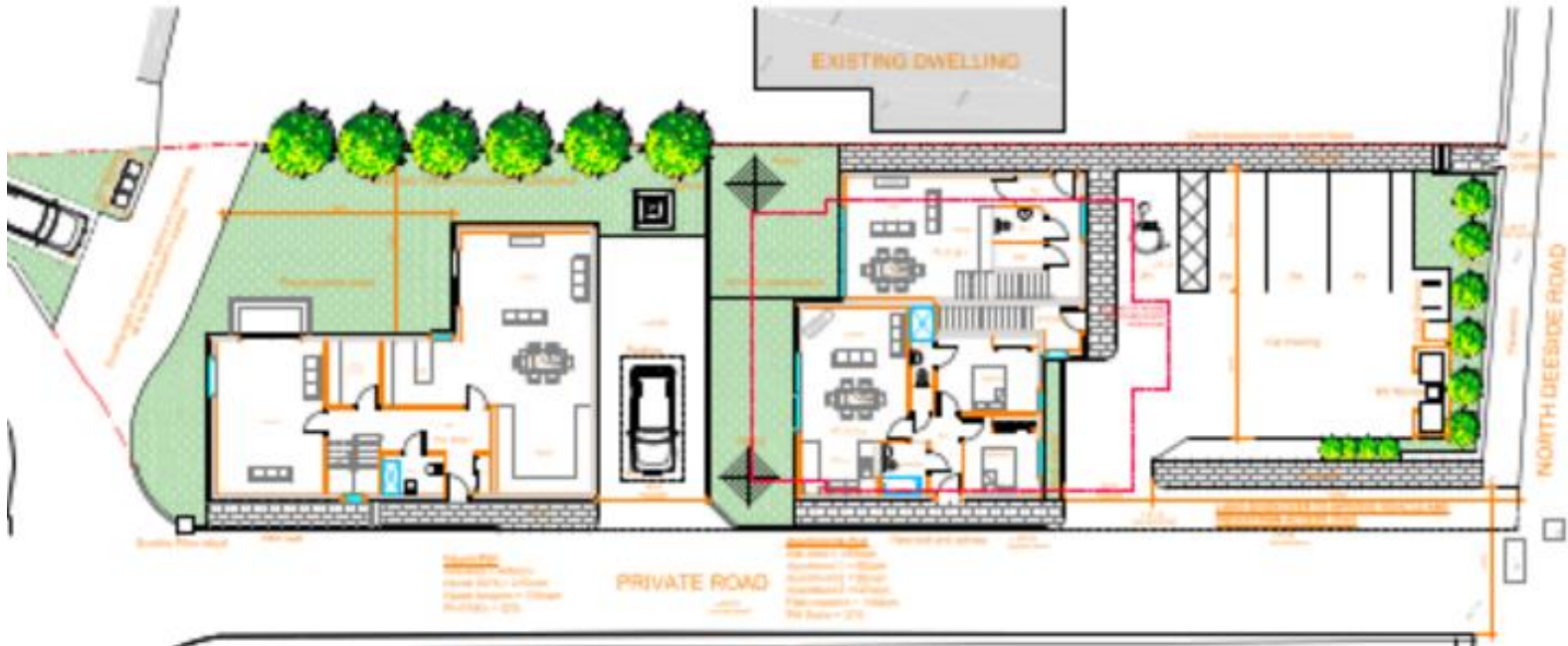
First Floor Plan - House  
Scale 1:100



First Floor Plan - Apartments  
Scale 1:100

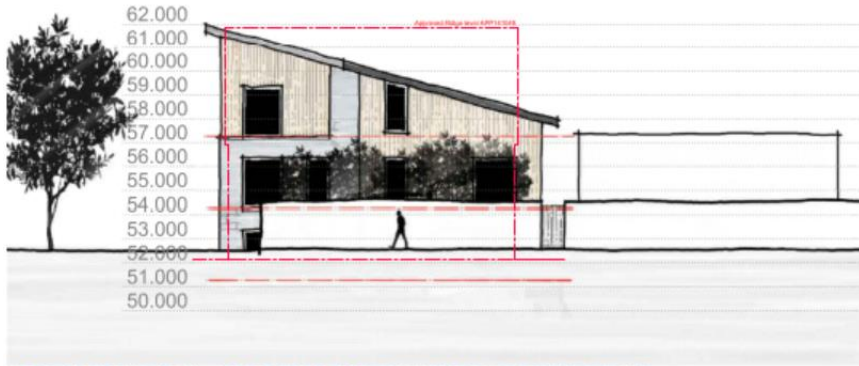


Second Floor Plan - Apartments  
Scale 1:100



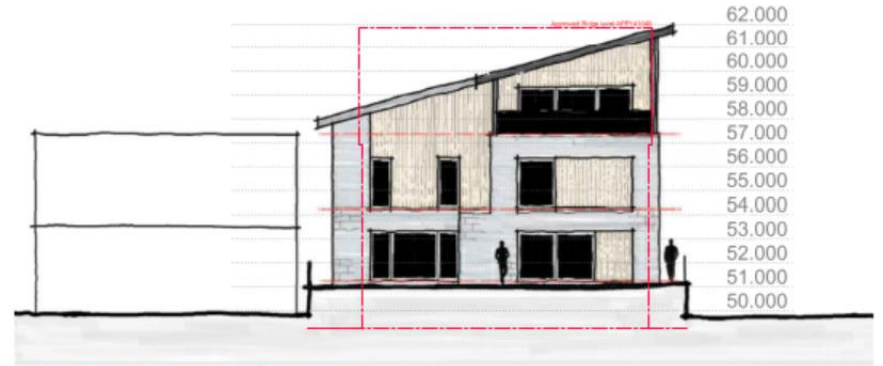
# Street Elevation

Page 135



**NORTH ELEVATION - APARTMENTS FROM NORTH DEESIDE ROAD**

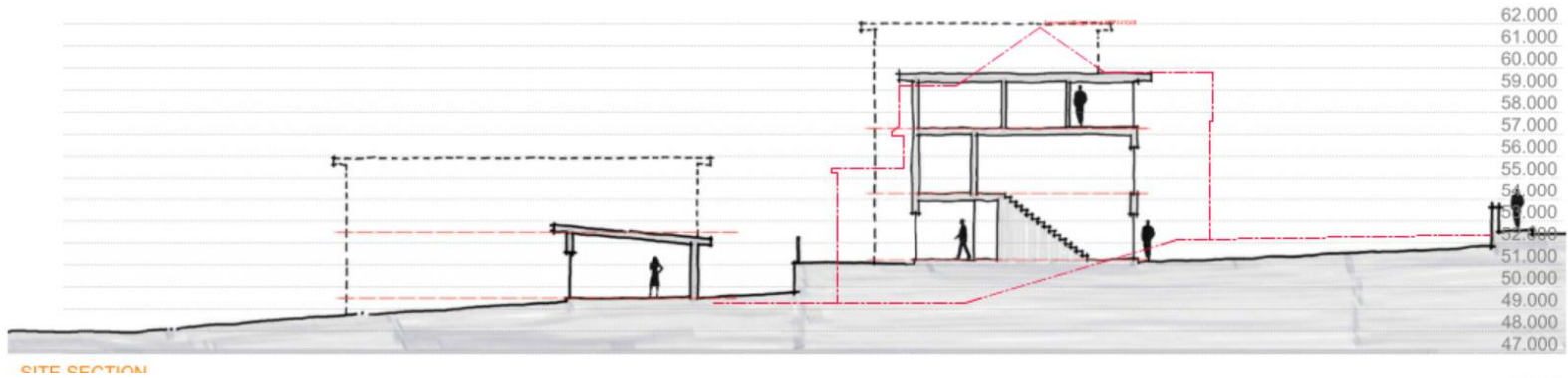
Scale 1:100



**SOUTH ELEVATION - APARTMENTS**

Scale 1:100

# Cross section





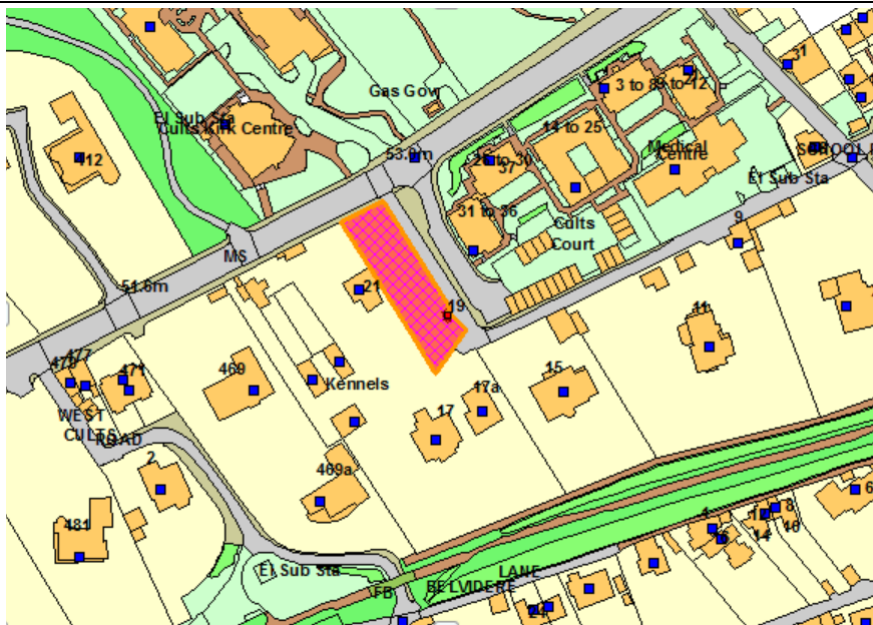


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 22 April 2021

<b>Site Address:</b>	19 South Avenue, Aberdeen, AB15 9LQ,
<b>Application Description:</b>	Erection of 4 residential units (3 apartments and 1 house) with associated works
<b>Application Ref:</b>	201630/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	5 January 2021
<b>Applicant:</b>	3J Property Investments
<b>Ward:</b>	Lower Deeside
<b>Community Council:</b>	Cults, Bieldside and Milltimber
<b>Case Officer:</b>	Dineke Brasier



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

## **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

A fairly rectangular site measuring c.60m by c.16m and extending to c.925m<sup>2</sup> located on the corner of South Avenue and North Deeside Road within Cults. The site was previously occupied by a detached 1½ storey dwelling, which was demolished in 2014 in anticipation of the granting of a previous planning permission on the site for a single detached dwelling (ref. 141049). The site is

therefore now vacant and has been cleared for development. To the west is a neighbouring detached dwelling – 21 South Avenue; to the south is an area of hardstanding providing access to various dwellings and the Kennels (17 South Avenue). Along the eastern and northern boundary was a traditional high granite wall, however this was demolished in the winter of 2019/2020 under permitted development rights. The site is now cleared, levelled and secured with Heras fencing. A triangular section extending to c.75m<sup>2</sup> in the south west corner of the site carries a vehicular right of access serving 21 South Avenue immediately to the west of the application site, which will need to be retained.

This section of South Avenue, though not private, is currently unadopted. It is a narrow stretch of road in a relatively poor state of repair, measuring c.4.3m in width, with no separated footpath. To the east is the high boundary wall serving Cults Court – a flatted development centred around the former Cults School. Apart from the application site, it further serves 15, 17, 17A and 21 South Avenue, including the Kennels business. Even though this part of South Avenue is connected to the remainder of the road further to the east, the section roughly between 11 and 15 South Avenue is in such a poor state of repair that it could be considered impassable for 'normal' cars, with only the weekly bin lorry using this stretch of road on a regular basis.

### **Relevant Planning History**

**141049** – Erection of detached dwelling with integral garage and associated works – Approved on 13<sup>th</sup> November 2014. No satisfactory evidence has been provided to demonstrate that this permission has been implemented within three years of the issue of the decision notice, and as such the Planning Authority considers that the permission has lapsed.

**161721/DPP** – Erection of four flats and associated parking – Refused on 9<sup>th</sup> February 2017 by Planning Development Management Committee

**180143/DPP** – Erection of four flats, associated parking, landscaping and part removal of boundary wall – Refused on 22<sup>nd</sup> March 2018 by Planning Development Management Committee, and subsequently dismissed on appeal by the Reporter of the Planning and Environmental Appeals Division of the Scottish Government. The main reasons for refusal for this application were based on the following:

- Overdevelopment of the site;
- Adverse impact on character and appearance of the surrounding area;
- Poor quality design; and
- Adverse impact on residential amenity of 21 South Avenue and residents at Cults Court.

**201630/DPP** – Erection of four detached dwelling houses – Refused on 20<sup>th</sup> August 2020 by Planning Development Management Committee, and subsequently dismissed on appeal by the Reporter of the Planning and Environmental Appeals Division of the Scottish Government. The main reasons for refusal for this last application were similar as those for 180143/DPP and included the following:

- Overdevelopment of the site;
- Adverse impact on character and appearance of the surrounding area;
- Poor quality design; and
- Adverse impact on residential amenity of 21 South Avenue.

### **APPLICATION DESCRIPTION**

#### **Description of Proposal**

Detailed Planning Permission is sought for the construction of a block of three flats and a separate

detached dwelling. The block of flats would be located in the northern half of the site, roughly lining up with the front elevation of the neighbouring property at 21 South Avenue. The building would contain 1no. two bedroom flat and 2no. two bedroom flats with additional study. It would have a footprint of c.144m<sup>2</sup>, and would be shaped by two adjoining rectangles, with the one nearest 21 South Avenue projecting c.1.75m further north. It would have a total width of c.13.5m, and each rectangle would have a length of c.10.3m. The building would contain a total of three storeys with a mono-pitched roof, and would have an overall height of c.7.1m adjacent to no.21 South Avenue, and c.10.6m adjacent to South Avenue. Fenestration would be provided across all levels, and would be predominantly located in the north and south elevations, with proposed materials including granite and timber cladding for the walls; dark grey standing seam metal roof; and dark grey 'alu-clad' windows and doors. Vehicular access would be provided to the front of the building from South Avenue, with a parking court containing four parking spaces, one of which for disabled use; a bin store; and cycle storage. To the rear would be two small external amenity areas with a depth ranging between c.3.6m and c.5.1m.

Moving south, due to the change in levels and the construction of a plateau to ensure the first building and its associated external areas would be on a similar level, there would be a drop of c.1.5m to the driveway serving the two storey detached dwelling. This dwelling would again be constructed on an artificial plateau. It would have a footprint of c.138m<sup>2</sup>, would have a mono-pitched roof with a height varying between c.6.5m and c.5.5m. The building would be L-shaped, and would generally measure c.16m by c.7m with a further single storey projection of c.4.5m by c.6m. The proposed dwelling would have main living accommodation on the ground floor with three bedrooms and an office on the first floor. It would have a rear garden with a maximum depth of 7.7m. Fenestration would generally be located on the east, west and south elevations. Proposed materials would match the block of flats and would include granite and timber cladding for the walls; dark grey standing seam metal roofing and dark grey 'alu-clad' windows and doors.

#### Amended drawings

The applicant submitted amended drawings during the application process, which were not requested by the Planning Authority, with the main alterations including revisions to the height and roofline of the block of flats; repositioning of the balcony in the block of flats; and alterations to the proposed site plan including revisions to parking arrangements and inclusion of EV charging provisions. These alterations were considered material to require a second period of neighbour notification and renotification to the Community Council.

#### **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=QLSV5GBZFL100>

Design Statement by RJM Architecture providing a justification of the proposed design solution.

Supplementary Statement by Aurora Planning providing their assessment of the proposal against planning policies.

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

The application has been referred to the Planning Development Management Committee because more than six letters of objection were received (a total of 26) and the Cults, Bielside and Milltimber Community Council lodged an objection against the proposal.

#### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection. Sufficient parking provided to

serve the development. Ducting is shown for electric car charging provision, which is welcomed. Sufficient bike storage is shown. It is likely that the application will require to be subject to a Section 56 Roads Construction Consent procedure due to the proposed amendments to the existing adopted road at the North Deeside junction where the access is widened.

**ACC - Environmental Health** – No objection subject to incorporation of adequate sound insulation measures into the design of the flats/house. This is to ensure that under reasonable circumstances, bearing in mind the location of the proposal, internal noise levels do not exceed the relevant WHO guideline values for community noise for dwellings indoors and inside bedrooms (i.e. LAeq of 35dB (day) and 30dB (night) respectively. Advises the use of an informative in relation to noise from site/ground preparation and construction works, including hours of construction.

**ACC - Waste and Recycling** – No objections. This part of South Avenue is served by a small waste vehicle. It should be ensured this service can be continued.

**Cults, Bieldside and Milltimber Community Council – Objection**. Keen to see a sympathetic redevelopment of this long-derelict site, but this proposal fails to address the concerns raised in relation to the previous proposal 200533/DPP. Raises the following specific issues:

1. The north-south section of South Avenue is a natural divide in built character between the flats of Cults Court and the detached and semi-detached housing to the west. The presence of the care home on the north side of North Deeside Road does not justify the presence of a 3-storey block on the north when neighbouring properties are detached houses.
2. Inconsistencies in site areas. Notes the Reporters view that the triangular area to the south of the vehicular access to 21 South Avenue should be excluded from site area calculations. Presumably the bin store and parking space in this area are shown to justify its inclusion but based on visual inspection, this seems too small to accommodate these without inconvenience to neighbours.
3. The proposal represents a subdivision of an existing curtilage. It is considered that this fails to respect the established pattern of development, and that the scale and massing, particularly of the apartment block, does not complement the surrounding properties, and that the plot density is substantially greater than that of the surrounding properties (ref: Supplementary Guidance for Sub-division and Redevelopment of Residential Curtilages).
4. Insufficient parking, particularly for the flats. No swept paths submitted. Turning movements appear very tight, with parking for the detached house involving emerging straight onto South Avenue from behind a blind wall. Little or no parking space available for visitors or tradespeople.

Additional comments:

Amended drawings do not remove objections previously raised.

**REPRESENTATIONS**

Two periods of neighbour notification were undertaken. The first raised a total of 16 letters of objection, with the second a total of 17 letters of objection, 7 raised additional comments following on from earlier letters of objection during the first round of neighbour notification. As such, the total number of objectors to the proposed scheme would be 26. Matters raised were as follows:

Impact on surrounding area and design:

1. Overdevelopment of the site. Not enough space for buildings and access on the site;
2. Development would have an adverse impact on the streetscape and would not be in keeping with other properties in the immediate location; Proposal would have an adverse impact on the character and appearance of the surrounding area;
3. Proposed density would set an unacceptable precedent for this distinctive suburb of Aberdeen, which is characterised by a low density of housing, large gardens and a building

- line well set back from the main road;
4. Design of the dwellings is not appropriate to the surrounding properties;

Impact on residential amenity:

5. Residential amenity of 21 South Avenue would be affected through being overshadowed and its privacy invaded, including overlooking, with the block of flats being overbearing due to its height, bulk, massing and position;
6. Some of the western facing flats at Cults Court will be overshadowed and would lose privacy;
7. South facing windows would overlook 17A South Avenue
8. Proposed design would not provide an acceptable level of residential amenity for current or future residents in terms of outlook or useable private space;
9. Due to its design, the proposed apartment block would be overbearing on the proposed dwelling;

Impact on local highway conditions:

10. Condition of South Avenue is poor to access the development. It is a narrow, private road allowing one-way traffic only;
11. Anticipated one-way traffic system onto South Avenue would not reduce the safety concern of having multiple accesses onto/coming from North Deeside in close proximity;
12. Sightline issues on junction between South Avenue/North Deeside. Reintroduction of boundary wall will aggravate this;
13. Confusion re section of land to be given over to ACC for improvements to South Avenue;
14. Proposal would add additional traffic to North Deeside Road, thus further contributing to congestion;
15. Insufficient parking provided, which could result in overflow of cars using the Cults Court car park; No visitor parking provided;
16. Proposed parking space in southern triangular section would mean space restrictions and view of sight would be severely limited for the owners of 21 South Avenue;
17. One-way system is not included in current application so should not be considered;

Others:

18. By covering a large area of the site with buildings and car parking, the water drain off into the private road will be increased during heavy rainfall, potentially affecting the entrance area to a number of properties at the bottom of the hill.
19. Three previous applications for a similar kind of development have been refused on the site;
20. Removal of boundary wall and burning of refuse at the site shows disregard for Planning Authority and the community in general;
21. Size of the site is inconsistent as current application states this to be 988m<sup>2</sup>, whereas previous application 200533/DPP set this out to be 925m<sup>2</sup>; access area for 17 and 21 South Avenue should not be included in the site measurements; the parking space in the southern triangle only seems to be included to justify the site calculations; The site area can't continually change for each application – this should be a given;
22. Insufficient information provided on changes of levels. This will have an impact on the planned pavement section and access to the properties for both vehicles and pedestrians;
23. Application should be refused for same reasons as previous applications;
24. Pillar in south east corner is over 200 years old and should be retained; Site used to have a wall at the south end marking the boundary edge and this wall was curved to the north;
25. 24-hour access required to driveways off South Avenue – this cannot be blocked during the construction period; Driveway to 19, 17A, 17 and the kennel business was agreed to be repaired properly by the applicant. This has not yet been done;

Additional matters raised during second notification period:

26. Local amenities such as schools are already overcrowded;
  27. Height increase on eastern elevation makes proposed building more negatively imposing, out of character and inappropriate;
- 

## **MATERIAL CONSIDERATIONS**

### **Legislative Requirements**

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

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

Scottish Planning Policy (SPP) was approved on 18 December 2020. In February 2021, a Judicial Review of the decision of the Scottish Ministers on 18 December 2020 to amend Scottish Planning Policy (2014) as set out in 'Scottish Planning Policy Finalised Documents' and to publish 'Planning Advice Note 1/2020' was lodged with the Court of Session. As it stands, SPP2020 remains in place and is a relevant consideration in the determination of all planning applications.

SPP promotes sustainable development, and carries a presumption in favour of development. However, paragraph 28 sets out that the aim is to achieve the right development in the right place, it is not to allow development at any cost. As such, assessment against Local Plan policies should demonstrate whether a proposed development is right for its location, and thus whether the proposal would comply with this overarching aim of SPP.

It further sets out that planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. Proposals that accord with development plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. Proposals that do not accord with the development should not be considered acceptable unless material considerations indicate otherwise.

### **Aberdeen City and Shire Strategic Development Plan (2020) (SDP)**

Although the SDP forms part of the Development Plan, the proposal is of a scale and nature that does not result in strategic or cross boundary impacts and does not therefore require to be assessed against the SDP.

### **Aberdeen Local Development Plan (2017)**

H1: Residential Areas

D1: Quality Placemaking by Design

T2: Managing the Transport Impact of Development

R6: Waste Management Requirements for New Development

R7: Low and Zero Carbon Building and Water Efficiency

### **Supplementary Guidance**

Subdivision and Redevelopment of Residential Curtilages

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. A period of representation in public was undertaken from May to August

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 –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis.

H1: Residential Areas

D1: Quality Placemaking

D2: Amenity

T2: Sustainable Transport

T3: Parking

R5: Waste Management Requirements in New Development

R6: Low and Zero Carbon and Water Efficiency

### **Other material considerations**

Planning history as listed above

Appeal decision PPA-100-2089 issued on 5<sup>th</sup> September 2018 in relation to 180143/DPP

Appeal decision PPA-100-2115 issued on 24<sup>th</sup> December 2020 in relation to 200533/DPP

## **EVALUATION**

### **Principle of Development**

The site is located in a residential area in Cults, and policy H1 of the 2017 Aberdeen Local Development Plan applies. This policy sets out that residential development would be acceptable in principle, provided it:

1. Would not constitute overdevelopment;
2. Would not have an adverse impact on the character and amenity of the surrounding area;
3. Would not result in the loss of valued and valuable open space; and
4. Would comply with relevant Supplementary Guidance (SG) in this case SG on Subdivision and Redevelopment of Residential Curtilages.

The site was previously occupied by a single dwelling and its associated residential curtilage, and therefore does not constitute open space. As such, the proposal would comply with this part of policy H1. All other criteria will be discussed in detail below.

### **Level of development and impact on character and appearance of the surrounding area**

Policy D1 sets out that quality placemaking is at the core of planning in Aberdeen. 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.

As part of that assessment, all development must follow a thorough process of site context appraisal to arrive at an appropriate design solution. Even though not all development will be of a scale to make a significant placemaking impact, all good design and detail adds to the attractiveness of the built and natural environment and consideration is crucial.

As part of this context, the historic development of an area provides a crucial element in this assessment, and can set the parameters for development in relation to issues such as density, building line, massing and appropriate scale of development. In this case, historic maps dating back to the 1860s show that the position of roads including North Deeside Road, West Cults Road and South Avenue are generally fixed, with a number of dwellings constructed to the south of South Avenue, including detached properties at numbers 15 and 17, the latter being positioned immediately to the south of the application site, with the former being somewhat to the south east, forming a relatively straight building line. This map also shows a single building roughly in the position of 477-479 North Deeside Road, immediately fronting this road.

The historic map dating from the 1920s shows that the general character of the area is continually defined by additional development further west with dwellings roughly set halfway between North Deeside Road and the, now, Deeside Way. This clearly demonstrates the main characteristic of this area, which consists of dwellings in substantial plots set back from North Deeside Road with a generous garden to both the north and south of the property. This map also shows that the former Cults School which was later integrated into the flats at Cults Court has now been constructed fronting directly onto the North Deeside Road.

Finally, by the 1950s, the previous dwelling at 19 South Avenue that has been demolished in 2014, and the kennel buildings had been constructed. Again, these buildings roughly followed the pattern of development and general building lines as set by previous development phases, especially in relation to the houses fronting directly onto North Deeside Road. Again, even though the plots in themselves were smaller, the properties were located centrally within the plot, keeping a clear separation between the dwelling and North Deeside Road.

It can be concluded from the above, that it is clear that the general pattern of development in this area comprises detached or semi-detached dwellings with a north-south orientation, and set roughly central within long, rectangular plots, with the historic exceptions of the former Cults School and the building at 477-479 North Deeside Road. It should be noted that both of these buildings were not purely residential as the first was originally constructed as a primary school serving the village and the latter historically has a commercial element on the ground floor.

It is further noted that in relation to density, this junction of North Deeside Road and South Avenue presents a transition between the higher density area, including the village centre of Cults and its shops and facilities to the east and the lower density area as described above to the west. Again, upon assessment of historic maps, it is clear that the village centre originally centred on the junction of Kirk Brae/North Deeside Road/Devenick Place and expanded east and westwards from there. This area has always had a higher density than the character area as described in detail above. Furthermore, it should be noted that, on the historic map dating from the 1950s mentioned previously, even though a property was constructed at the application site, there were still some undeveloped areas between the village centre and this area to the west of South Avenue. It is therefore clear that the site falls within this lower density, predominantly residential area, rather than the higher density, more mixed-use area of the village centre further to the east. This lower density area starts at this point, and then stretches westwards towards Bielside and Milltimber.

This change in character of the surrounding area when walking in a westwards direction past South Avenue is acknowledged in both appeal decisions for previous applications 180149/DPP and 200533/DPP by two different Reporters:

*'When walking westwards along North Deeside Road past Cults Court the character of development does change when passing South Avenue' (appeal reference PPA-100-2089, in relation to 180143/DPP) and;*

*'I find that the low level kennel buildings and the flatted properties at the edge of North Deeside*



*Road are the exception rather than the rule. I do not find that the high density character of the flats at Cults Court generally continues westwards beyond South Avenue. I therefore agree with the Council's view that this transition westwards to a lower density character occurs at the point of the junction between South Avenue and North Deeside Road, rather than further to the west. (appeal reference PPA-100-2115, in relation to 200533/DPP)'*

Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages sets out the following in relation to development proposals:

1. New dwellings must respect the established pattern of development formed by the relationship between buildings and their surrounding spaces (gardens etc.);
2. The scale and massing of any new dwellings should complement the scale of surrounding properties;
3. The density of the surrounding area should be reflected in the development proposals. As a general guide, no more than a third of the total site area for each individual curtilage should be built upon;
4. New dwellings should generally not project forward of any established building line; and
5. The distance between proposed dwellings, and between proposed and existing dwellings should be similar to that predominating on the street.

This current application is again for a total of four units, similar to the previous applications 161721/DPP, 180143/DPP and 200533/DPP, albeit in a different configuration – a single block containing three flats (although it could be argued that one of the units is more resembling a house than a flat) in the northern half of the site, and a further detached dwelling in the southern half of the site. The overall site area is 925m<sup>2</sup>, similar to that of the previous application, and including the 37m<sup>2</sup> area to be given over for junction improvements at the north east corner of the site. The plot accommodating the flats would measure c.463m<sup>2</sup>, with the plot accommodating the house measuring c.425m<sup>2</sup>. This latter plot would incorporate a triangular plot accommodating an existing vehicular right of access to 21 South Avenue located on the southern edge of the site. This area was discounted by the Planning Authority as part of the development area for the previous application 200533/DPP, which was backed up by the Reporter in his appeal decision:

*'Taking into account the proposed layout of the site, the neighbouring properties and existing access arrangements, I do not agree that the access area for 21 South Avenue can be said to form part of Plot 1 for planning purposes (appeal reference PPA-100-2115, in relation to 200533/DPP)'*.

In this current proposed site layout, part of this triangular plot is used to accommodate a second parking space and bin store for the detached dwelling. Even though these are uses that could be considered aligned with the use of the proposed dwelling, it is still separated from the rest of the plot by the vehicular access serving 21 South Avenue. As such it is considered, and taking consideration of the appeal decision referred to above, that this area should not be included in site coverage calculations. As such, the size of the plot serving the dwelling, and the overall development site, should be reduced by 75m<sup>2</sup>, resulting in the plot for the dwelling extending to 350m<sup>2</sup>, and an overall development site of 813m<sup>2</sup>. The footprint of the detached dwelling would therefore cover c.39% of its plot. The footprint of the block of flats would cover c.31% of its plot, and overall development levels across the development site would stand at c.35%.

As such, the plot ratios for both the detached dwelling in its own plot, and the overall development on the site would exceed the third as set out in the SG, in clear conflict with this part of the SG and also out of keeping with the prevailing character of the area to the west of South Avenue.

Even though the final figure for plot ratio of the flatted block is lower than the third set out as a general guide in the SG, it should be emphasised that this figure of a third is a guide and that the density of the established surrounding area should be reflected in the development proposals to ensure the proposal is suitable for its context, and would not have an adverse impact on its character and appearance. As set out above, the context for this application site is that of a generally low density residential area predominantly characterised by detached and semi-detached dwellings. Overall plot ratios tend to be low, with a plot ratio of c14% for the neighbouring dwelling at 21 South Avenue, and c.13.75% for the nearby dwelling at 15 South Avenue. As such, when seen in this context, the proposed development ratio of 31% for the flatted block would be substantially higher, and out of context in the surrounding area, thereby providing conflict with this criterion of SG, and thus policies D1 and H1.

It should further be considered that the proposal is for a single detached dwelling and three flats in an area characterised by family dwellings. As such, the concept of a block of flats would be out of context in the surrounding area, and the high density of the proposed development is reflected in the proposed site layout. Due to the large number of units provided on the site, this would need to be accompanied by facilities to serve these flats and the dwelling. As such, the proposed site plan shows that the vast majority (c.81%) of the area to the front of the flatted units would need to be covered in hard standing to accommodate parking, access, and bin and bike stores. Supplementary Guidance on Transport and Accessibility sets out that *'Where it is necessary to accommodate car parking within a private court, no more than 50% of the court should be taken up by parking spaces and access roads'*. In this case, this figure of c.81% would be excessively above this figure of 50% and the proposal would therefore not meet this criterion.

The excessively high level of development is further emphasised by the fact that there is insufficient space to accommodate the building itself, parking and good quality external amenity space of an appropriate size. The proposed garden space would serve only two out of three units (a total of 64m<sup>2</sup> split into two individual areas of 32m<sup>2</sup> each – with the area serving the eastern unit having a depth of only 3.5m). It should be added that the third unit does not have access to any garden ground with its only external amenity space being a balcony. This demonstrates that the proposed block of flats would be out of context in this general area, which is characterised by buildings (detached and semi-detached dwellings) set in substantial gardens, and that the site is too small to adequately accommodate a block of flats this size and associated facilities.

In addition, when viewed from North Deeside Road, despite the narrow strip of landscaping along the northern boundary and the change of levels from North Deeside Road down to the site, the proposed parking court would have an unacceptable and uncharacteristic hard appearance, which would not be representative of the surrounding area.

Similarly, the detached dwelling would be located very close to the edge of South Avenue, leaving a gap of c.1m and would have a relatively shallow rear garden with a depth ranging between c.3.3m and c.7.7m. Again, this short setback from the road would not be characteristic in the surrounding area and does not demonstrate sufficient awareness of the site context. It is noted that 9 South Avenue fronts immediately out onto South Avenue, but, again, this seems to be a historic anomaly with the original building on the site most likely being an outbuilding serving one of the larger dwellings further to the south.

Furthermore, even though the proposed block of flats would follow the established building line set by the front elevation of 21 South Avenue, the proposed detached dwelling would sit between this building line and that established by dwellings facing out towards the Deeside Way further to the

south (including 15, 17 and 17A South Avenue). As such, this part of the proposal would introduce an additional building line, and would not respect the pattern of development prevalent in the surrounding area, contrary to requirements set out in the SG. Also, all properties in the surrounding area have either a north or south facing principal elevation, a north-south orientation with south facing gardens resulting in a consistent pattern of development. This proposed dwelling would have an east facing principal elevation and an east-west orientation, which would be contrary to the general arrangement in the surrounding area. In addition, the established pattern of development is further not respected as, even though the distance between the north elevation of the detached dwelling and the south elevation of the flatted block would stand at c.8m, this would be made up of the external amenity space for the flatted block, then the retaining wall followed by the driveway for the dwelling. This, especially the retaining wall and its impact on the setting of the detached dwelling, is considered to have a detrimental impact on the character of the surrounding area and its visual amenity.

For the above reasons, the proposal would have a significant adverse impact on the character and appearance of the surrounding area, and has not taken suitable cognisance of the context of the surrounding area. It is therefore considered not to comply with policy D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the 2017 Aberdeen Local Development Plan and Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages, and Transport and Accessibility

## **Design**

### Flats

The proposed flatted block would incorporate a mono-pitched roof with its lowest end facing out towards 21 South Avenue sitting at a height of c.7m rising to c.11m at its highest point adjacent to the eastern site boundary. The front (north) and rear (south) elevations contain a variety of full height windows looking out towards North Deeside Road, whereas both side (east and west) elevations contain only a single fully glazed door providing access to two units. As a consequence, the east elevation facing out towards South Avenue would present an almost entirely blank elevation to this road. Due to its height, which at the rear sits at c.12m from the street level of South Avenue due to the use of a raised plateau, this blank elevation, would appear particularly overbearing and would lack amenity value to the street scene.

The building would be in a particularly prominent position when driving along North Deeside Road to the west, partly due to the significant gap in existing development between the entrance road into Cults Court and the application site, and, due to its starkness, especially the massing and design of this eastern elevation, would be considered to have a significant detrimental impact on the character, appearance and visual amenity of the surrounding area.

Furthermore, the east elevation as presented shows the overbearing impact of the proposed block of flats on the surrounding area, including the proposed detached dwelling to its south. The relationship between the two proposed buildings is not comfortable, which is further emphasised by the introduction of the artificial plateaus across the site, whereby the larger building to the north sits at a level c.1.5m higher than the significantly smaller building to the south. Again, this shows a lack of understanding of the site context and appreciation of the character of the surrounding area.

### Dwelling

The proposed dwelling would provide a clear frontage onto South Avenue, and would contain a mix of windows of various shapes and sizes and a front door. Fenestration would be located in three out of four elevations, bar the side (north) elevation facing directly towards the retaining wall,

which would have a height of c.1.5m at this point excluding railings, and the ground floor flat. It would have a similar mono-pitched roof design, and would be finished in similar materials.

The modern design and proposed use of materials itself is generally accepted. However, the proposed location of windows is a further indication that the development does not sit comfortably in its plot. The main issue being that the large open plan area containing a kitchen/dining/living/bar area would receive natural light through a set of sliding doors in the south elevation and a full height narrow window near the bar area, whilst there would be no direct natural light towards the kitchen area in the eastern part of this area.

For these above reasons, it is considered that the proposed design of the buildings would not meet the criteria as set out in policy D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan.

## **Residential Amenity**

### Future Residents

In comparison to previous proposals, the proposed design for the flats ensures that all habitable rooms would receive sufficient natural light. In addition, although limited, some external amenity space would be provided. There is no clear guidance on the amount of external amenity space to be provided for flats. Both ground floor units would have a small garden/yard extending to some c.32m<sup>2</sup>, although the depth of that serving the eastern unit would be very limited at c.3.5m. However, the small area serving the east unit would have the potential of being excessively overlooked and could be considered to suffer from a lack of privacy due to it being elevated above street level with no privacy screening. It is further considered that, due to this area being above street level, the introduction of a high boundary treatment at this point could have a further adverse impact on the character and appearance of the surrounding area in addition to that discussed above, and could therefore in itself not necessarily be considered acceptable to mitigate this issue. The third unit would have access to a balcony extending to c.12m<sup>2</sup> facing south with privacy screens installed on both the east and west sides. Therefore, though limited when taking consideration of the size of the individual units, it is considered that this would be acceptable.

The proposed rear garden of the dwelling would have a maximum depth of c.7.7m, reducing to c.3.3m to the rear of the single storey projection. Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages sets out that the minimum depth for rear gardens should be 9m. Reasons for this are twofold: firstly to ensure a sufficient level of residential amenity for the dwelling it serves, secondly to ensure sufficient spacing and ensure new dwellings would not have an overbearing impact on other properties. In relation to the first, even though the minimum depth of 9m is not achieved, the overall usable garden would extend to c.125m<sup>2</sup>. The main part of this garden would be orientated south-west and, even though there is a mature conifer hedge on this boundary, would receive sufficient sunlight to provide a good quality outdoor amenity area. So, although there is conflict with SG on this point, in this case it is accepted in relation to this first point. The spacing between the proposed dwelling and the neighbouring property at 21 South Avenue is discussed below. Although there are some issues in relation to the amount of natural light reaching the kitchen area as set out above and this potentially being a relatively dark area, it is considered that this in itself would not warrant a reason for refusal.

### Neighbouring properties

#### *21 South Avenue*

No development should result in a significant adverse impact upon the privacy afforded to neighbouring residents, both within dwellings and in their private garden ground/ amenity space or have a similar unacceptable adverse impact on natural day and sunlight levels enjoyed by dwellings.

The main dwelling to be affected by the proposed development is 21 South Avenue, which sits immediately to the west of the application property. When compared to previous proposals, most notably that submitted as part of 180143/DPP, the overall height of the currently proposed building, immediately adjacent to this neighbouring property has been reduced. The main eaves height on the western elevation generally sits just above ridge height of 21 South Avenue. The depth of the building has also been reduced, and is similar to that of this adjacent dwelling. As such, when compared to previous proposals, although the proposed building would have a reduced overbearing impact on 21 South Avenue, the issue has not been fully addressed. In addition, there are still elements of overlooking from the flats, which sit at a higher level than 21 South Avenue, and especially from the rear facing windows of the dwelling, which sits relatively close to the boundary, due to the limited depth of the rear garden serving the proposed new dwelling, with the rear garden of 21 South Avenue and would provide clear views from the rooms on the first floor into this garden and towards the dwelling. It is especially this latter element that would constitute a significant adverse impact on privacy levels and extent of overlooking of this neighbouring property to the detriment of their residential amenity.

Furthermore, even though the overbearing impact of the proposed block of flats has been reduced when compared to previous iterations of the proposal, the overall bulk and volume of development comprising the detached dwelling and the block of flats along the boundary with 21 South Avenue could be considered to have an overbearing impact on the existing 1½ storey dwelling to the detriment of their residential amenity, especially when taking account the limited depth of the rear garden of the detached dwelling contrary to requirements as set out in the SG as discussed above.

For this reason, it is considered that the proposal would have an unacceptable detrimental impact on the residential amenity of 21 South Avenue, contrary to the requirements of policy H1 (Residential Areas), D1 (Quality Placemaking by Design) and Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

#### *Other surrounding dwellings*

The distance between the flats and the east elevation of both the flatted block and the detached dwelling would be c.17m from the west elevation of Cults Court, with this gap made up of South Avenue, the high granite boundary wall surrounding Cults Court and its car park and access road. In addition, the detached dwelling would not be located immediately opposite to these existing flats. There are no windows in the east elevation of the flats, with three windows located in the east elevation of the dwelling. It is considered that, due to the distance from the dwelling to these flats and the oblique angle from the windows to the existing flats that these would not result in a loss of privacy/ increased overlooking.

The distance between the proposed dwelling and surrounding existing dwellings at 15, 17 and 17A South Avenue would exceed 18m, and as such the proposal would not result in unacceptable levels of overlooking of these properties.

#### **Local roads conditions, including parking and access**

The applicant proposes to use a strip of land along South Avenue immediately from its junction to North Deeside Road for a length of c.18m up to the vehicular access into the flats for junction improvements and road widening to allow two cars to pass each other on South Avenue for this distance to ensure cars can safely access and exit the junction onto North Deeside Road. This proposal has been assessed by colleagues in Roads Development Management and considered acceptable. However, these improvements would need to be secured through a suitable condition if Committee was minded to approve the application a condition would need to be introduced to ensure these junction improvements would take place before development starts.

A total of four parking spaces would be provided for the three flats with two off-street parking

spaces provided for the detached dwelling. The proposed site plan 727-23C shows that five out of six proposed parking spaces would be supplied with ducting for passive electric car charging provision in line with guidance currently contained in SG on Transport and Accessibility and the proposal is thus compliant with this part of the SG.

The site is located in a relatively sustainable location within Cults, and is within 400m of a bus stop. Three parking spaces and one disabled parking space are provided for the three flats, equating to a ratio of 1 space per flat. This would result in a shortfall of 1.5 space across the development. However, given the proximity of the development to the main bus route between Deeside and the city centre, and a variety of services, including the medical centre and shops would be within 400m, this would be considered acceptable in this instance. In addition, three secured and covered cycle storage spaces are provided which would be acceptable.

A total of two off-street parking spaces is provided for the detached dwelling which is shown to have three bedrooms. SG on Transport and Accessibility sets out that two parking spaces should be provided for a three bedroom dwelling and as such this level of parking provision is acceptable.

### **Other matters**

#### Noise

The site is adjacent to the A93 North Deeside Road, which is a main road west from the city centre out towards Deeside. Due to the high volume of traffic, officers in Environmental Health advise the use of a condition to ensure that adequate sound insulation measures were implemented in the construction of the residential units. In addition, an informative in relation to construction noise levels is recommended given the site is located in an established residential area. Again, if the Committee were minded to approve the application, this condition and informative could be added to any decision.

#### Waste

A bin store would be located to the front of the parking area, providing sufficient space for bin storage serving the flats. The distance from the bin store to the access onto South Avenue would be within an acceptable distance and this would thus be considered acceptable. In addition, there is sufficient space to store bins to be collected from South Avenue for the detached dwelling.

#### Low and Zero Carbon Buildings

The Supporting Statement by Aurora Planning and Design Statement by RJM Architectural Design both set out that the proposed development would incorporate triple glazing, that the properties would be highly insulated and that there is an intention to install air source heat pumps. These measures would be considered acceptable and if the Committee were minded to approve the application, these measures could be secured by condition.

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

In relation to this particular application, policies H1 (Residential Areas), D1 (Quality Placemaking), T2 (Sustainable Transport), R5 (Waste Management Requirements in New Development) and R6 (Low and Zero Carbon Buildings and Water Efficiency) 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.

Policies D2 (Amenity) and T3 (Parking) are both new policies. Policy D2 provides additional emphasis on the need to ensure that development would not have a significant detrimental impact on the residential amenity of proposed and existing dwellings. In this case, for the reasons provided in the evaluation above, it is considered that the proposal would have an unacceptable

adverse impact on the residential amenity of the occupiers of the neighbouring property at 21 South Avenue. As such, the proposal would not comply with this policy.

Policy T3 sets out that sufficient parking should be provided within new residential development in compliance with standards as set out in relevant SG. In addition, it further emphasises the need for provision of electric vehicle charging infrastructure. Subject to a condition setting out how EV charging points will be provided for each individual unit, it is considered that the proposal broadly complies with this policy with further details to be submitted as part of a suitably worded condition.

### **Matters arising from Community Council objection**

All matters raised in the objection from the Cults, Bielside and Milltimber Community Council are addressed in the evaluation above.

### **Matters raised in letters of objection**

The majority of matters raised in letters of objection as summarised at the start of this Committee Report have been addressed in the evaluation above. The following matters are outstanding:

#### Impact on local highway conditions:

11. Anticipated one-way traffic system onto South Avenue would not reduce the safety concern of having multiple accesses onto/coming from North Deeside in close proximity – *This current application would not propose to introduce a one-way system along South Avenue, but would allow for improvements at the junction of South Avenue and North Deeside Road as discussed above;*
12. Sightline issues on junction between South Avenue/North Deeside. Reintroduction of boundary wall will aggravate this – *Officers in Roads Development Management have assessed the application and did not raise any issues in relation to visibility on the junction of South Avenue and North Deeside Road;*
13. Confusion re section of land to be given over to ACC for improvements to South Avenue – *Drawing 727-23C indicates a strip of land extending to c.37m<sup>2</sup> that would be used for junction improvements;*
14. Proposal would add additional traffic to North Deeside Road, thus further contributing to congestion – *Officers in Roads Development Management have assessed the application and did not raise any concerns in relation to traffic generated by the development;*
17. One-way system is not included in current application so should not be considered – *No one-way system has been considered as part of this application;*

#### Others:

18. By covering a large area of the site with buildings and car parking, the water drain off into the private road will be increased during heavy rainfall, potentially affecting the entrance area to a number of properties at the bottom of the hill – *Drainage information has not been provided. If Committee was minded to approve the application then details can be sought through a suitably worded condition.*
19. Three previous applications for a similar kind of development have been refused on the site – *All submitted applications were sufficiently different and all, including this latest application, are assessed on a case-by-case basis, although previous decisions, including appeal decisions are a material consideration;*
20. Removal of boundary wall and burning of refuse at the site shows disregard for Planning Authority and the community in general – *This is not a material planning consideration;*
22. Insufficient information provided on change of levels. This will have an impact on the planned pavement section and access to the properties for both vehicles and pedestrians – *It is considered that sufficient levels information has been provided as part of this*

*application to inform a considered recommendation on this element of the scheme. If Committee were minded to approve, then a further condition could be attached requiring submission of full existing and proposed levels;*

23. Application should be refused for same reasons as previous applications – *Each application is assessed on their own merits;*
24. Pillar in south east corner is over 200 years old and should be retained; Site used to have a wall at the south end marking the boundary edge and this wall was curved to the north – *Drawings indicate retention of this pillar. The former boundary wall was removed under permitted development rights;*
25. 24-hour access required to driveways off South Avenue – this cannot be blocked during the construction period; Driveway to 19, 17A, 17 and the kennel business was agreed to be repaired properly by the applicant. This has not yet been done – *This is not a material planning consideration;*

Additional matters raised during second notification period:

26. Local amenities such as schools are already overcrowded – *The proposal is for a development of a total of four residential units. Policy 11 sets out that developer obligations are sought for developments of 5 residential units or more.*

**Recommended conditions**

The application is recommended for refusal. However, if the Committee is minded to approve the application, then it is requested that the following conditions are considered:

1. Details on materials;
2. Details on landscaping, including surfacing materials and boundary treatments;
3. Details on construction and material of the boundary wall along North Deeside Road and turning into South Avenue;
4. Details on existing and proposed levels;
5. Details on low and zero carbon measures;
6. Implementation of junction improvements prior to start of development of any residential unit;
7. Details of noise attenuation measures; and
8. Details of drainage

---

**RECOMMENDATION**

Refuse

**REASON FOR RECOMMENDATION**

1. The proposed development is considered not to take sufficient cognisance of the site context, would have a detrimental impact on the streetscape and visual amenity when viewed from both North Deeside Road and South Avenue and on the character and appearance of the surrounding area, and would constitute an overdevelopment of the site, which is reflected in the high percentages of site coverage; the introduction of an additional building line fronting onto South Avenue; the adverse impact on the visual amenity due to the size and appearance of the hard surfaced parking court to the front in relation to the overall site of the front curtilage, whilst providing a minimum amount of soft external amenity space to the rear; and the dominating, overbearing impact of the blank east elevation of the flatted block, all of which would have an adverse visual impact on the character and appearance of the surrounding area.



All of these aspects would result in the proposal not complying with the relevant parts of policies H1 (Residential Areas), D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas) and D1 (Quality Placemaking) of the Proposed Local Development Plan; and relevant sections of Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages and Transport and Accessibility.

2. The scale and massing of the proposed flatted block, in particular its overall height which is artificially increased through the need to construct artificial plateaus rising above street level on South Avenue; and its relative close proximity would demonstrate that the proposed design of the building would be overbearing on the proposed dwelling to its south and that the site as a whole would not provide a coherent appearance and design solution; and would lack amenity value to the street scene to the detriment of the character and appearance of the surrounding area.

The design of the buildings therefore would not meet criteria as set out in policy D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan, and policies D1 (Quality Placemaking) and D2 (Amenity) of the 2020 Proposed Local Development Plan.

3. Due to the orientation of the proposed detached dwelling in relation to the existing dwelling at 21 South Avenue, its first floor west facing windows would provide direct views in the private rear garden and towards the rear elevation of this existing property, resulting in increased levels of overlooking and a loss of privacy to the detriment of their residential amenity. In addition, the overall bulk and volume of development alongside the east boundary of this existing residential curtilage is considered to have an overbearing impact on this existing 1.5 storey dwelling to the detriment of their residential amenity, which is further emphasised by the relatively shallow depth of the rear garden serving the detached dwelling.

This part of the proposal would therefore not meet the criteria as set out in policies H1 (Residential Areas), D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Proposed Local Development Plan; and Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

This page is intentionally left blank

# Planning Development Management Committee

Thursday 22<sup>nd</sup> April 2021



Application ref. 201454/DPP

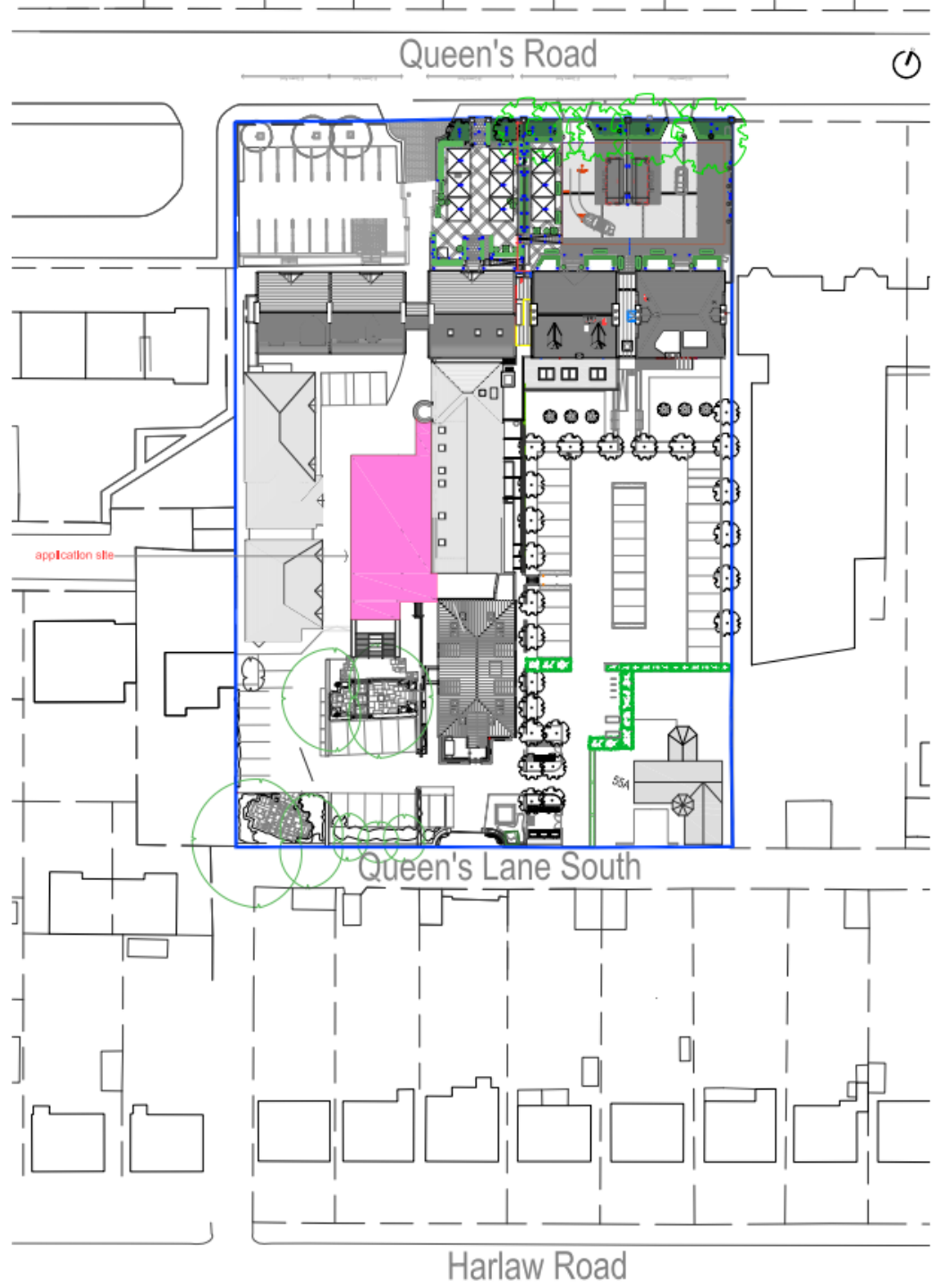
Detailed Planning Permission for the formation of external dining area at roof level, including balustrade, decking and associated works

The Chester Hotel, 59-63 Queen's Road, Aberdeen

# Location Plan

Pink area denotes proposed roof terrace

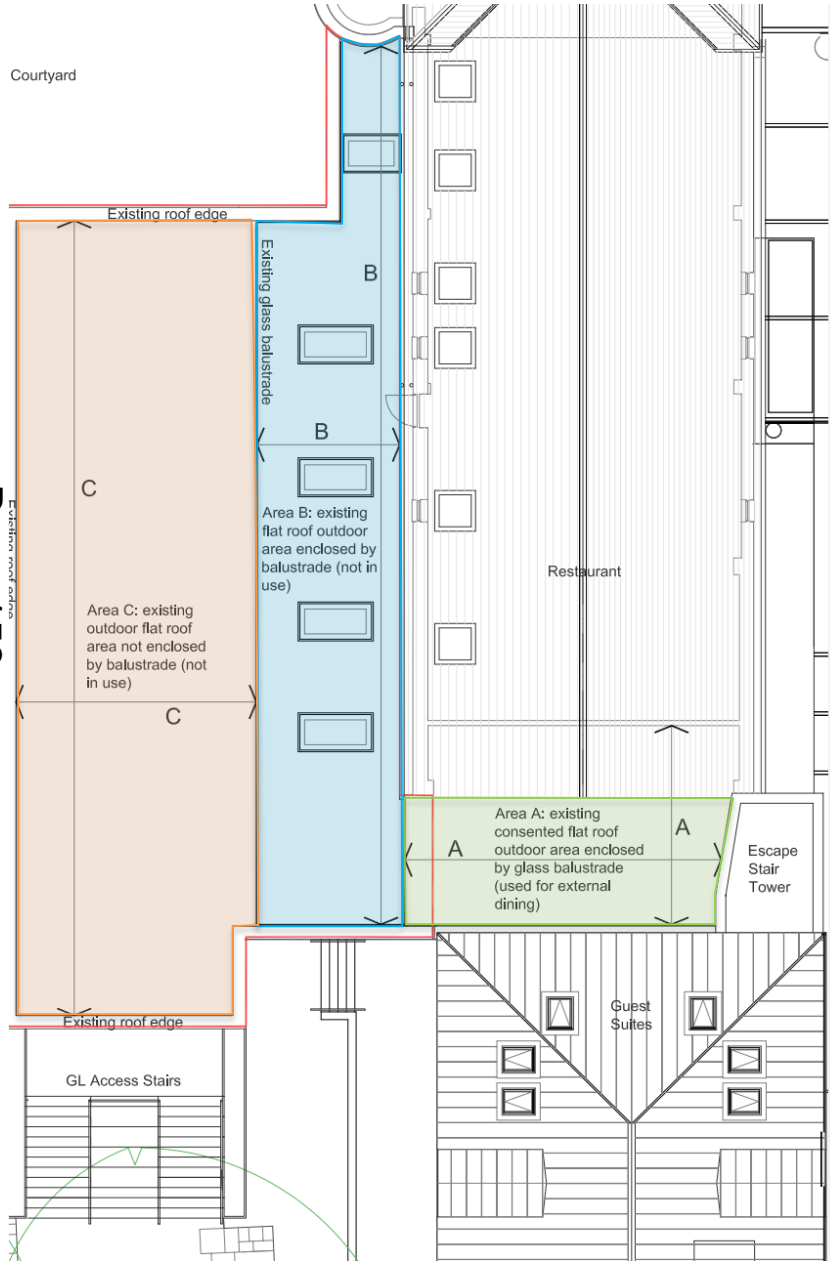
Page 156



# Aerial Photo



# Site plan extract: Existing

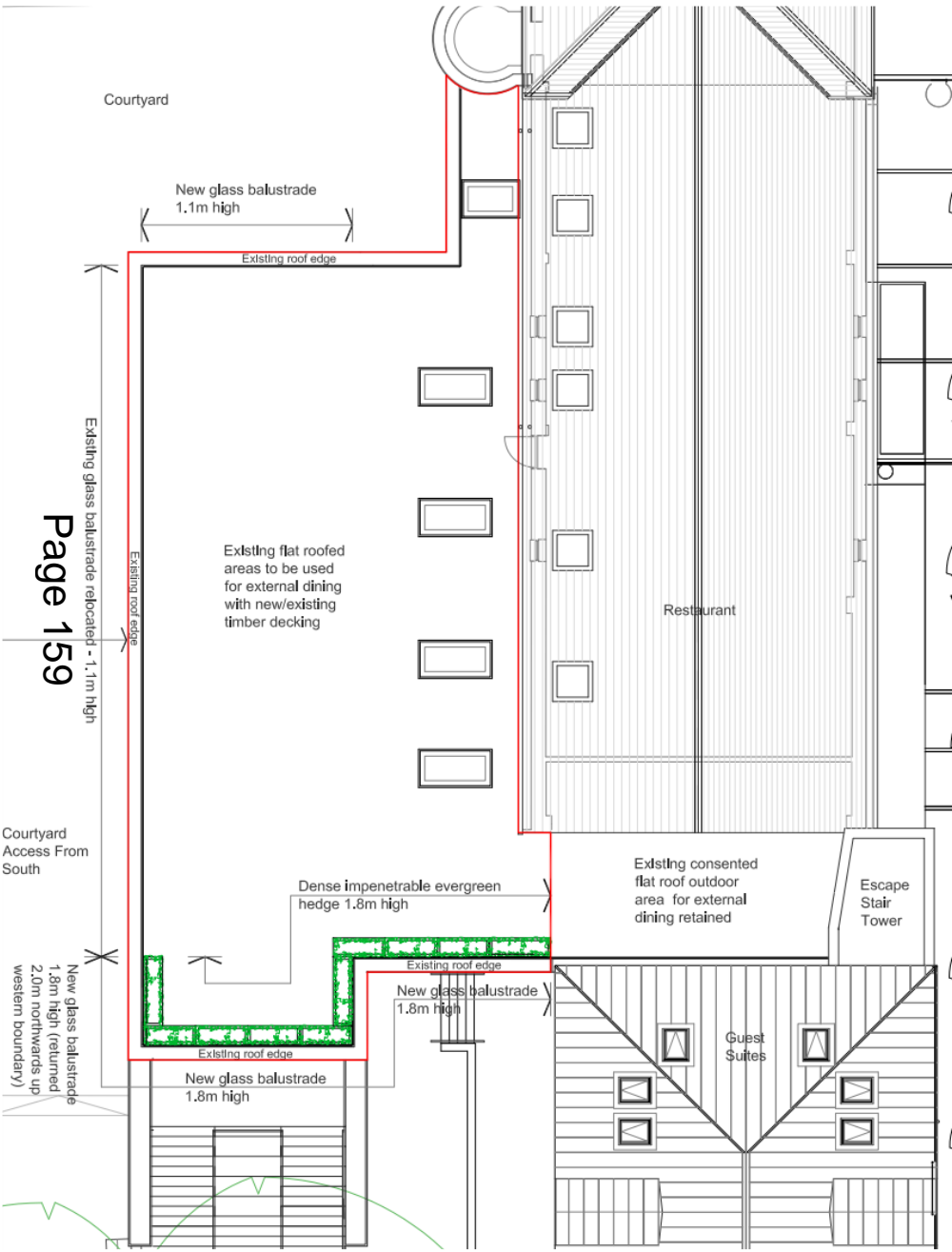


**Area A:** existing authorised outdoor dining area enclosed by glass balustrade

**Area B:** existing outdoor area enclosed by balustrade but not authorised for outdoor dining

**Area C:** area of flat roof with no current access

# Site plan extract: Proposed



# South Elevation: Existing



Page 160

Note: two large mature trees to south of proposals shown in outline only



Existing outdoor flat roof area not enclosed by balustrade (not in use)

Existing outdoor flat roof area enclosed by balustrade (not in use)

South of restaurant gable (background): existing outdoor flat roof area enclosed by balustrade (in use)



# South Elevation: Proposed



Page 161

Note: two large mature trees to south of proposals shown in outline only

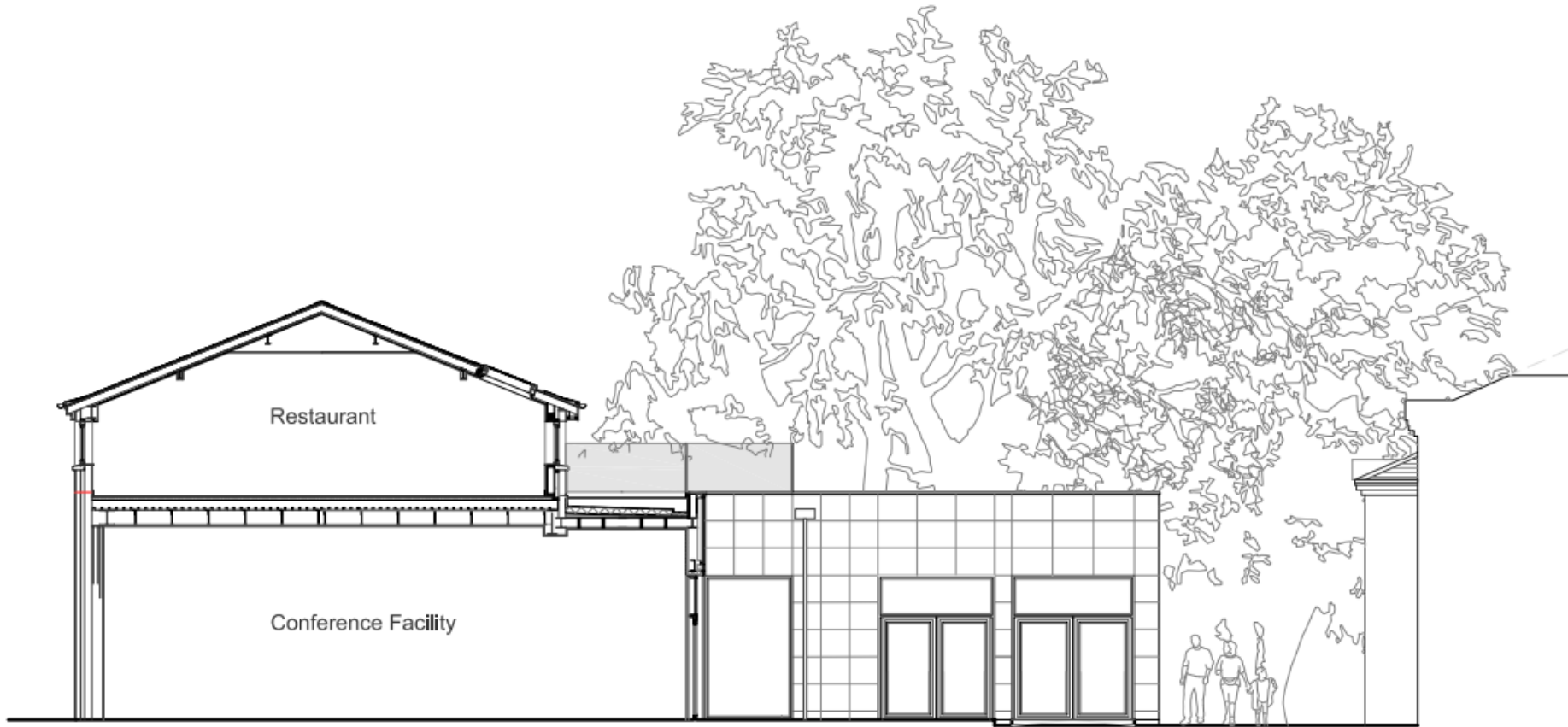
New 1.8m high glass balustrade extended as shown across whole of width of new area of use with dense 1.8m hedge behind, area completely screened visually, and attenuated acoustically to south

South of restaurant gable (background): existing outdoor flat roof area enclosed by balustrade (in use)

South

# North Elevation: Existing

Page 162



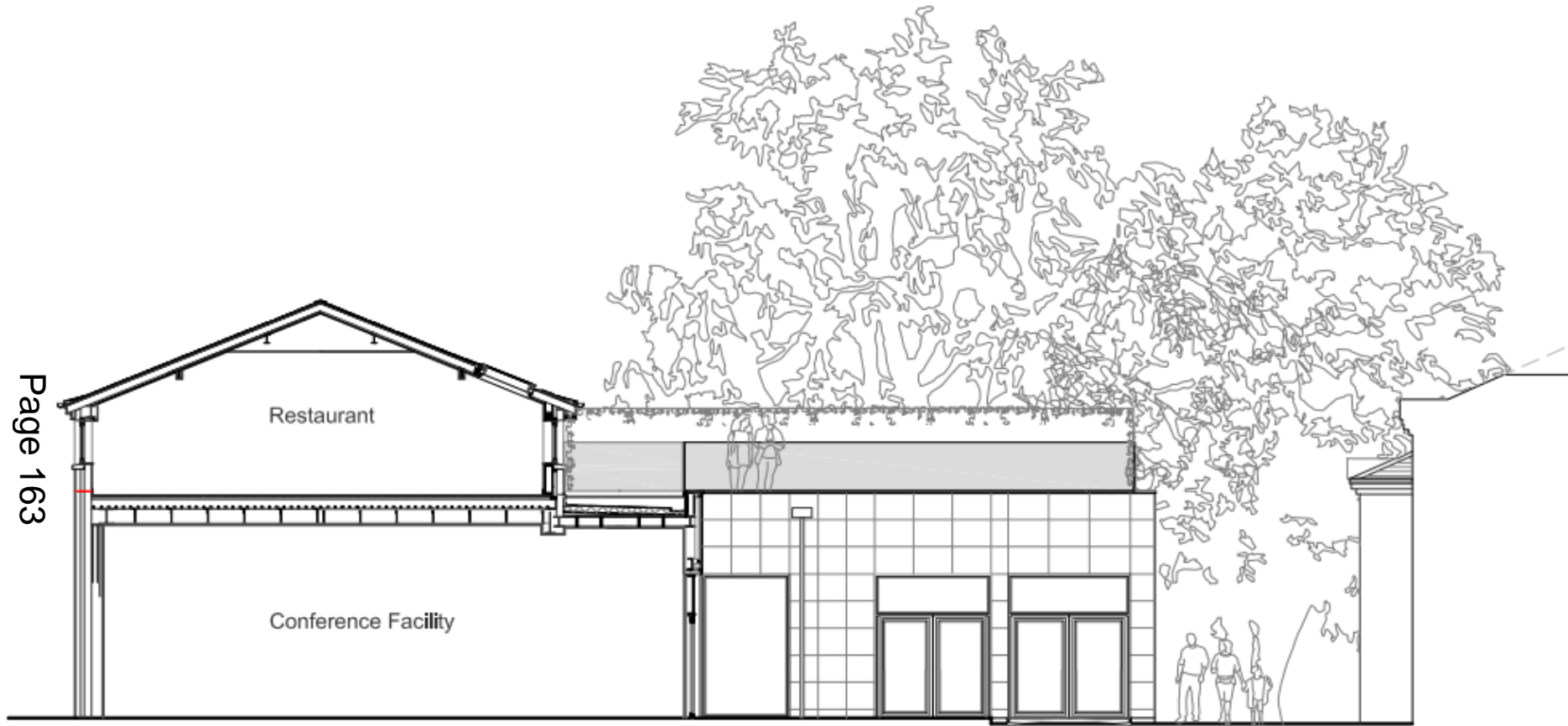
Existing outdoor  
flat roof area  
enclosed by  
balustrade (not in  
use)

Existing outdoor  
flat roof area not  
enclosed by  
balustrade (not in  
use)

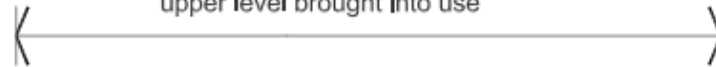


# North Elevation: Proposed

Page 163

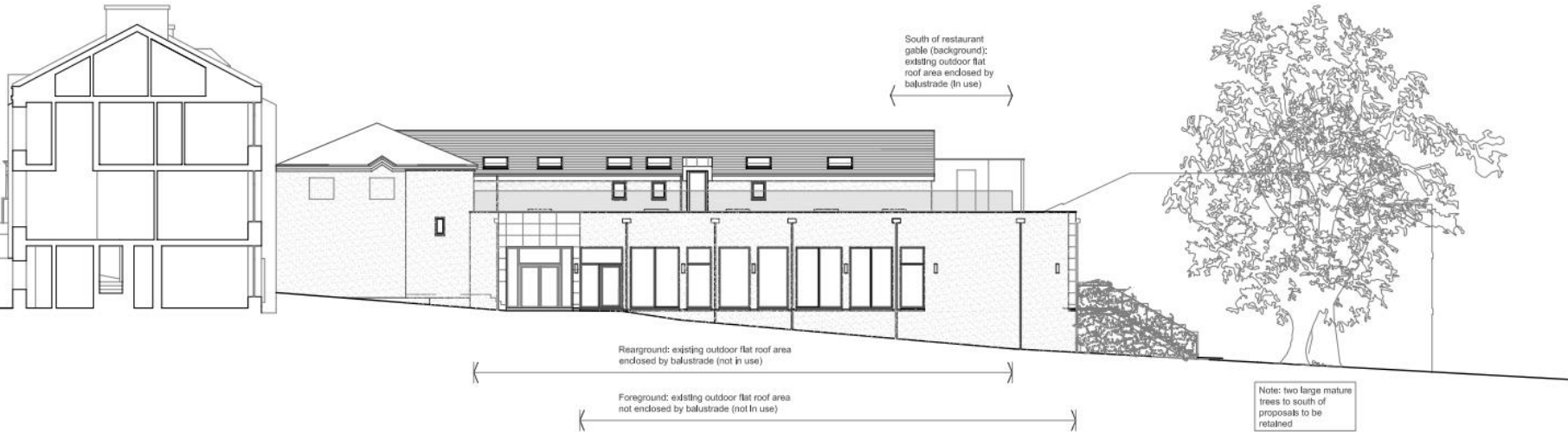


1.1m high glass balustrade extended  
as shown and whole of outside area at  
upper level brought into use



# West Elevation: Existing

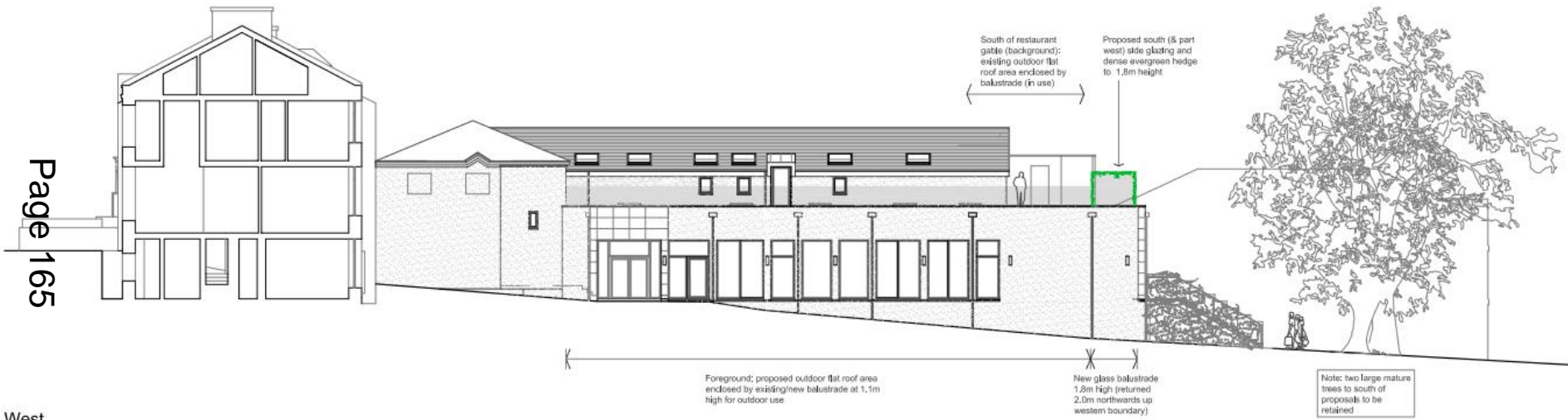
Page 164



West

# West Elevation: Proposed

Page 165



# Site Photos

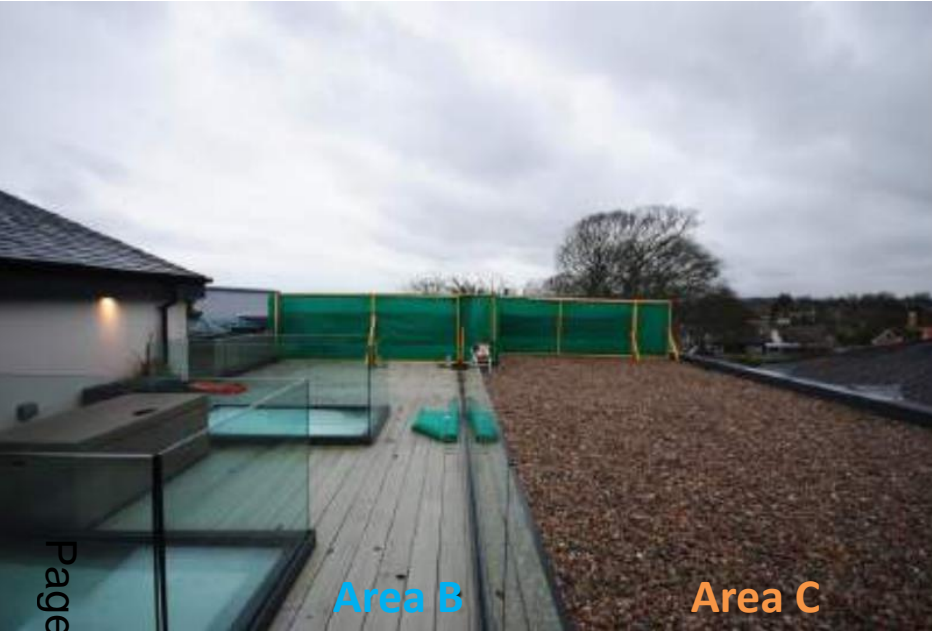


**Area A:** existing authorised outdoor dining area enclosed by glass balustrade  
*(view facing East obstructed by stair tower)*



**Area B:** existing outdoor area enclosed by balustrade but not authorised for outdoor dining  
Facing South  
*(with mocked up 1.8m screen in place)*

# Site Photos



Facing South towards rear gardens of properties on Harlaw Road  
*(with mocked up 1.8m screen in place)*



Facing South-west, over the hotel bedroom wing  
*(not showing 1.8m screen returning for first 2m along western roof edge or 1.1m balustrade thereafter)*

# Site Photos



Facing East

*(view obscured by restaurant at 1<sup>st</sup> floor)*

Area B



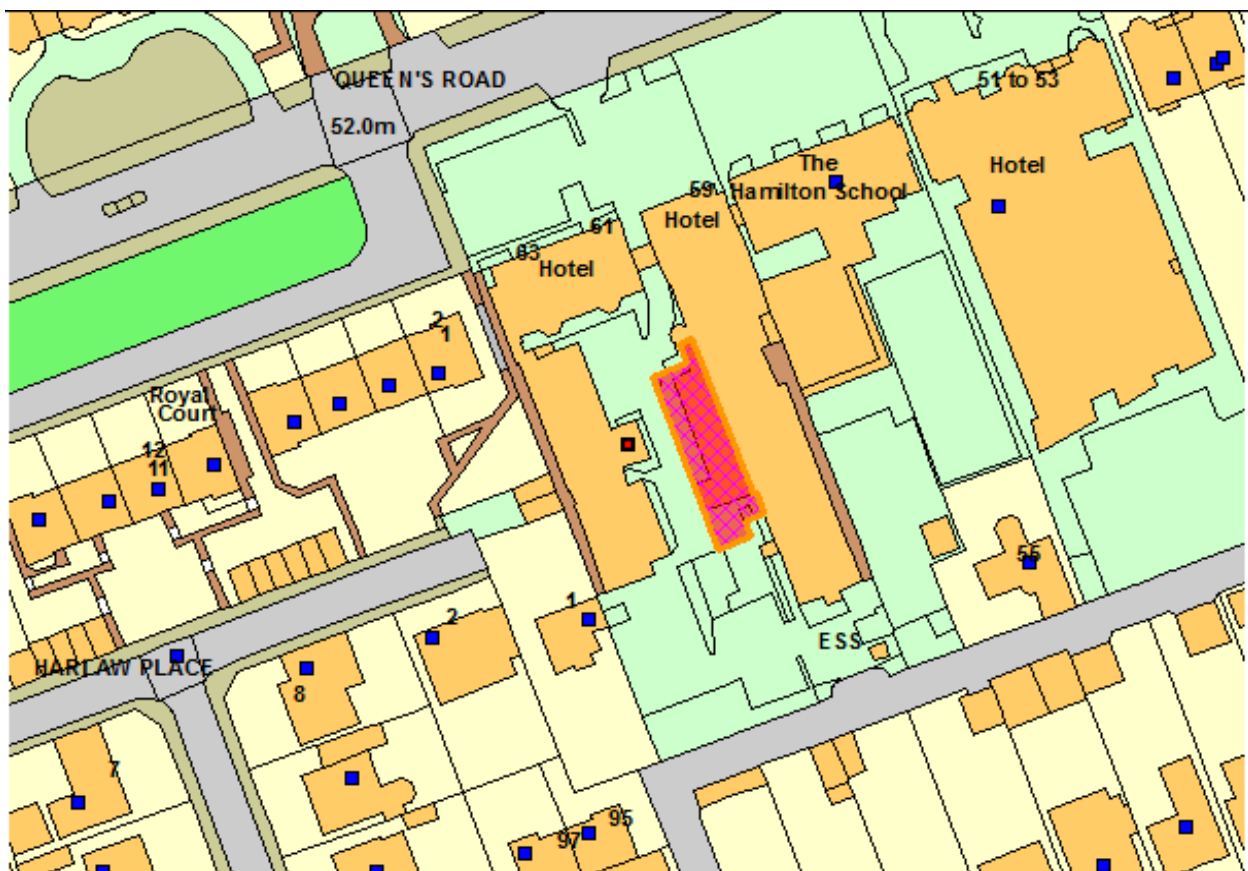


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 22 April 2021

<b>Site Address:</b>	The Chester Hotel, 59 - 63 Queen's Road, Aberdeen, AB15 4YP
<b>Application Description:</b>	Formation of external dining area at roof level, including balustrade, decking and associated works
<b>Application Ref:</b>	201454/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	25 November 2020
<b>Applicant:</b>	The Chester Hotel Ltd
<b>Ward:</b>	Hazlehead/Ashley/Queens Cross
<b>Community Council:</b>	Queen's Cross and Harlaw
<b>Case Officer:</b>	Gavin Evans



© Crown Copyright. Aberdeen City Council. Licence Number: 10023401 - 2018

### **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The application site forms part of the wider site operated by the Chester Hotel, which is located on the south side of Queen's Road, between its junction with Bayview Road and Queen's Gate, and lies within the Albyn Place/Rubislaw Conservation Area. The hotel spans what were originally four separate feus and incorporates four traditional granite buildings (55-63 Queen's Road) which have been the subject of extensions of varying scales and are now linked to serve as a single building in hotel use. The buildings front Queen's Road, with car parking and areas of landscaping to their frontages, including mature trees covered by a Tree Preservation Order (TPO).

The surrounding area contains a mix of uses. Immediately to the west are two storey residential properties at Royal Court, Queen's Road and a dwellinghouse at 1 Harlaw Place. To the north, across Queen's Road, are numbers 64–70 Queen's Road which are granite villas in office use. To the south, across Queen's Lane South, are residential properties fronting on to Harlaw Road. The adjoining plot to the east at 49-53 Queen's Road is occupied by the Malmaison Hotel.

This application relates to an existing area of flat roof over a single-storey extension to the hotel's function room/conference space which was granted planning permission in 2018 (application ref. 171347/DPP).

### **Relevant Planning History**

- Detailed planning permission (ref. 121555) for a new block featuring 20 bedrooms and restaurant extension was approved by delegated powers in February 2013.
- Detailed planning permission (ref. 130773) for the raising of the existing restaurant roof, external alterations and a new stairwell were approved in September 2013.
- A non-material variation was granted under section 64 of the 1997 act in March 2014. The variation allowed the infilling of the gap between the new block and original building and makes mention of the roof being surfaced with a material for an 'external balcony'.
- A retrospective application for detailed planning permission (ref. 140990) was submitted in July 2014 for formation of an external terrace area ('Areas A & B'). It was due to go to Planning Committee in March 2015 with a recommendation for refusal. However, the application was withdrawn prior to the committee meeting and therefore no decision was made.
- A certificate of lawfulness (ref. 150763) was issued under delegated powers on 1<sup>st</sup> July 2015. The certificate confirms that the use of the external terrace to the south of the private dining room ('Area A') can be lawfully used for purposes reasonably relating to the authorised use of the hotel. It should be noted that the certificate did not apply to the wider area of terrace on the west side of the first floor dining area (Area B), which remains unauthorised.
- Planning permission (ref. 150765) was approved retrospectively by the Planning Development Management Committee on the 18<sup>th</sup> August 2015 for the retention of a glass balustrade around the area considered lawful (Area A) under the aforementioned certificate of lawfulness (ref. 150763).

- An application (ref. 151773) for balustrading along the west side of Area B, solely for health and safety purposes when maintaining the roof, was approved unconditionally by PDMC. That decision included an informative note that explicitly stated that the permission would not permit the use of the roof space for hotel-related purposes.
- Planning permission was granted for the erection of an enlarged function suite in March 2018, with application 171347/DPP approved by PDMC. An accompanying application for Listed Building Consent (ref. 171346/LBC) was approved under delegated powers. The construction of the enlarged function suite provided the additional area of flat roof shown as 'Area C' on the plans accompanying the current application.
- 201453/LBC Formation of external dining area at roof level, including balustrade, decking and associated works. Withdrawn in December 2020 as LBC not required.
- In August 2020 planning permission was granted for the erection of a temporary marquee structure to the Queen's Road frontage of the Chester Hotel (ref. 200649/DPP), allowing for outdoor seating at a time when use of the internal floorspace was subject to coronavirus-related restrictions.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Detailed planning permission is sought for physical alterations to allow for use of a flat-roofed area within the Chester Hotel site as an outdoor dining terrace to be used in conjunction with the existing adjacent hotel restaurant. The area in question is identified on the submitted plans and incorporates the following:

- Area B, which includes 4no roof windows in the flat roof, is covered by existing decking and is enclosed by an existing glass balustrade; and
- Area C, an area of flat roof which lies to the west of the existing balustrade described above and sits directly above the ground floor conference facility.

The proposed works would involve the installation of a new 1.1m high glass balustrade along the northern and western edge of areas B and C. A higher 1.8m glazed barrier is proposed on the southern edge to the roof, which would also return around the first 2m of the western roof edge. This higher 1.8m barrier would be supplemented by a 'dense impenetrable evergreen hedge', also of 1.8m in height. Decking would be laid to the roof of area C, to match existing decking in areas A and B.

### **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=QKAXGKBZMH400>

These include:

- Plans/Elevations/Sections
- Environmental Noise Assessment Report

- Design Statement
- Visual Screening Study

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

The application has been referred to the Planning Development Management Committee because the number of representations stating objection to the proposal exceeds the threshold set in the Council's scheme of delegation (6 or more).

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – No objection to the proposal or observations to make.

**ACC - Environmental Health** – Three iterations of the applicants' Environmental Noise Assessment have been reviewed. Advice has been provided on the methodology to be used in demonstrating noise levels throughout the day from 10am to 10pm, however that recommended methodology is not reflected in the most recent submission. On that basis, earlier comments are reiterated as follows:

The proposed development is acceptable to the Environmental Health Service subject to the following measures:

- Use restricted to dining purposes only and restricted to a maximum of 60 patrons;
- Based on the evidence provided, operating time restrictions would be required, allowing for use of the dining terrace only between 8pm and 10.10pm;
- Installation of the glazed balustrades and associated hedge planting per the latest submissions;
- Prohibition of amplified music or sound, as well as prohibition of any other form of music entertainment on the proposed rooftop dining area.

**Queen's Cross and Harlaw Community Council** – Objects to the proposal. Raise the following concerns:

- Highlights issues experienced by local residents since 2014, when the Chester Hotel first sought retrospective consent for a balcony area;
- Notes that no previous applications for a large balcony/outdoor terrace area at the Chester Hotel have been approved, and that the current proposal would accommodate more patrons than any earlier proposal;
- Draws attention to the difficulties arising from the response period being over the festive break, when it is more difficult to obtain responses from relevant Council officers;
- Expresses dissatisfaction with the scope of neighbour notification;
- Highlights policy T5 (Noise) presumption against noise generating developments being located close to noise sensitive developments, such as housing;
- Highlights requirements of policy H1 (Residential Areas) as regards protecting the character and amenity of the area and restricting non-residential uses unless they are considered complementary to residential use or it can be demonstrated that there would be no conflict with, or nuisance to, the enjoyment of existing residential amenity;
- Highlights policy D1 (Quality Placemaking by Design) commentary on avoiding unacceptable impacts on adjoining uses, including noise;
- Concludes that the proposal would not comply with the highlighted policies;
- Quotes an earlier report to the ACC Planning Development Management Committee, which

described the nearest residential property at 1 Harlaw Place as having a high sensitivity to noise;

- Notes that the submitted noise report appears to have been undertaken on the basis of a socially-distanced seating plan, but makes no assessment of capacity or impact as and when such social distancing is no longer required;
- Points to concerns previously raised by Environmental Health officers in relation to earlier balcony applications at the Chester Hotel;
- Highlights earlier planning assessment which concluded that an elevated outdoor space would not benefit from attenuation from walls etc. that would be expected at ground floor level and that the likelihood of disturbance to residential properties is higher as a result;
- Queen's Cross Community Council concurs with the Council's earlier decision to prohibit the use of this external roof space for activities associated with the hotel, on the basis that this would adversely affect nearby neighbours to an unacceptable degree;
- Expresses frustration with: the number of retrospective applications made at the Chester Hotel site; the submission and withdrawal of various supporting noise reports and the lack of supervision of patrons entering and departing the premises;
- Highlights previous noise complaints relating to the hotel use without the proposed rooftop space.

## **REPRESENTATIONS**

Forty-two letters of representation have been received in relation to this application during the representation period, all of which express objection or concern about the proposal. These representations are mainly from nearby residents and raise the following matters:

### **Principle**

- Object to the principle of an elevated external terrace being used for purposes associated with the hotel use (e.g. drinking, dining, entertainment);
- Refers members to previous decisions to refuse similar applications (for notably smaller outdoor areas) at the Chester Hotel;
- Suggests that planning permission should be refused as a matter of course given these earlier refusals and similarities with the current proposal;
- Highlights that the planning authority would have no control over the number of people using such a space or the nature of its use, so long as it remained reasonably related to the established use as a hotel;
- Contends that the proposal would increase the hotel's capacity, contrary to the applicants' assertions. This is corroborated by an application for extension to the associated premises licence;
- Highlights that planning permission has been sought on a permanent basis and therefore this additional floorspace would continue to be available to the applicants after requirements for social distancing and restrictions on indoor spaces have been removed;
- Notes that the Chester Hotel already has a large area for outdoor dining at its Queen's Road frontage, which does not significantly impact on residential premises in the way activity to the rear does;

### **Procedural**

- Incorrect address was used for notification and therefore neighbour notification was inadequate;
- No notices were issued to those residents most directly affected by the proposal, on Queen's Lane South, Harlaw Road, Harlaw Terrace, Harlaw Place or Royal Court;
- Highlights erroneous notification of the former Hamilton School, now part of the Chester Hotel premises;

- ACC should put an end to the continual re-application by the Chester Hotel for the same facility;

#### Noise/Amenity

- Highlights conflict with Policy T5 (Noise) of the ALDP, which states a presumption against noise generating developments close to noise sensitive developments such as existing housing, and also policy H1 (Residential Areas), which states that proposals for non-residential use will be refused unless it can be demonstrated that the use would cause no conflict with or nuisance to the enjoyment of existing residential amenity;
- Highlights that assessment of noise has been undertaken on the basis of a socially-distanced layout for the space, which would appear likely to under-estimate noise levels in normal circumstances;
- Highlights that the Noise Assessment assumes doors onto the raised dining area would remain closed and therefore assumes no noise originating from the interior, which seems unreasonable and impractical;
- Contends that the proposal would result in a further loss of amenity for local residents as a result of noise impact, with the presence of children's bedrooms at the rear of Harlaw Terrace highlighted;
- Highlights past complaints to Environmental Health in relation to noise originating from the hotel and notes that residents have previously been able to hear noise from the premises from within their own homes with doors and windows closed;
- Applicants' submissions refer to the outdoor dining space being used only during clement weather, however that is the time when residents would make use of their own private gardens with an expectation of reasonable amenity;
- Loss of privacy within neighbouring gardens due to the elevation of the dining space;
- Highlights that the Visual Screening Study is fundamentally flawed in failing to present views from within 'Area C', which represents the majority of the proposed outdoor dining area, and therefore the study does not fully reflect the extent of visual impact/overlooking;
- Draws attention to the sporadic and fluctuating nature of noise from voices and, if used as a dining area, cutlery and service;
- Casts doubt on the ability of the proposed barrier to contain associated noise given the elevated position and the inability of a 1.8m wall to contain existing noise at ground level;
- Increased patronage/capacity would lead to potential increase in both use of the outdoor smoking area at the rear of the property which already affects nearby residents;
- This proposal would increase the number of unsupervised people leaving the hotel, adding to problems of anti-social behaviour and noise experienced along Queen's Lane after closure;
- The proposal may also have an adverse effect on families' health due to frequent disturbance.

#### Transport/Access/Parking

- Parking for the Chester Hotel has long been inadequate, with regular overflow onto surrounding streets affecting the availability of spaces intended for resident permit holders only, and resulting in blockage of garages/driveways on Queen's Lane South and associated obstruction for emergency vehicles;
- Any potential increase in non-residential traffic along Queen's Lane South would be unacceptable to residents, given existing problems with delivery vehicles accessing the hotel via this route, which often necessitate reversing along the lane onto Forest Avenue;
- Queries where taxis or buses will wait to pick up guests/patrons.

#### Other

- The proposals would have an adverse effect on the nearby residential property values.

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

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

Scottish Planning Policy (SPP)

### **Aberdeen City and Shire Strategic Development Plan (2020) (SDP)**

The Strategic Development Plan 2020 was published in August 2020. The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years and promotes a spatial strategy for the next 20 years. All parts of the Strategic Development Plan area will fall within either a Strategic Growth Area or a Local Growth and Diversification Area. Some areas are also identified as Regeneration Priority Areas. The following general targets are identified; promoting diversified economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change and limiting the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

### **Aberdeen Local Development Plan (2017)**

- Policy D1 (Quality Placemaking by Design)
- Policy D4 (Historic Environment)
- Policy T2 (Managing the Transport Impact of Development)
- Policy T3 (Sustainable and Active Travel)
- Policy T5 (Noise)
- Policy B3 (West End Office Area)

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

- Transport and Accessibility
- Noise

### **Proposed Aberdeen Local Development Plan (2020)**

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2nd March 2020. A period of representation in public was undertaken from May to August 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:

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis.

In this case, policy VC6 (West End Area) introduces a presumption in support of applications for change of use from office to residential, but retains the current requirement for all applications to take into account existing uses and avoid undue conflict with adjacent land uses and amenity. The following policies are relevant to this proposal:

Policy VC6 - West End Area  
 Policy WB3 - Noise  
 Policy D1 - Quality Placemaking  
 Policy D2 - Amenity  
 Policy D6 - Historic Environment  
 Policy T2 - Sustainable Transport  
 Policy T3 – Parking

## **EVALUATION**

### **Principle of Development**

A hotel has existed at 59 Queen's Road since at least the 1960s. In the 1990s the hotel expanded into 61 and 63 Queen's Road and it became 'Simpsons Hotel, Bar and Restaurant'. The Chester Hotel is located within the West End Office Area (Policy B3) where offices and business uses are generally supported. Policy B3 continues to state that '*new development proposals that do not protect existing residential amenity will be refused*'.

In this case, the existing hotel use has been established at the site for many years, with numbers 55 and 57 (formerly in use as The Hamilton School) more recently incorporated into the Chester Hotel premises. On that basis the use of the wider Chester Hotel site is not under consideration within the scope of this assessment, which focuses specifically on the introduction of a rooftop dining area and its relationship with existing residential amenity. With that in mind, this report will consider the potential impact of the proposal on residential amenity, by way of noise, overlooking, visual impact etc.

### **Design and Appearance**

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

In this instance, whilst the various buildings comprising the Chester Hotel site are all listed (categories B and C), the works in question do not affect the historic fabric and relate exclusively to a contemporary extensions to the rear of numbers 59 and 61 Queen's Road. On that basis, it has been determined that Listed Building Consent is not required for those works.

The physical works proposed are not extensive, involving the introduction of a relatively



unobtrusive 1.1m high glass balustrade around the northern and western edges of the flat roof to the existing conference suite, along with the laying of decking. An existing 1.1m high glass balustrade enclosing area B would be removed and repurposed as part of these works, with additional balustrading designed to match. To the southern end of the proposed rooftop dining area, a 1.8m high glass balustrade would be installed, in tandem with 'dense impenetrable evergreen hedge', set within planters and also 1.8m high. Both the hedging and higher balustrade would return around the corner to the western roof edge for a 2m length. The applicants' submissions state that this is intended to provide year-round screening of the proposed dining area from the south.

The proposed physical alterations would not adversely affect the historic interest or setting of the listed buildings within the Chester Hotel site and, given their unobtrusive nature and siting to the interior of the site, are considered not to detract from the character or amenity of the wider Albyn Place & Rubislaw Conservation Area. The materials proposed are intended to match the existing balustrade and decking in this portion of the site, and are appropriate to the style and character of the contemporary conference suite extension. In this regard, it is considered that the proposal is consistent with the provisions of policies D1 (Quality Placemaking by Design) and D4 (Historic Environment) of the ALDP, in that the proposals demonstrate an understanding of context and the character, appearance and setting of the historic environment would be respected.

### **Noise**

This application is accompanied by an Environmental Noise Assessment, which has twice been revised following feedback from the Council's Environmental Health Officers. This submission has been prepared by qualified noise consultants and its methodology involved taking noise measurements at the existing outdoor dining marquees within the grounds to the rear of the Chester Hotel, which presently have a socially distanced layout with a capacity of 60 patrons, and using these noise levels as the basis for predicted noise levels from the proposed dining terrace.

The main sources of noise were identified as voices, movement of chairs and tables and noise from plates, cutlery and glasses (particularly towards closing time). The submitted noise assessment assumes that the capacity and layout of the proposed high-level dining area would be similar to the activity measured in the two marquees to the rear of 55-57 Queen's Road, and is also based on assumptions that no music would be played on the terrace and that doors to the interior of the hotel would remain closed when the terrace is in use. It has also assumed that hours of operation would be similar to other outdoor areas (closing at 10pm) and the noise consultants understood that the number of covers would be limited by the licence, which they have been advised states a maximum of 70 covers.

The report notes that the closest residential neighbour (at 1 Harlaw Place) would be screened to some extent by the presence of the existing hotel bedroom wing. The assessment undertaken assesses any exceedance of existing noise levels as being 'minor', using the definitions set out in the Scottish Government's 'Assessment of Noise' Technical Advice Note. Exceedance of existing noise level was assessed as 1.3, with the 'minor' range from 1 to 2.9. The ambient noise level predicted by this assessment would not exceed the threshold stated in the relevant British Standard for external amenity areas (e.g. rear gardens to residential properties).

As regards internal noise levels at 1 Harlaw Place, the assessment concludes that the relevant threshold of 35dB is not expected to be exceeded.

The change in noise levels experienced by the nearest properties to the south (24-26 Harlaw Road) is assessed as being 'negligible', again using the bands set out in the Scottish Government's TAN for assigning magnitudes of noise impact. Exceedance of existing noise level was assessed as 0.1, with the 'negligible' range from 0.1 to 0.9. The report concludes that the proposals are not expected to result in relevant noise thresholds for external amenity areas

(50dB<sub>LAeq</sub>) or within bedrooms and living rooms (LA<sub>eq</sub> 35dB) being exceeded.

Environmental Health colleagues, in the most recent consultation response, have advised that the scope of the assessment undertaken was not sufficient to support the applicants' desired hours of operation from 10am to 10pm. Further guidance on an appropriate methodology was provided, but is not reflected in the most recent noise submission.

In that context, Environmental Health colleagues advise that the proposal can be considered acceptable only if several restrictions were to be imposed on the operation of the dining terrace. These include: a restriction to a maximum of 60 patrons for dining use only; use being permitted only between 8pm and 10.10pm (based on the period within which noise was measured at the existing marquees); installation of the balustrades barriers shown in submissions; and the prohibition of amplified music, amplified sound (e.g. microphones) or other music entertainment.

Whilst these restrictions would be offer comfort in terms of mitigating predicted noise impact, it is for the planning authority to consider whether these matters could be competently controlled through the use of planning conditions. A requirement to implement the proposed barriers/balustrades is straightforward and installation prior to first use could be achieved. Restrictions on amplified music are not uncommon in outdoor bar/restaurant uses, and it is considered that this also could be prohibited through use of a condition. A restriction on the number of patrons using the dining terrace is however not considered to be enforceable. Such matters would not ordinarily be controlled by the planning authority through use of conditions as this approach would not meet the six tests for planning conditions set out in Scottish Government Circular 4/1998: *The Use of Conditions in Planning Permissions*. It is recognised that the noise submissions indicate that the existing licence states an upper limit of 70 covers, however it cannot be assumed that this would remain the case as the proprietors could seek to vary the terms of that licence, outwith the control of the planning authority. In addition, it is not considered that planning conditions could reasonably be used to limit the rooftop space to use for exclusively dining purposes, given the effect of the overarching lawful hotel use which would provide for any activity that might reasonably be expected to take place within a hotel.

As regards restricting the use of the dining terrace to the hours between 8pm and 10.10pm, it is noted that Scottish Government Circular 4/1998: *The Use of Conditions in Planning Permissions* advises that conditions may be unreasonable on the basis of being unduly restrictive. Whilst there may be good planning reasons for such a restriction, such conditions should not be imposed if the restriction would '*effectively nullify the benefit of the permission*', and if it appears that permission could be given only subject to conditions that would be likely to be held unreasonable by the courts, Circular 4/1998 advises that planning permission should be refused altogether.

In addition to these matters, it is recognised that the submitted noise report assumes that doors to the restaurant would remain closed, which may be practically difficult to ensure during busy service periods, suggesting potential for noise emanating from within the restaurant to affect noise levels externally. These doors are already present at first floor level, however it is recognised that extending the operational footprint outdoors onto the roof space would give rise to increased use associated with service and patrons' arrival and departure. Ultimately, it is difficult to control the volume at which people communicate, especially in a social setting and even more so where alcohol is typically involved.

Taking account of the above, it is considered that the submitted noise assessments give some indication that noise levels experienced at the closest neighbouring residential properties would not be excessive, however the information contained in the noise assessments is not sufficient to support the hours of operation sought by the applicants and the proposal cannot be made acceptable through the use of reasonable planning conditions. Furthermore, it is understood that the true capacity of the dining terrace has not been reflected in the noise submissions, as the first

iteration of this indicated a socially-distanced layout which is unlikely to be a permanent requirement. In this respect, it is considered that there remains some conflict with policy T5 (Noise) due to the limitations of the supporting evidence.

### **Privacy / Overlooking**

As noted above, a 1.1m high glass balustrade encloses the north and western edges of the roof, with a higher 1.8m glazed balustrade and accompanying screen hedging demarking the south edge of the roof. In the submitted 'Design Statement', the applicants contend that views to the east are blocked by the presence of the first floor restaurant and escape stair tower, and similarly that views to the west are blocked by the roofs of the hotel's bedroom wing.

A 'Visual Screening Study' has been provided in support of the application, providing photographs from a series of points on the conference suite roof, however it is noted that all of these points lie within 'Area B', to the east of the existing balustrade. As a result, the submission fails to demonstrate the extent of any overlooking from the larger area of roofspace identified as 'Area C'. The photographs provided are shown both as existing and with a temporary stand-in barrier in place of the proposed screen hedging. It is considered that the images provided demonstrate that there would be no material loss of privacy for the residential properties to the south, on Harlaw Road, however the absence of images from the western portion of the roofspace ('Area C') means that it is difficult to establish the extent of any overlooking to the west with certainty. It is recognised that the presence of the Chester Hotel's bedroom wing immediately to the east lies between the proposed roof terrace and the closest residential properties to the west. The elevation of the roof terrace and relative height of the bedroom wing are such that any direct line of sight from Area C to the gardens of nearest westward neighbours would appear to be blocked, with the exception of 1 Harlaw Place, the rear garden of which extends further south than the bedroom wing and therefore does not appear to be wholly screened by it. The absence of photographs from 'Area C' looking westwards makes it difficult to establish the extent to which that rear garden would be overlooked. A distance of approximately 27m separates the closest parts of the proposed roof terrace and the rear garden at 1 Harlaw Place, which can be compared to the established recommendation for 18m window to window separation in new residential developments to ensure privacy. It is noted that the applicants have latterly extended the 1.8m high screen planting to return around the first 2m of the western edge to the roof. On balance, it is considered that the distance separating the elevated roof dining area from nearby gardens and the screening provided by a combination of the existing buildings and trees and the additional screening proposed to the south and western edges of the roof are likely to be sufficient to alleviate any direct loss of privacy to neighbouring properties.

As regards the windows of neighbouring buildings, the closest properties at Royal Court (fronting Queen's Road) lie approximately 25m from the closest part of the proposed external dining area, looking over the roof of the adjacent bedroom wing. Properties fronting Harlaw Road, to the south, lie at least 60m away and as noted above would benefit from the additional 1.8m screen planting enclosing the southern edge of the dining area. 95 Queen's Lane South, which sits at the dog-leg of the lane, is closer at approximately 35m, but similarly benefits from the additional screening proposed. Given the distances involved, it is not considered that there would be a direct impact on privacy within these neighbouring properties as a result of insufficient window-to-window separation. It should be noted that this assessment of privacy implications is separate from consideration for the wider amenity impact of the proposal, which is discussed separately in this report.

### **Residential Amenity**

Whilst the application site itself (along with the entirety of the wider Chester Hotel premises) lies in the West End Office Area, where policy B3 states that proposals which do not protect existing residential amenity will be refused, it is important to also note that properties south of the rear lane (Queen's Lane South) and west of the hotel site (Royal Court / Harlaw Place) are within an H1

Residential Area. This distinction is notable in that the context is not wholly one of individual residential properties within the west end office area, but the edge of that commercial area where it meets an area of predominantly residential use, where expectations of amenity and protection from noise might reasonably be higher than in an area comprising a mix of residential and commercial uses.

Whilst the submissions accompanying the application go some way towards demonstrating that there is no direct or significant loss or privacy and that noise levels experienced at the closest residential properties are unlikely to be dramatically increased, it is recognised that the very presence of an outdoor space catering for circa 70 patrons in an elevated position in relatively close proximity to residential gardens may in itself be considered intrusive. Noise and privacy impacts may not individually be at levels that present serious policy conflicts, however in this case the local context is considered to be more sensitive to the introduction of such a facility than would be the case in the city centre, for example. With this in mind, it is considered that the proposal can still be considered to pose a threat to residential amenity, without exceeding the applicable noise thresholds, as a result of the intensification in use of outdoor spaces within the Chester Hotel site, particularly to the rear of the buildings where there is greater scope for conflict between commercial operations and neighbouring residential amenity.

As noted in the 'Noise' section of this report, there are a number of factors relating to the practical operation of any outdoor dining area in this elevated position which could result in noise impact being greater than concluded in the submitted assessments. These matters largely relate to the manner in which the terrace is used and how the activity there is managed. Reports from nearby residents of historic noise disturbance relating to activities at ground level within the Chester Hotel site is relevant, as it might reasonably be expected that noise from the proposed rooftop dining area would carry further given the more open location, with less obstacles to effectively contain noise. Whilst the applicants highlight that no historic complaints have related to noise from the existing outdoor dining space, it is however recognised that this is a comparatively small area relative to the proposed rooftop dining area currently under consideration. Furthermore it is noted that, in the event that planning permission were to be granted, the planning authority would have no control over the actual number of people who could use the terrace or the activity which could take place there. In theory any activity which one would expect to reasonably take place within a hotel, could take place without planning permission, as long as no further physical development was undertaken. For example, activities such as outside drinking and dining, the conducting of weddings or taking of wedding photos, or smoking, could legitimately take place on the terrace, without further planning permission being required.

On balance, it is considered that planning conditions cannot provide sufficient control (enforceable by the Planning Service) of those activities to wholly protect against noise impacts being greater than envisaged. It is therefore concluded that the proposal has potential to harm residential amenity, and the submissions provided in support of the application are not sufficient to demonstrate that existing residential amenity would be protected, contrary to the requirements of policy B3 (West End Office Area).

### **Transport and Accessibility**

The existing hotel premises benefit from off-street car parking to both the Queen's Road frontage and to the rear, accessed via Queen's Lane South. The Council's Roads Development Management Team notes that the site is presently readily accessible and has stated no objection or further observations in relation to the proposed dining terrace. It is considered that the proposal raises no conflict with policies T2 (Managing the Transport Impact of Development) or T3 (Sustainable and Active Travel) of the ALDP.

### **Matters Raised in Representations**

Objections to the principle of the development and highlighting past refusals are noted. Earlier

decisions represent a material consideration in the planning authority's assessment, however we must also consider each different proposal on its own merits, based on the circumstances and policy context applicable at the time, and that planning authority cannot simply refuse to consider similar proposals. Matters relating to restricting capacity and the use of conditions are discussed within this report, and it is recognised that permission is sought on a permanent basis.

Neighbour notification was undertaken in accordance with the relevant legislation. Notices are not required to be issued to the properties referred to on Queen's Lane South, Harlaw Road, Harlaw Terrace or Royal Court. It is acknowledged that notice was issued to the former Hamilton School premises at 55-57 Queen's Road, which now form part of the Chester Hotel. This appears to arise from the Council's address gazetteer not yet reflecting that relatively recent change, however no disadvantage to other interested parties results.

Matters relating to noise, amenity, parking and accessibility, and compliance with the relevant policies of the ALDP are all discussed in the body of this report. As regards taxi or bus pick-up arrangements, no detail has been provided however it is stressed that the hotel is established in this location and it is likely that existing arrangements will apply.

Privacy has also been discussed within the body of this report, including the limitations of the study in failing to present views from within the area west of the existing glass balustrade ('Area C').

Respondents' reference to past complaints to ACC Environmental Health regarding noise from the Chester Hotel are noted and are relevant insofar as they provide background to the historic operation of the premises and the relationship between the existing commercial and residential uses. These do not however preclude consideration of this application on its merits.

The submitted noise reports account for noise experienced at both gardens/amenity spaces and the interior of the nearest neighbouring properties. The submitted environmental noise assessment does not apply any noise reduction factor to its assessment of noise levels based on the presence of the 1.8m barrier proposed, but merely states that some degree of reduction might reasonably be anticipated. The health impacts of any proposal can represent a material consideration, however the results of the noise assessment do not appear to suggest that the magnitude of impact would be significant or at a level to pose a threat to health.

It is noted that the increased number of covers that this proposal accommodates represents an intensification of the existing use and could correspond to some increase in the use of an existing outdoor smoking area and an increase in general comings and goings from the premises, which are highlighted by residents as existing sources of some disturbance.

The effect of any development proposal on nearby property values is not a material consideration that may be taken into account by the planning authority in coming to a decision.

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

Points raised by the local Queen's Cross and Harlaw Community Council in relation to historic noise complaints, planning history, neighbour notification, noise impacts, privacy, applicable ALDP policies and the scope and methodology of the submitted noise assessments are discussed elsewhere within the body of this report.

Difficulties in obtaining an immediate response from Council officers over the festive break are not material to determination of this application.

### **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. It is noted that policy VC6 (West End Area) introduces a presumption in support of applications for change of use from office to residential, but retains the current requirement for all applications to take into account existing uses and avoid undue conflict with adjacent land uses and amenity. In this regard the emerging policy context is no less focused on protecting existing residential amenity and would not suggest a different recommendation.

### **Conclusion**

Taking into account all the supporting documentation provided by the applicants, matters raised by objectors and the predominantly residential character of the area within which it would be situated, it is concluded that it has not been adequately demonstrated that existing residential amenity can be protected, and that approval of this proposal would be reliant upon a significant number of assumptions about its capacity, the operation of rooftop dining activities and alternative future use which cannot be guaranteed or adequately controlled through the imposing of planning conditions. On that basis, it is recommended that planning permission be refused for the reasons set out below.

### **RECOMMENDATION**

Refuse

### **REASON FOR RECOMMENDATION**

It is considered that the proposed rooftop dining area will adversely affect the amenity afforded to residential properties to the south and west of the hotel site. It has not been demonstrated that noise generated by the proposed use could be adequately controlled in order to safeguard residential amenity and the proposal is therefore contrary to policy B3 (West End Office Area) of the Aberdeen Local Development Plan 2017.

## ABERDEEN CITY COUNCIL

<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	22 April 2021
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Planning Enforcement Activity – April 2020 to March 2021
<b>REPORT NUMBER</b>	PLA/21/102
<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 2020 to 31<sup>st</sup> March 2021.

### 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 2020; and notes 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 the 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 191 new cases have been investigated since 1<sup>st</sup> April 2020. The majority of these (139) have been resolved without recourse for formal action. These cases fell into one of the following categories: -
- By the submission and approval of a retrospective planning application, advertisement consent/ certificate of lawfulness (10 cases),
  - By informal negotiation resulting in the breach being rectified by the offending party (23 cases),
  - Being a minor breach where it would not be reasonable or economically viable to progress (12 cases),
  - The case was dealt with by colleagues in Spaces for People (6 cases), or
  - No breach of planning control (88 cases).
- 3.5 The remaining 52 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 loss of amenity or threat to public safety. Seven 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 2020), 12 are still unresolved and may require formal action to ensure a satisfactory outcome.
- 3.6 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature. These are mostly householder cases. The Council's [Enforcement Charter](#) prioritises the most significant breaches of planning control to ensure the most effective use of the staff resource available in the long-term public interest. These identified priorities are cases of significant negative effects on public amenity, particularly in the City Centre, breaches of condition for major developments, damage to listed buildings and damage to trees protected by tree preservation orders. As householder cases do not relate to the priorities identified for action in the Council's Enforcement Charter, 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 parties affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute.
- 3.7 In May 2020, soon after the onset of the COVID pandemic, the Scottish Government provided advice to local authorities relating to enforcement, stating that, given the current, exceptional, circumstances, they that planning authorities will take a sympathetic approach to enable reasonable temporary extensions to working hours on construction sites, without enforcement action.
- 3.8 The letter also indicated that Planning can play an important part in enabling business operations to get back up and running within the terms of the ongoing restrictions, and also support them to regain some lost ground and revenue as a direct result of lockdowns. Examples might include taking a reasonable, positive and supportive approach to allow temporary use for on-street seating for cafes and bars, beer gardens and similar to accommodate physical distancing; and also to enable seasonal businesses such as holiday parks to



continue to operate beyond any conditioned limits to their seasons. In such situations it is common not to take enforcement action for a reasonable temporary period.

- 3.9 A notable issue within the reporting period has been complaints and enquiries received largely related to the formation of new, temporary, outdoor seating areas, enclosed structures, or areas of decking related to existing cafes, restaurants and pubs. As noted above, correspondence from the Scottish Government’s [Chief Planner over the course of 2020](#) has urged Planning Authorities to take a supportive and flexible approach to such breaches.
- 3.10 In May 2020 the Council was awarded a ringfenced £1.76 million grant from the Scottish Government’s Spaces for People fund to carry out temporary works to help provide space to physically distance in line with government guidance. Allied to this, the Council has prepared and kept updated a [Guide for Businesses](#) to help manage temporary outdoor seating areas for hospitality venues.
- 3.11 It should be noted that the vast majority of outdoor seating areas and associated structures created during the COVID public health emergency are not intended to be permanent features and, when requirements for physical distancing, particularly relating to indoor and outdoor hospitality are relaxed, the expectation is that most of these will be removed. The Council may need to take further action in the future if some of these structures remain in situ without planning permission and agreement on removal cannot be reached voluntarily. Progress out of the pandemic and Scottish Government advice in this regard will be carefully monitored and used to inform the Council and the Planning Service’s approach.
- 3.10 In the reporting period, the Planning Service has also made served Enforcement Notices publicly available on the Council’s planning portal. The Service is continuing to make further information relating to enforcement publicly available online.
- 3.11 The following table provides a summary of the enforcement caseload since 1st April 2020 and divides the cases into new and those within the previous reporting period:

New Cases – 1st April 2020 to 31st March 2021	Cases resolved & no further action required.	191
New Cases - 1st April 2020 to 31st March 2021	Under investigation, being negotiated, or application decisions pending.	52
Enforcement Related Notices served		7
Enforcement Notices in process of being prepared		4

- 3.12 An Enforcement Charter, which is a statutory requirement arising from implementation of the Planning etc. (Scotland) Act 2006, 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 and can be found [here](#). 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.

#### 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
<b>Strategic Risk</b>	N/A		
<b>Compliance</b>	N/A		
<b>Operational</b>	N/A		
<b>Legal</b>	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	L	Proceed with the enforcement action where required.

	the built and natural environment		
--	-----------------------------------	--	--

## 7. OUTCOMES

<u><b>COUNCIL DELIVERY PLAN</b></u>	
<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 (Children and Young People)	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
<b>Impact Assessment</b>	Full impact assessment not required.
<b>Data Protection Impact Assessment</b>	Not required.

## 9. BACKGROUND PAPERS

9.1 None

## 10. APPENDICES

10.1 Appendix 1 – Enforcement Cases

## 11. REPORT AUTHOR CONTACT DETAILS

<b>Name</b>	Gavin Clark
<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

## Appendix 1 – Enforcement Cases registered from April 2020 – March 2021

### Permission Refused: Further Action Required: 4 Cases

ADDRESS	WARD	DETAILS OF BREACH
27 Birkhall Place	4	Erection of summerhouse and decking
70 Carden Place	10	Installation of unauthorised banner
Neo House - Riverside Drive	12	Installation of 2 storey high banner sign
39 Spey Road	4	Formation of unauthorised driveway

### Pending Investigation: 37 Cases

ADDRESS	WARD	DETAILS OF BREACH
33 Grampian Road	12	Erection of decking
418 King Street	6	Unauthorised business use operating from garage
75 Cloverfield Gardens	1	Structure erected in rear garden
28-32 Marischal Street	8	Amenity issues in relation to unoccupied listed building
215 Union Street	12	Installation of external roller shutter door
39 Huntly Street	7	Unauthorised painting of windows (pink)
Land at Stonewood Estate	1	Non-compliance with approved plans
4 Belvidere Crescent	7	Installation of replacement door
104 Tollochill Crescent	13	Erection of fencing exceeding 1m in height adjacent to road
16 Concraig Park	3	Unauthorised use running from residential premises
Disused Water Reservoir - Newton Terrace	1	Development commencing when conditions not purified
The Hub - Mugiemoss Road	1	General upgrade works/ viewing platforms installed
Land at Meikle Clinterty	1	Unauthorised earthworks
Spice of Asia - 54 John Street	8	Breach of condition - noise measures
Wren Kitchens	6	Installation of unauthorised signage
6 North Silver Street	7	Installation of uplighters/ downlighters and vents
101 Union Grove	10	Barber business operating from a residential flat
44 Brighton Place	10	Erection on summerhouse/shed structure and other building works carried out within rear garden area of property in Con. Area without P.P.

46 Brighton Place	10	Erection on summerhouse/shed structure and other building works carried out within rear garden area of property in Con. Area without P.P.
3 Wellington Park	13	Landscaping not provided in accordance with approved scheme
68 Skene Street	7	Unauthorised alterations to shop front
21-23 Kirk Brae	9	Use of outbuilding as separate residential unit
First Floor Flat - 20 Grosvenor Place	7	Installation of replacement windows
Former Treetops Site	10	Ground excavation works carried out during site clearance works
39 Craigton Terrace	11	Non-compliance with approved plans re. installation of opaque glass screening for rear decking area.
68 Balgownie Road	2	Breach of condition (Ref.181270/DPP) by reinstating access onto Balgownie Road
48 Sunnybank Road	6	Erection of 2 sheds to rear of flatted property without P.P.
Land at Foresterhill Court	7	Flats under construction without planning approval.
Field To The East Of Brookhill, Countesswells Road	9	Importation of soils and creating of bund
25 Laws Road	13	Installation of fencing to front of dwelling exceeding 1m in height
9 Redmoss Road	13	Unauthorised car repair works being carried out within curtilage of residential property
341 Great Western Road	11	Installation of unauthorised driveway to front
13 Tollohill Place	13	Erection of outbuilding within rear garden
Garages To Rear Of 295 Broomhill Road	11	Use of garages for non-domestic purposes
33 Carden Place	10	Extension to listed building and alterations to garage
Mugiemoss Road/ Goodhope Road	1	Non-compliance with Condition 19 - Removal of Pipeline Bridging
16B Allan Street	11	Installation of unauthorised driveway

### Dealt with by Spaces for People: 6 Cases

ADDRESS	WARD	DETAILS OF BREACH
Dutch Mill Hotel	10	Installation of marquee to front of building
12 St Swithin Street	10	Breach of planning control re formation of outdoor seating

70 Countesswells Road	<b>10</b>	Use of outdoor seating area in breach of planning condition
Rendezvous at Nargile 12 St Siwthyn Street	<b>10</b>	Formation of decking to front
	<b>10</b>	Erection of unauthorised temporary structure to front of building (SfP)
Bieldside Inn	<b>9</b>	Erection of large structure within rear car park area without P.P.

### Application Pending: 10 Cases

11 Earn's Heugh Crescent	<b>13</b>	Erection of fencing exceeding 1m in height adjacent to road
Stoneywood House	<b>1</b>	Installation of CCTV cameras on listed building
498 George Street	<b>8</b>	Installation of unauthorised banner and timber fence to front
Rubislaw Quarry	<b>10</b>	Unauthorised use of quarry for canoeing and associated alterations
66 Morningside Avenue	<b>11</b>	Installation of flue on rear elevation
57 Ruthrieston Crescent	<b>11</b>	Formation of driveway to flatted property without planning permission
Land to Rear of 277 North Deeside Road	<b>9</b>	Heavy duty & other construction related vehicles accessing new house site damaging roadway
177 Spittal	<b>6</b>	Original front boundary wall coping stones replaced with granite stonework
Land at 21A Farburn Terrace	<b>1</b>	Use of land for the long-term parking of vehicles
Sunnyview - Station Road - Milltimber	<b>9</b>	Works on entrance driveway not in accordance with approved plans

### Permission Granted (following submission of planning application): 11 Cases

ADDRESS	WARD	DETAILS OF BREACH
11 Birchfield Place - Cove - Aberdeen	13	Erection of outbuilding without the benefit of planning permission
29 Ferryhill Place	12	Installation of replacement door
176 King Street	8	Installation of ATM and associated surround
Haudagain Retail Park	5	Installation of unauthorised signs
99-105 Holburn Street	12	Change of use from office to beauty salon

Black's Bar 323-327 North Deeside Road	<b>9</b>	Works to the side of building (potential formation of beer garden)
1 Woodend Place	<b>10</b>	Erection of large structure in rear garden
Land at ASDA - Dyce	<b>1</b>	Installation of shipping container within rear car park
16 Cranford Terrace	<b>11</b>	Erection of outbuilding within rear garden
9 Mill Park Crescent	<b>1</b>	Erection of summer house
69 King's Gate	<b>10</b>	Development not being carried out in accordance with approved plans

### **Breach Rectified Voluntarily: 23 Cases**

<b>ADDRESS</b>	<b>WARD</b>	<b>DETAILS OF BREACH</b>
Garage to the rear of Mastrick Post Office - 10 Clunie Place	4	Use of garage for commercial purposes without the benefit of planning permission
11 Hilltop Road	9	Development not being constructed in accordance with the approved plans and associated conditions not discharged
181 Union Street	12	Installation of unauthorised for sale/ to let sign
Stoneywood House	1	Erection of timber fence around the boundary of the property
42 Davidson Place	4	Erection of outbuilding in rear garden
428 King Street	6	Removal of garage/ boundary wall and erection of car port
30 Hillview Crescent	9	Change of use of public open space to private garden ground and erection of fencing
Cliff Cottage - Rocklands Road	9	Relocation of boundary wall and change of use of open space to garden ground
3 Wellington Terrace	13	Installation of unauthorised signage on residential dwelling advertising business
19 Stroma Terrace	4	Erection of Garden Shed
44 Forbesfield Place	10	Erection of enclosure to front
17 Moir Green	4	Erection of 2m high fence to front of property
Land at Contlaw Road	<b>9</b>	Breach of Conditions re. commencement of site works prior to various suspensive environmental conditions being purified.
North Linn Farm	<b>9</b>	Large structure erected on agricultural land
Northcote House	<b>11</b>	Development not being carried out in accordance with approved plans
21 Greenfern Road	<b>3</b>	Unauthorised use of premises as hot-food takeaway



2 Parkhill Circle	1	Erection of fence exceeding 1m in height to front
14 Kincroth Crescent	13	Erection of driveway, installation of canopy and fence/ wall
Phase 3 - Dubford	2	Non-compliance with approved plans
Land adjacent to 14 Raeburn Place	7	Untidy land causing disamenity to the surrounding area
17 School Avenue	6	Erection of fencing exceeding 1m in height adjacent to road
Cormack Park	3	Installation of unauthorised floodlighting
11 Gairn Circle	12	Erection of shed with associated flue

### Deemed Not Expedient to Enforce: 12 Cases

ADDRESS	WARD	DETAILS OF BREACH
Den of Leggart	13	Construction of tree house
28 Ruthrieston Circle	11	Erection of storage shed within garden area of flatted property
29 and 31 King's Gate	10	Removal of boundary wall
1 Bunstane Place	13	Erection of shed to front
23 Davidson Gardens	4	Erection of and extension to garage
1 Hallfield Road	3	Erection of shed to front
28 Ruthrieston Circle	11	Development not being carried out in accordance with approved plans
Flat B - 28 Ferrier Crescent	5	Erection of outbuilding to rear of flat
108 Don Street	6	Installation of signage
17 Drinnies Crescent	1	Boundary fence issues
183 Victoria Road	12	Erection of shed to flatted property without consent
Union Glen Court	12	Erection of shed to side of flatted block

### No Breach of Planning Control: 88 Cases

ADDRESS	WARD	DETAILS OF BREACH
Mill of Dyce	1	Potential breach of planning conditions associated with 180693/DPP
45 Overton Circle	1	Alleged unauthorised business use operating from residential property.
29 Provost Graham Drive	10	Change of use of public open space to private garden ground and erection of fencing

16 Ashwood Avenue	2	Installation of lock block to front of property without the installation of appropriate drainage facilities
Pinewood/ Hazledene	10	Discrepancies between the approved landscaping scheme and footpath connections
7 Stroma Terrace	4	Development not being carried out in accordance with approved plans
70 Morningfield Road	10	Erection of steel frame/ fencing along front garden boundary
263 Stoneywood Road	1	Erection of fence along mutual boundary
19 Fernhill Road	3	Formation of decking to rear
18 Polmuir Road	12	Replacement roof on side elevation
Nosa Castra - Bucklerburn Rd	9	Cutting/ filling and re-profiling of ground levels
Land at Rob Roy Caravan park - Malcolm Road	9	Tree removal - conditions on recent planning permission in relation to tree planting
Land at Stoneywood House	1	Potential disamenity issues within the woodland adjacent to Stoneywood House
2 Cromwell Gardens	10	Possible breach of condition re installation of new access gate
20 Contlaw Brae	9	Timber structure erected within rear garden area
Dolphin Fish and Chips - Hazlehead Crescent	10	Installation of unauthorised signage advertising business
109 Hilton Road	5	Erection of dwelling without MSC approval
131 King's Gate	10	Works potentially being undertaken without benefit of planning permission
37 Fraserfield Gardens	2	Commercial business running from residential property
143 Cairnwell Drive	4	Erection of 2 buildings and decking
Moxy Hotel - Dyce	1	Breach of Conditions (car park not being used solely for the hotel)
Aberdeen Vehicle Sprayers - Broomhill Road	11	Unauthorised business operating from domestic garage
1 East Craigbank Crescent	9	Development not being carried out in accordance with approved plans
East Brotherfield	9	Development not being carried out in accordance with approved plans

49 Cameron Way	1	Potential sub-division of dwelling
62 Springbank Terrace	12	Use of domestic garage for commercial purposes
57 Hazlehead Road	10	Erection of fencing/ decking to rear of dwelling
3 Danestone Terrace	1	Conversion of dining room to bedroom
1 Slains Place	2	Erection of fence exceeding 2m in height
116 Hammerfield Avenue	11	Erection of outbuilding in rear garden
Stoneyhill Terrace	13	Erection of fencing/ posts along northern boundary
58 Kincorth Crescent	13	Installation of decking
11 Wallacebrae Crescent	1	Erection of rear extension
Basement and First Floor Flat - 3 Devanha Terrace	12	Unauthorised use of premises for commercial purposes
Flat F - 68 Seaforth Road	8	Installation of decking to rear of flatted property
Land at Stoneywood Estate	1	Installation of unauthorised signage through development
Land at Foresterhill Court	7	Development not being carried out in accordance with approved plans
45 Garthdee Drive	11	Erection of outbuilding
4 Lewis Drive	3	Erection of decking
14 Howes Crescent	4	Erection of outbuilding to rear
Basement Level - 74 Commerce Street	8	Unauthorised alterations within basement area of building
Land to North-West of Mill of Dyce	1	Unauthorised earth raising works adjacent to River Don
Lock-ups - Broomhill Road	7	Alleged commercial use operating from lock-up garage
39 Tullos Crescent	12	Works being carried out to path/ driveway without PP
218 Countesswells Road	10	Pergola constructed within rear garden area without consent
102 Shielhill Crescent	2	Unauthorised use of garage as a gym
360 North Deside Road	9	Installation of for sale signage
Peterculter Retirement Park	9	Unauthorised tree works in adjoining TPO area and caravan site boundary extended
H1 - Hill of Rubislaw	10	Unauthorised use of suite contained within building doe band practice
3 Clerk Maxwell Crescent	13	Rear garden boundary extended into amenity area without consent
Colin's MOT Service Centre - Bankhead Industrial Estate	1	Unauthorised car parking and repairs out with curtilage of site

190 Rosemount Place	<b>7</b>	Possible unauthorised change of use from Class 1 to Class 3'
Site of Former Treetops Hotel	<b>10</b>	Demolition of hotel buildings without benefit of planning permission
28 Callum Crescent	<b>3</b>	Single storey extension under construction to rear of property without PP
17 Newburgh Circle	<b>2</b>	Summerhouse structure erected within rear garden area without consent
Seabury House - King Street	<b>8</b>	Use of building for streaming of religious services
30 Eday Court	<b>3</b>	Drainage works in garden of adjacent property
83 Bon-Accord Street	<b>12</b>	Installation of satellite dish
18 North Anderson Drive	<b>7</b>	Large portacabin sited within rear garden area
16 & 17 Broaddykes Avenue	<b>3</b>	Rear boundary extended to take in amenity land
402 Great Western Road	<b>10</b>	Erection of domestic garage to rear
3 Colthill Road	<b>9</b>	Commercial hot food takeaway being run from residential property
6 Beech Tree Gardens	<b>9</b>	Erection of shed
3 Burnett Close	<b>9</b>	Installation of decking exceeding 500mm in height
24 Wallacebrae Road	<b>1</b>	Formation of decking area within rear garden
48 Lintmill Terrace	<b>4</b>	Formation of car port to side
Hawthorn Bar - 143-145 Holburn Street	<b>12</b>	Installation of unauthorised signage
20 Marischal Gardens	<b>1</b>	Development not being carried out in accordance with approved plans
66 Spital	<b>8</b>	Use of property as an HMO
Binghill Road	<b>9</b>	Work to roadway adjacent to new primary school taking place outwith advisory hours of operation
22 Cairnaquheen Gardens	<b>7</b>	Works carried out in rear garden of flatted property
39 Beechwood Avenue	<b>5</b>	Erection of outbuilding
40 or 42 Cairngorm Crescent	<b>13</b>	Erection of shed type structure
69 and 71 Denwood	<b>3</b>	Garden or driveway areas possibly increased in size without planning permission.
Former Cults Railway Station	<b>9</b>	Various works taking place within the site including vegetation clearing, boundary removals and removal of buildings
14 Laverock Braes Road	<b>1</b>	Extension of fencing to incorporate parking area to rear
Gordondale Lane		Alleged unauthorised business use operating from domestic

Peterculter Retirement Park	9	Alleged that works to create/form a new site access road have commenced without P.P.
24 Wallacebrae Road	1	Alleged mechanic/garage business related activities operating from residential property.
Land to Rear of Hillview Crescent	9	Heavy earth moving lorries using lane to access rear of 42 Hillview Crescent
29 Urquhart Road	8	Large central heating flue/duct installed to front elevation of tenement building without P.P.
126 Provost Rust Drive	4	Formation of unauthorised driveway in front garden of flat
17 Concraig Gardens	3	Erection of shed
9 Craighton Avenue	11	Installation of Flue
92 Mansfield Road	12	Property being used for business purposes and not as a residential dwelling
Hillylands - 2 Croft Road	3	Extension/ alterations to the building without the benefit of planning permission
28 Annat Bank	13	Erection of shed
11 Scylla Gardens	11	Painting of frontage of dwelling (front door and garage door)

## Historic Cases – Pre April 2020

ADDRESS	WARD	COMPLAINT	CURRENT STATUS
Inchgarth House	9	Retrospective Listed Building Consent application for new external chimney on the North West elevation refused. (170928/LBC)	Remedial Works to be carried out this year in order to rectify breach
Former Royal Cornhill Hospital	7	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.	Enforcement Notice Served
Craibstone Golf Course Club House	1	Importing and storage of large amount of soil onto site.	Previous application withdrawn, new application to be submitted with revised information
Woolard and Henry – Stoneywood Park	1	Installation of unauthorised fencing without the benefit of planning permission	Planning permission refused; Enforcement Notice served. Compliance required by June 2021.
23 Rubislaw Den South	10	Partial demolition of rear boundary wall & erection of new sliding rear access gate without consent.	Permission granted for alternative scheme – to be implemented

Milltimber Farm	9	Unauthorised quarrying/excavation works and possible unauthorised use.	Works under review – discussion ongoing with SEPA
25 Union Street	8	Untidy shopfront	Amenity notice served and revised scheme approved with CARS funding – new owner so need to chase
39 King's Crescent	6	Installation of external door and sub-division of property to form two flats	Permission granted for alternative scheme – to be implemented
Ground Floor Right – 13 Crown Terrace	12	Installation of replacement windows (listed building) - PVCu windows have been installed	Enforcement Notice served – alternative scheme to be implemented
Silverburn Sports Centre – Claymore Drive	2	Development not completed in accordance with approved plans	Investigation underway – delayed due to COVID
NaNa Nails – 23 Holburn Street	12	Unauthorised fascia signage	Permission granted for alternative scheme – to be implemented
12 Seaview Place	2	Boundary fencing issues	Enforcement Notice being prepared