

Public Document Pack



To: Members of Planning Development Management Committee.

Town House,
ABERDEEN 19 May 2022

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE** are requested to meet in **Council Chamber - Town House on THURSDAY, 26 MAY 2022 at 10.00 am.** This is a hybrid meeting and Members may also attend remotely.

FRASER BELL
CHIEF OFFICER - GOVERNANCE

B U S I N E S S

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

MOTION AGAINST OFFICER RECOMMENDATION

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

DETERMINATION OF URGENT BUSINESS

- 2.1. Determination of Urgent Business

DECLARATION OF INTERESTS AND TRANSPARENCY STATEMENTS

- 3.1. Members are requested to intimate any declarations of interest or connections

MINUTES OF PREVIOUS MEETINGS

- 4.1. Minute of Meeting of the Planning Development Management Committee of 21 April 2022 - for approval (Pages 7 - 8)

COMMITTEE PLANNER

- 5.1. Committee Planner (Pages 9 - 12)

GENERAL BUSINESS

WHERE THE RECOMMENDATION IS ONE OF APPROVAL

- 6.1. Listed Building Consent for the erection of single storey extension to side and internal alterations - Old Ferryhill House, 70 Prospect Terrace Aberdeen (Pages 13 - 34)

Planning Reference – 220032

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

[Link.](#)

Planning Officer: Aoife Murphy

- 6.2. Detailed Planning Permission for the change of use from Class 8 (residential institution) to form 10 flats (sui generis), erection of single storey extension to rear, formation of terraces and balconies with associated balustrades, alterations to existing openings and other associated works - Millbank House, 139 Hardgate Aberdeen (Pages 35 - 70)

Planning Reference – 211430

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

[Link.](#)

Planning Officer: Robert Forbes

- 6.3. Detailed Planning Permission for the erection of energy storage facility including containers of batteries, power converters, transformers, stores, meter building, security, fencing and associated infrastructure - site to the north west of Helix House, Kirkton Drive Aberdeen (Pages 71 - 96)

Planning Reference – 220026

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

[Link.](#)

Planning Officer: Lucy Greene

WHERE THE RECOMMENDATION IS ONE OF REFUSAL

- 7.1. Detailed Planning Permission for the erection of a log cabin to the side (part retrospective) - 7 Lochside Drive Aberdeen (Pages 97 - 118)

Planning Reference – 220278

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

[Link.](#)

Planning Officer: Rebecca Kerr

OTHER REPORTS

- 8.1. Planning Enforcement Activity Report - PLA/22/072 (Pages 119 - 146)
- 8.2. A Revised Guide to Planning Consents for the Aberdeen Inner-City Multis - PLA/22/085 (Pages 147 - 178)
- 8.3. Affordable Housing Waiver Extension - PLA/22/091 (Pages 179 - 184)

DATE OF NEXT MEETING

- 9.1. Thursday 23 June 2022 at 9AM

Members please note the earlier start time of 9am.

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

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

Website Address: 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

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

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

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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

ABERDEEN, 21 April 2022. Minute of Meeting of the PLANNING DEVELOPMENT MANAGEMENT COMMITTEE. Present:- Councillor Boulton, Convener; Councillor Stewart, the Depute Provost; Vice Convener; and Councillors Allan, Cooke, Copland, Greig, Henrickson (as substitute for Councillor Cormie), Malik and Mason (as substitute for Councillor MacKenzie).

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

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

MINUTE OF MEETING OF THE PLANNING DEVELOPMENT MANAGEMENT COMMITTEE OF 17 MARCH 2022

1. The Committee had before it the minute of the previous meeting of 17 March 2022, 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 Interim Chief Officer – Strategic Place Planning advised that a brief report would be submitted to the next meeting on 26 May 2022, in relation to the Affordable Housing Waiver. Following this a more detailed report would be brought to the Committee on 25 August 2022 regarding the waiver and following the conclusion of the City Centre Living Study.

The Committee resolved:-

- (i) to note that future reports would be brought to the Committee in relation to the Affordable Housing Waiver and also the City Centre Living Study; and
- (ii) to otherwise note the information contained in the Committee business planner.

PRIME FOUR BUSINESS PARK DEVELOPMENT FRAMEWORK - PLA/22/045

3. With reference to article 7 of the minute of the meeting of 9 December 2021, the Committee had before it a report by the Interim Chief Officer – Strategic Place Planning, which presented the updated Prime Four Business Park Development Framework, the findings of the public consultation and proposed changes to the draft

PLANNING DEVELOPMENT MANAGEMENT COMMITTEE

21 April 2022

document. It also sought approval to adopt the document as Aberdeen Planning Guidance (non statutory planning guidance).

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

The Committee resolved:-

- (i) to approve the responses proposed by Officers to those consultation representations that were received on the Draft Prime Four Business Park Development Framework, as approved for public consultation by the Planning Development Management Committee on 9 December 2021 (Appendix 2); and
- (ii) to approve the revised content of the Draft Prime Four Business Park Development Framework 2021 (Appendix 1) as Aberdeen Planning Guidance (non-statutory planning guidance).

VALEDICTORY

4. The Convener noted that it was the last meeting of the Committee prior to the local government elections in May and therefore stated that she wished to thank all Members for their contributions during her time as Convener. She added that she would also like to thank the various officers for their support during her time in the Chair. The Convener also noted that Councillor Allan was not standing to be re-elected and thanked her for her years of service and wished her all the best for the future and for a long and happy retirement.

The Interim Chief Officer – Strategic Place Planning, offered his gratitude and thanks to the Convener for her hard work and efforts over the years.

Finally Councillor Cooke offered his thanks to the Convener for her successful Convenership of the Committee and noted how she always kept Members on the correct path and focused on planning policies.

- **Councillor Marie Boulton, Convener**

	A	B	C	D	E	F	G	H	I
1	PLANNING DEVELOPMENT MANAGEMENT COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			26 May 2022						
4	Amended Guide to Planning Consents for the Aberdeen Inner-City Multis'	To update members on the planning consents for the Aberdeen Inner-City Multis		Sepi Hajisoltani	Strategic Place Planning	Place	5		
5	Planning Enforcement Activity Report	To report on the planning enforcement activity from April 2021 to March 2022.		Gavin Clark	Strategic Place Planning	Place	8.5		
6	Affordable Housing Waiver	To seek permission to extend the affordable housing waiver		David Dunne	Strategic Place Planning	Place	5		
7	Raiths Farm - Kirkton Drive - 220026	To approve or refuse the application for erection of energy storage facility including containers of batteries, power converters, transformers, stores, meter building, security, fencing and associated infrastructure		Lucy Greene	Strategic Place Planning	Place	1		
8	Millbank House - 211430	To approve or refuse the application for conversion to form 10 flats		Robert Forbes	Strategic Place Planning	Place	1		
9	Old Ferryhill House - 220032	LBC - to approve or refuse the erection of a single storey extension to the side and internal alterations/		Aoife Murphy	Strategic Place Planning	Place	1		
10	7 Lochside Drive - 220278	To approve or refuse the application for erection of log cabin to the side (retrospectively)		Rebecca Kerr	Strategic Place Planning	Place	1		
11			23 June 2022						
12	7 Langstane Place - 220509	To approve or refuse the application for DPP for installation of external flue piping to side of building		Jamie Leadbeater	Strategic Place Planning	Place	1		

	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			Future applications to PDMC (date of meeting yet to be finalised).						
14	Queens Link Leisure Park - 211715	To approve or refuse the application for proposed drive thru restaurant/ take away		Robert Forbes	Strategic Place Planning	Place	1		
15	94 Sunnyside Road - 220050	To approve or refuse the application for sub-division of residential curtilage and erection of end-terraced dwellinghouse		Roy Brown	Strategic Place Planning	Place	1		
16	3 Whitehall Road - 220210	To approve or refuse the application for change of use from class 1(shops) to class 3 (food and drink) and installation of extract grills		Roy Brown	Strategic Place Planning	Place	1		
17	Wellington Road Cove - 211072	To approve or refuse the application for residential development (27 units)		Robert Forbes	Strategic Place Planning	Place	1		
18	56 Park Road - 211224	To approve or refuse the application for erection of 47 flats		Robert Forbes	Strategic Place Planning	Place	1		
19	Former Treetops Hotel site - 211528	To approve or refuse the residential development of 89 units (including 25% affordable) comprising 54 houses and 35 flats over 3, 4 and 6 storey blocks and associated roads and parking, drainage infrastructure, open space and landscaping.		Matthew Easton	Strategic Place Planning	Place	1		
20	26 Hollybank Place - 211807	To approve or refuse the application for demolition of an existing commercial unit and erection of 11 no. residential apartments over 4 storey with associated hard and soft landscaping works		Roy Brown	Strategic Place Planning	Place	1		
21	Aberdeen Grammar School FP's Club, 86 Queens Road - 211806	To approve or refuse the application for erection of 3no. villas, 4no. apartments and 2no. maisonette apartments with associated works		Jane Forbes	Strategic Place Planning	Place	1		
22	OP51, Peterculter - 190314	To approve or refuse the proposed residential development including mix of private, affordable and retirement housing consisting of approximately 49 homes with associated access roads and landscaping.		Gavin Evans	Strategic Place Planning	Place	1		

	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									
23	183A Crown Street - 220387	To approve or refuse the application for change of use from dental laboratory to class 3 (food and drink) and installation of extract vent terminals		Gavin Clark	Strategic Place Planning	Place	1		
24	Caledonia, Malcolm Road Peterculter - 220426	To approve or refuse the application for erection of 25 dwellings, road access and ancillary infrastructure / landscaping		Alex Ferguson	Strategic Place Planning	Place	1		
25	Birchwood House upper flat - 220410	To approve or refuse the application for resurfacing of external amenity area to form parking/turning area (retrospective)		Jemma Tasker	Strategic Place Planning	Place	1		
26	Aberdeen Local Development Plan 2022 – Draft Aberdeen Planning Guidance: Masterplans and Planning Briefs			Andrew Brownrigg	Strategic Place Planning	Place	4 and 5		
27	PRE APPLICATION FORUM - Causewayend Bridge of Don - 201365 - date to be confirmed.	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			
28	PRE DETERMINATION HEARING - Tillyoch - 211699 - Wednesday 1 June 2022	Residential development (circa 250 units) with associated infrastructure, open space, landscaping and community facilities.		Aoife Murphy	Strategic Place Planning	Place			0

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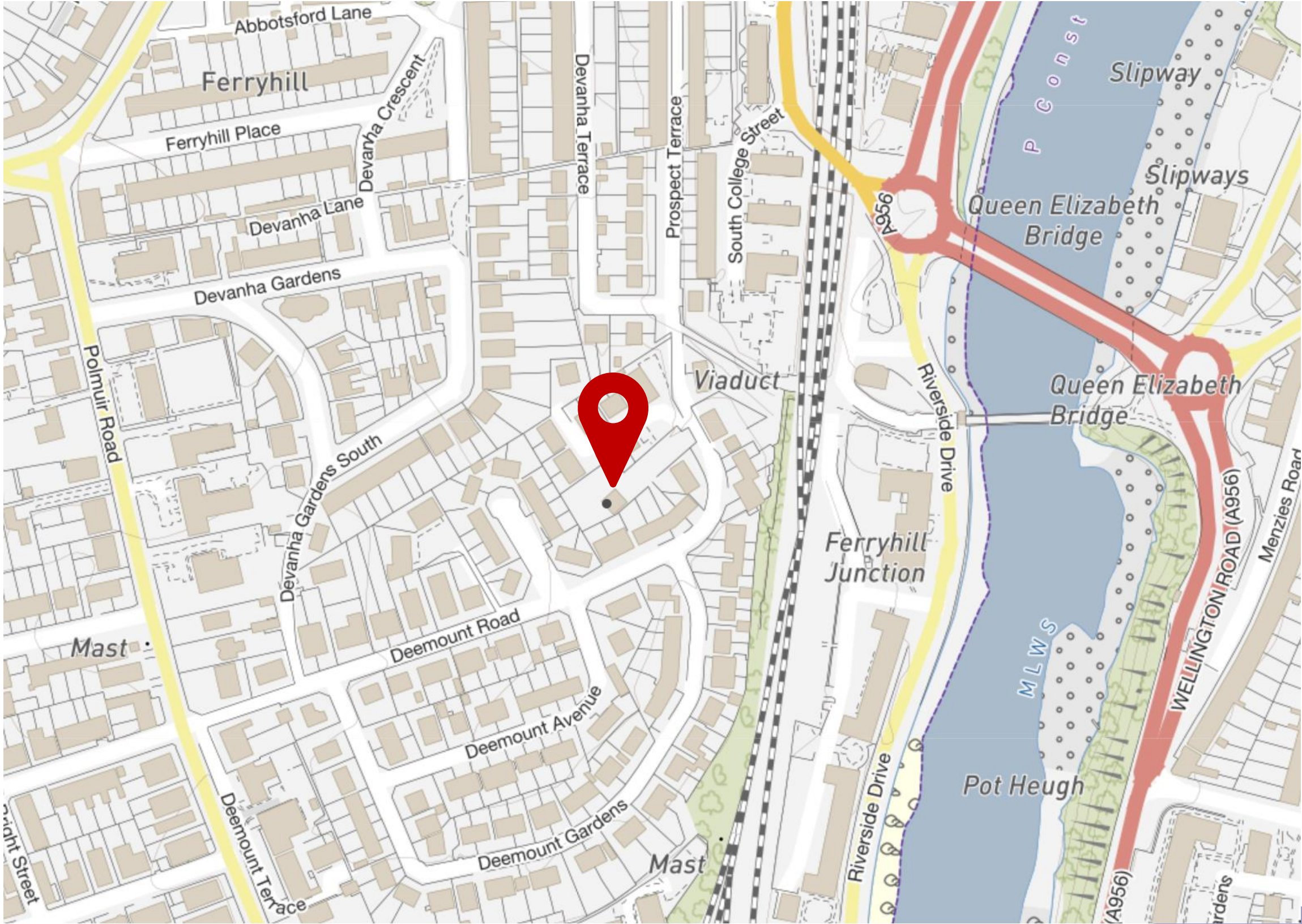
Planning Development Management Committee

**Erection of single storey extension to side and internal
alterations**

Old Ferryhill House, 70 Prospect Terrace

Detailed Planning Application (220032/DPP)

Location Plan (GIS) – Wider Context



Location Plan (GIS) – Local Context



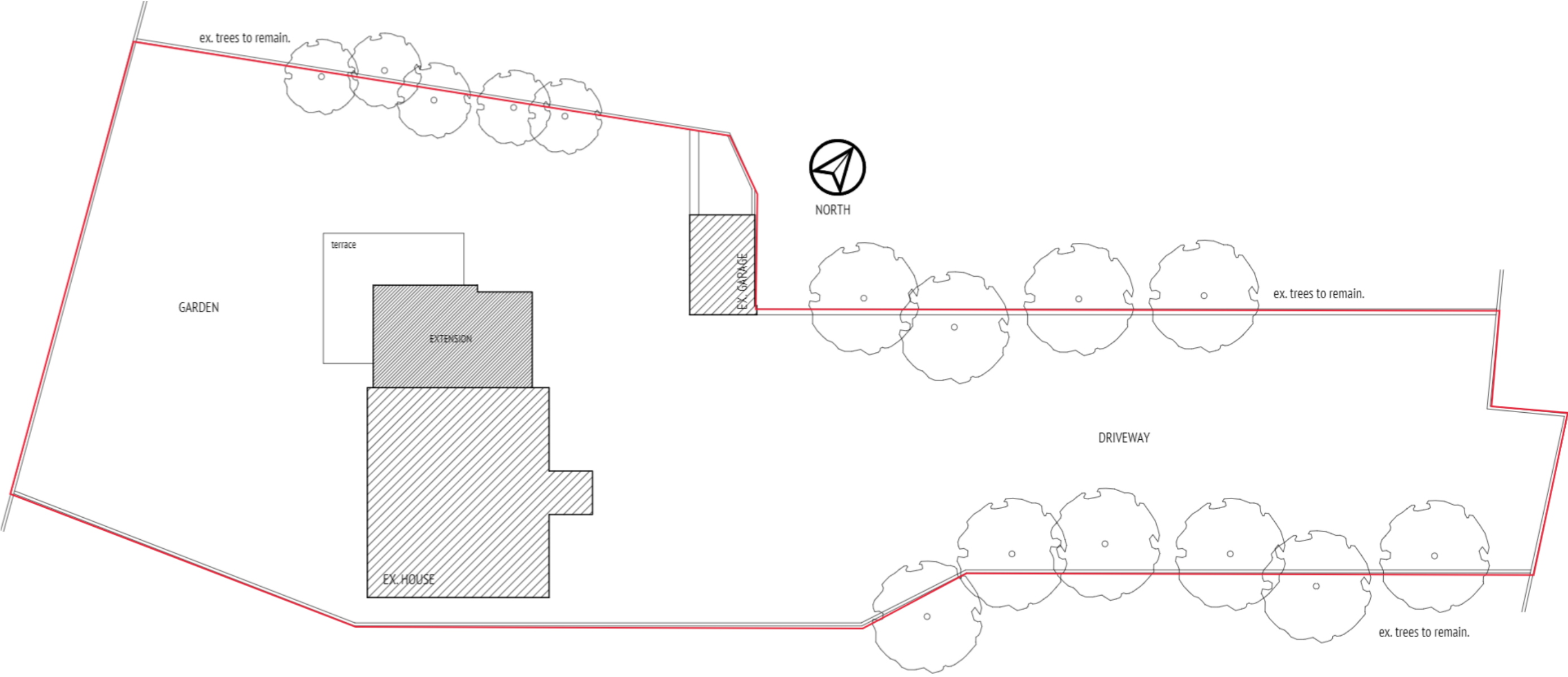
Aerial View – facing north east



Aerial View – facing south west

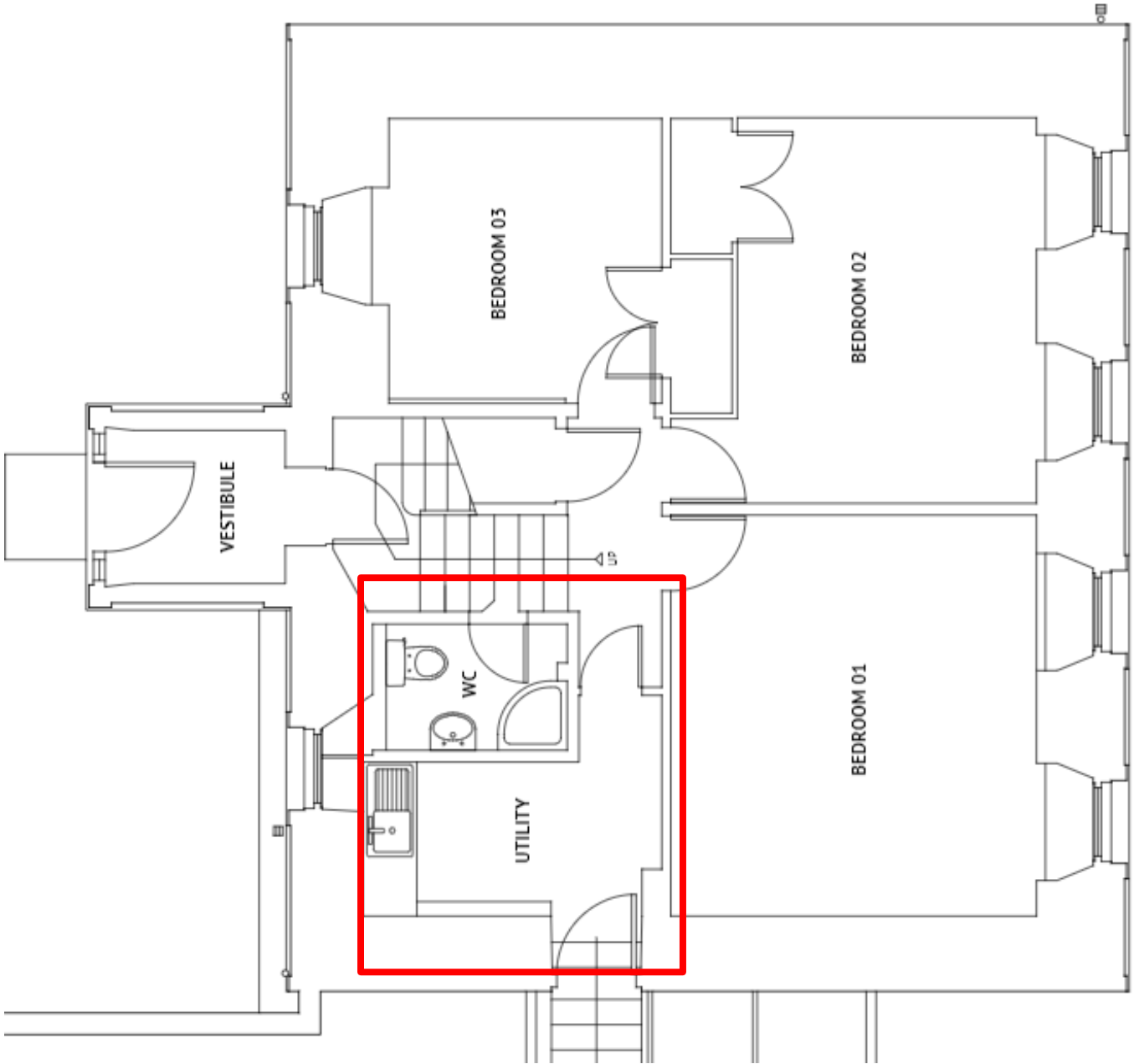


Proposed Site Plan

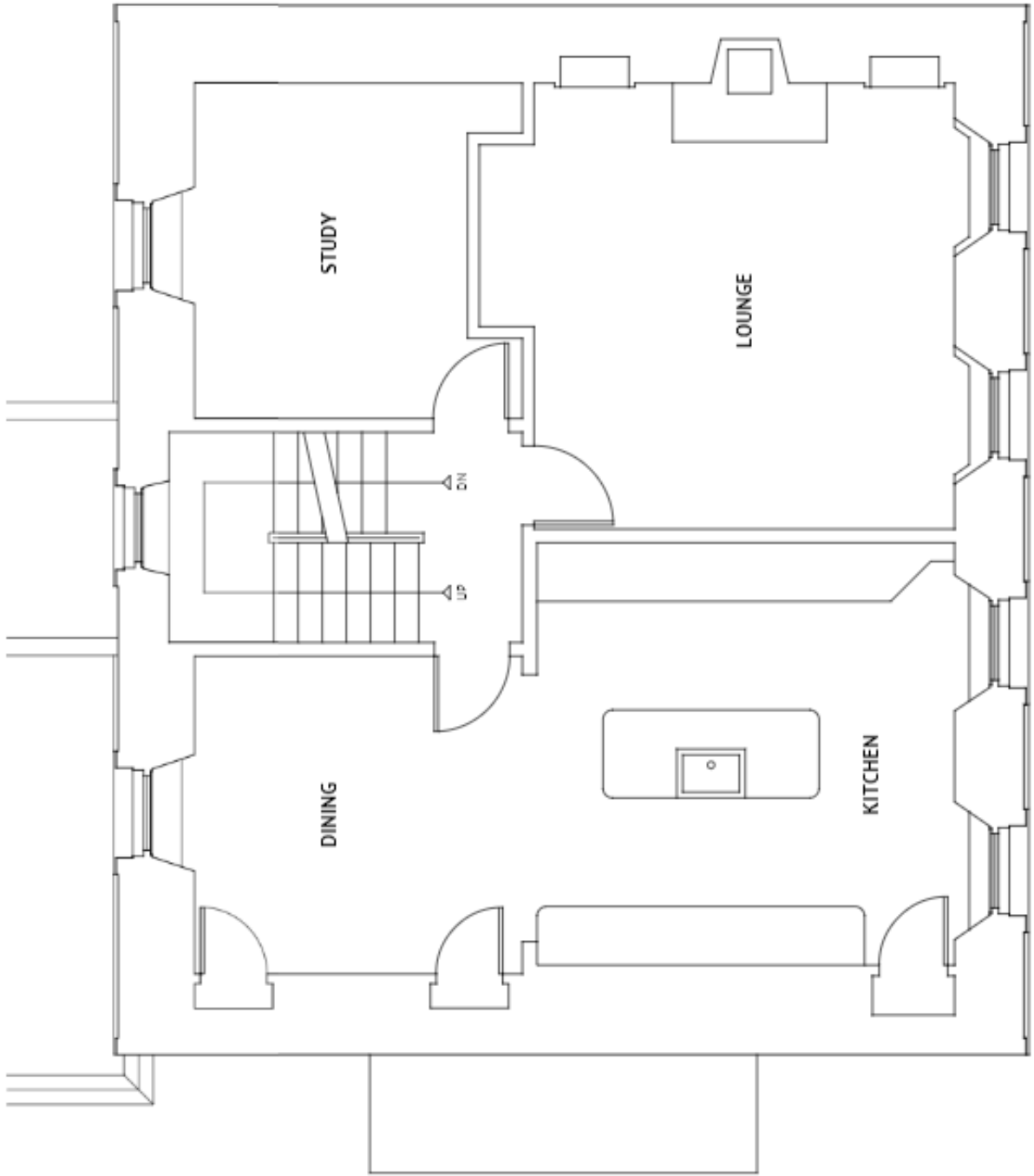


SITE LAYOUT PLAN

Existing Floor Plans

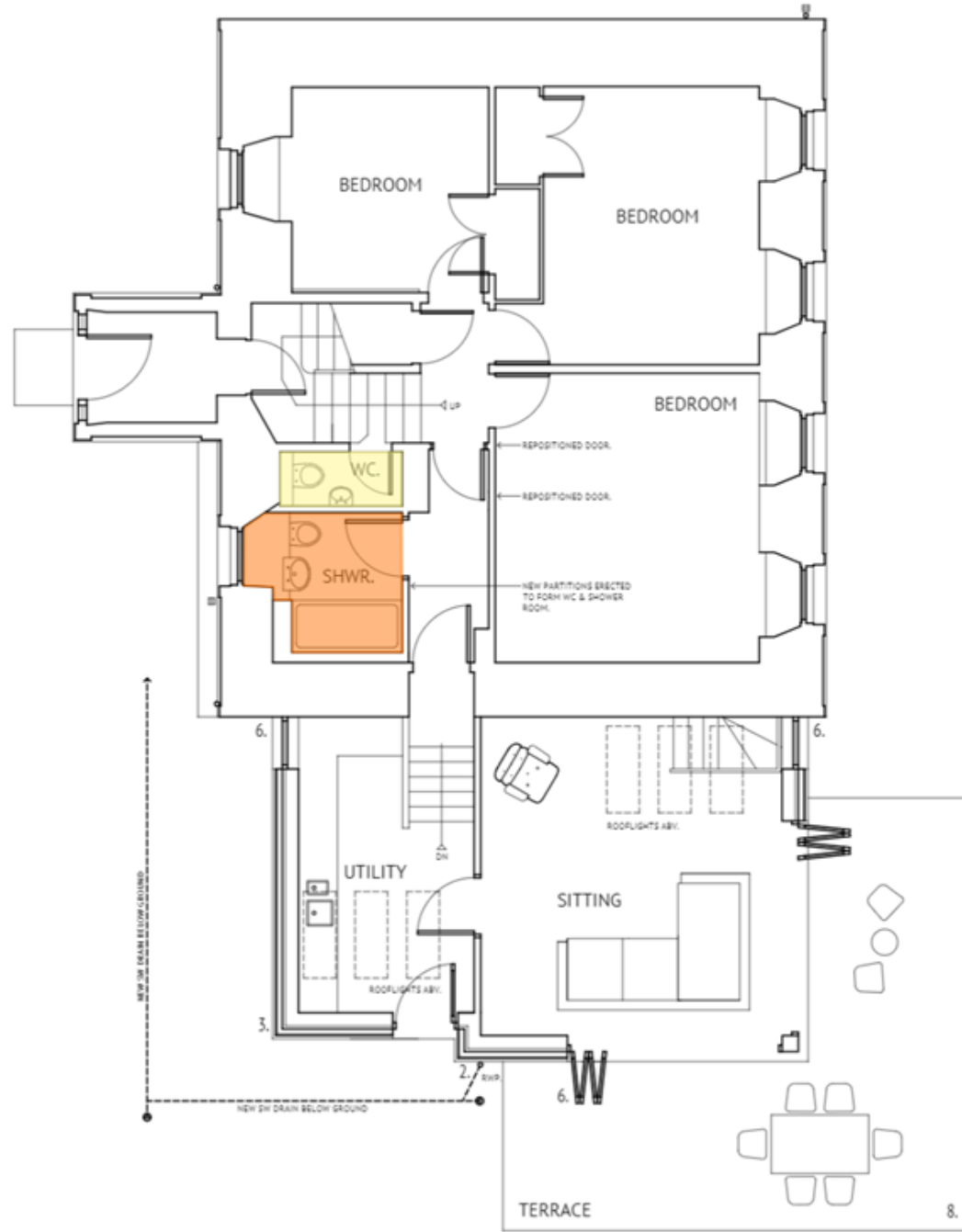


LOWER GROUND FLOOR PLAN

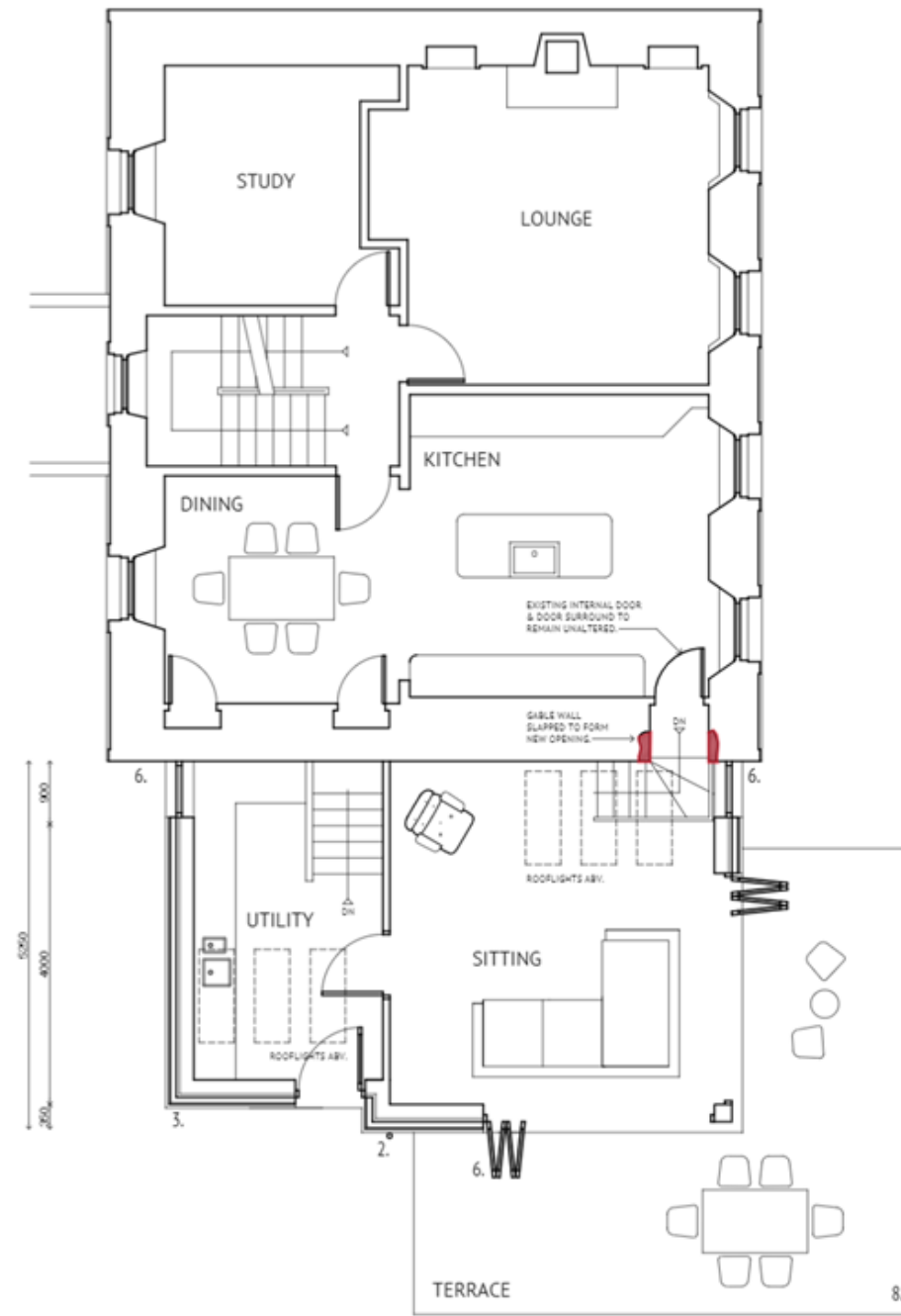


GROUND FLOOR PLAN

Proposed Floor Plans



LOWER GROUND FLOOR PLAN



GROUND FLOOR PLAN

Existing Elevations



EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION

Proposed Elevations



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION

Site Photos – External



NORTH / WEST WALLS



NORTH GABLE



NORTH GABLE / GARDEN WALL



GARDEN WALL AT NORTH GABLE



GARDEN WALL



GARAGE WEST WALL



GARAGE WEST WALL



GARDEN GATE

Site Photos – External & Internal



GARAGE SOUTH WALL



HOUSE LOOKING EAST



EAST ELEVATION



UTILITY ROOM LOOKING NORTH



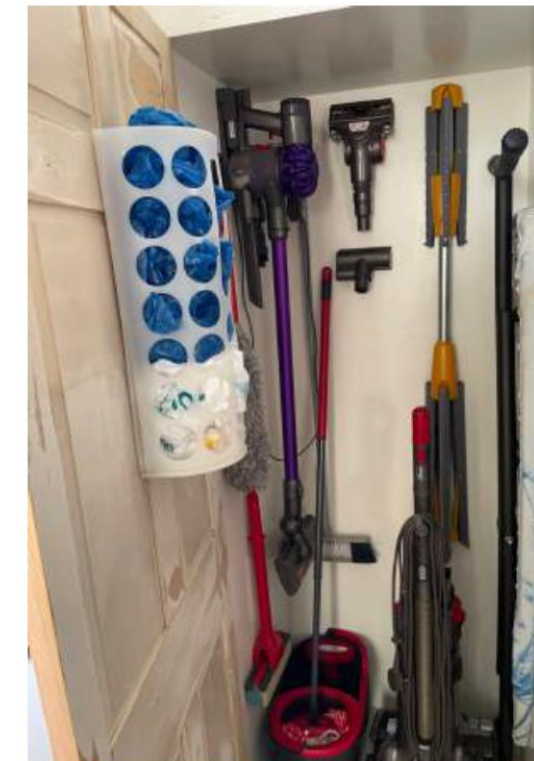
UTILITY ROOM LOOKING EAST



SHOWER ROOM



KITCHEN CUPB DOOR



KITCHEN CUPB INTERNAL



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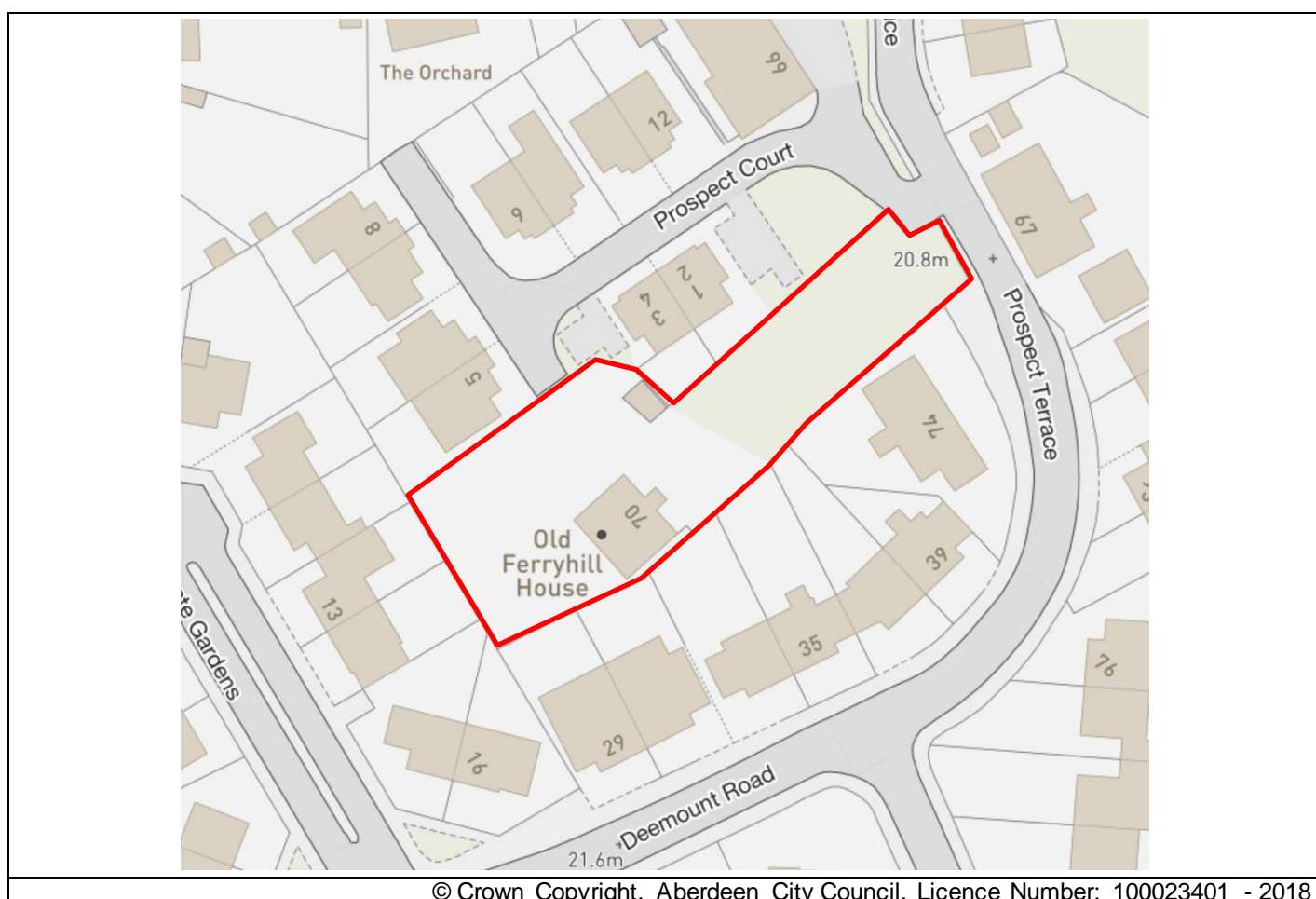


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 26 May 2022

Site Address:	Old Ferryhill House, 70 Prospect Terrace, Ferryhill, Aberdeen, AB11 7TU
Application Description:	Erection of single storey extension to side and internal alterations
Application Ref:	220032/LBC
Application Type	Listed Building Consent
Application Date:	14 January 2022
Applicant:	Mr P Rowley & Mrs J Watt
Ward:	Torry/Ferryhill
Community Council:	Ferryhill & Ruthrieston
Case Officer:	Ross McMahon



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RECOMMENDATION

Approve Unconditionally

APPLICATION BACKGROUND

Site Description

The application site is located within an established residential area and comprises a category 'B' listed detached dwelling of slate and granite construction and its front, side and rear curtilage. The expansive site contains an existing single garage to the north, and is bordered to the north, south and west by surrounding residential property. The dwelling is a mid to later 18th century, single-storey property with a half-sunken basement and attic; 3-bay; rectangular-plan plain classical style, with coursed tooled granite with polished sandstone dressings.

Relevant Planning History

Application Number	Proposal	Decision Date
220029/DPP	Extension to an existing domestic garage with associated fence to front	Status: Approved Unconditionally
220030/DPP	Erection of single storey extension to side	Status: Approved Unconditionally
220031/LBC	Extension to an existing domestic garage with associated fence to front	Status: Approved Unconditionally

APPLICATION DESCRIPTION

Description of Proposal

Listed building consent is sought for the erection of a single-storey extension to the side (north) elevation of the property to accommodate a new utility room and sitting room. The extension would measure 4m in width and 8.3m in length, sitting back from the principal elevation by c.0.87m. The extension would have a lean-to roof (including six rooflights) and be principally glazed on its rear (west) and side (north) elevations by way of a series of doors, fanlights and full height windows. Finishing materials include horizontal and vertical natural timber linings, grey smooth cement base course, grey zinc standing seam roof cladding with matching fascia, soffit and bargeboard, quartz colour zinc rainwater goods, grey aluminium clad timber framed windows and doors. It is also proposed to remove an existing and partially curved brick wall which links Old Ferryhill House and the existing garage.

A number of internal alterations are proposed including the formation of a shower room within the existing utility room area, resulting in a smaller WC. This room would be formed by the erection of a new partition wall and door. It is also proposed to slap through the existing north gable wall at first floor level to form a new internal opening serving a new sitting room within the proposed side extension.

Amendments

Following submission and through discussions with the Planning Service, the proposal has been amended in the following respects.

- The extension side projection has been reduced, including the roof pitch and setback from the principal elevation.
- The front elevation has been redesigned to include horizontal and vertical timber cladding sections.

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=R5NAK7BZJLX00>

- *Cover letter*
- *Site photos (internal, external & historic)*
- *External finishes product brochures*

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because Historic Environment Scotland has made observations which cannot competently be addressed through the use of appropriate planning conditions; the Planning Service considers the revised proposal to be acceptable in planning terms, despite advice from Historic Environment Scotland that the proposals should be resisted. Consequently, the proposal falls out with the Scheme of Delegation.

CONSULTATIONS

Historic Environment Scotland – The proposals for this application are for a large lean-to extension to the north elevation (side elevation) of the, currently symmetrical, house. This extension would cover almost the entire side elevation and would rise to the eaves level of the listed house, being accessed from the lower and raised ground floor. Old Ferryhill House is currently freestanding without any extension. We consider an extension of the scale proposed would be immediately visible on approach to the house and would serve to unbalance the symmetrical composition diminishing our appreciation of its design and plan-form. There may be scope for a limited extension of the lower ground floor, but the current proposals would have a negative impact on the special interest of the listed house and should be resisted.

Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on listed building/conservation area consent, together with related policy guidance.

Ferryhill & Ruthrieston Community Council – Not currently established.

REPRESENTATIONS

Two valid and timeously made representations from the *Aberdeen Civic Society* and the *Architectural Heritage Society of Scotland* have been received in relation to this application, both of which object to the proposal. The matters raised can be summarised as follows:

- *Inappropriate side extension proposed to a traditional listed building.*
- *The high wall shown on both site plan and surveys of the house and a side elevation of the house, is very much a part of the house its future survival intact is critical. Also, the porch on that elevation is, apparently, to disappear. As both these are integral to the listing, where is the explanation in the application for Listed Building Consent...ref 220031/LBC above?*

MATERIAL CONSIDERATIONS

Legislative Requirements

Where a proposal affects a listed building, sections 14(2) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining an application for Listed Building Consent to have special regard to the desirability of preserving the building or its setting and any features of special architectural or historic interest

which it possesses. This is the primary consideration in the determination of applications for Listed Building Consent.

Development Plan

Strategic Development Plan

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Local Development Plan

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration".

National Planning Policy and Guidance

- Scottish Planning Policy (SPP)
- Historic Environment Policy for Scotland (HEPS)
- Historic Environment Scotland (HES) – *Managing Change in the Historic Environment: 'Interiors' and 'Extensions'*.

Aberdeen Local Development Plan 2017 (ALDP)

- Policy D4 (Historic Environment)

Proposed Aberdeen Local Development Plan 2020

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the PALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. 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 ALDP 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 –

- such matters have or have not received representations as a result of the period of representations in public for the PALDP;
- the level of representations received in relation to relevant components of the PALDP 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 PALDP

are of relevance in the assessment of this planning application:

- Policy D6 (Historic Environment)

EVALUATION

National & Local Policy Context

SPP (para. 137) states that the planning system should:

- promote the care and protection of the designated and non-designated historic environment and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and
- enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

HEPS, (p. 13) in its policies for managing the historic environment, states that decisions affecting the historic environment should be informed by an inclusive understanding of its breadth and cultural significance; when considering changes to specific assets and their context, detrimental impacts should be avoided. Also of relevance is Historic Environment Scotland's (HES) Managing Change in the Historic Environment: 'Extensions'.

Policy D4 (Historic Environment) of the ALDP states that the Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP (now Historic Environment Policy for Scotland (HEPS)) and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. High quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings, conservation areas and historic gardens and designed landscapes, will be supported.

Side Extension

Historic Environment Scotland's 'Managing Change in the Historic Environment – Extensions' establishes a number of general principles with regards to extending historic buildings and within the historic environment, and states:

- An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.
- Where an extension is built beside a principal elevation it should generally be lower than, and set back behind, that facade.
- An extension that would unbalance a symmetrical elevation and threaten the original design concept should be avoided.
- An extension should be modestly scaled and skilfully sited.

The proposed single-storey extension would be of an acceptable and appropriate form, size and scale in relation to the existing dwelling and the wider area. The subordinate size and scale, extensive use of glass on the west and north elevations, the use for horizontal and vertical timber linings and limited pallet of materials helps to reduce the overall massing of the extension, avoiding undue conflict with the traditional style of the property, despite the contemporary and contrasting approach. The proposal is considered to be compliant with the general principles as set out in HES's 'Managing Change' guidance, in that the extension would protect the character and appearance of the building; would be subordinate in scale and form; would be located on a secondary elevation and be designed in a high-quality manner using appropriate materials. Removal of the existing brick wall is considered to be acceptable on the basis of being a modern

later addition to the Old Ferryhill House and associated garage, in combination with its current poor condition and ongoing deterioration.

Historic Environment Scotland (HES) is a statutory consultee and any comments submitted are a material consideration in the determination of this application (refer to comments noted under 'Consultations'). The Planning Service has secured a number of changes to the proposal that seek to reduce the size and scale of the extension relative to the listed building, namely, a reduction in footprint and side projection; a reduction in height and greater setback from the principal elevation of the dwelling. It is recognised that such changes do not wholly address the concerns raised by HES, particularly those relating to the 'unbalancing' of the symmetrical composition of the dwelling. However, it is evident that there are limited alternative options regards extending the property i.e., an extension to the front would be wholly undesirable and unequivocally resisted; an extension to the rear would, owing to the half sunken lower floor level arrangement result in the obscuration of noteworthy architectural features or merit such as loss of windows, for example; lastly, the property cannot be extended to south as this elevation straddles the site boundary. Cartographical evidence suggests that historically, a significant L-shaped extension was located on the northern elevation of Old Ferryhill House, far larger than that proposed, however subsequently removed. Lastly, the Planning Service considers that, whilst Old Ferryhill House has a symmetrical plan form, its siting within its curtilage is wholly off centre and a-symmetrical, and thus the 'lopsided' nature of its siting must also be taken into consideration. On the basis of the above, the Planning Service considers that the statutory comments submitted have been duly considered and adequately addressed through the identification of material considerations that, in the view of the Planning Service, would make the revised proposal difficult to resist in planning terms.

Internal Alterations

It is proposed to carry out a number of internal alterations to the property at ground floor level within the existing utility room. The proposed internal alterations are considered acceptable on the basis that they would not result in a detrimental impact on the special architectural or historic character of the building, with no impact to any features of note. Such alterations are considered minimal, reversible and would be carried out within secondary rooms. It is considered that the proposed gable opening (leading into the new side extension) would not significantly adversely affect the special character of the building and would be in accordance with the principles as set out in HES's 'Managing Change' guidance. The opening would respect existing features of note, namely, the existing cornicing and skirting features.

Matters Raised in Representations

Matters raised in representations not expressly addressed in the preceding evaluation are discussed below. It has been evidenced that the brick wall currently attached to the listed dwelling and single garage was added post listing of the property in 1967. As such, it is not under consideration on the basis that, in the view of the Planning Service, its removal is not requiring of planning permission or listed building consent. All drawings (existing and proposed) show the existing porch in situ – there is no suggestion anywhere within the submission or description of works that would suggest that the porch is to be altered or removed.

Conclusion

To conclude, all elements of the proposal would ensure the preservation of the category 'B' listed building's special architectural and historic interest and its setting in line with legislative requirements, SPP, HEPS and the relevant 'Managing Change in the Historic Environment' guidance. The proposal therefore accords with Policy D4 (Historic Environment) and Policy D5 (Our Granite Heritage) of the ALDP.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan and the proposal

is acceptable in terms of both Plans for the reasons previously given.

RECOMMENDATION

Approve Unconditionally

REASON FOR RECOMMENDATION

The proposed side extension and internal alterations would ensure the preservation of the category 'B' listed building's special architectural and historic interest and its setting in line with legislative requirements, Scottish Planning Policy, Historic Environment Policy for Scotland and the associated Managing Change in the Historic Environment: 'Interiors' and 'Extensions' guidance. The proposal therefore accords with Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017, as well as Policy D6 (Historic Environment) of the Proposed Aberdeen Local Development Plan 2020. On the basis of the above, it is considered that there are no material planning considerations of sufficient weight that would warrant refusal of the application.

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PLANNING DEVELOPMENT MANAGEMENT COMMITTEE



Meeting Date : 26/05/22

Description: Conversion / Alteration of Building to form 10 Flats

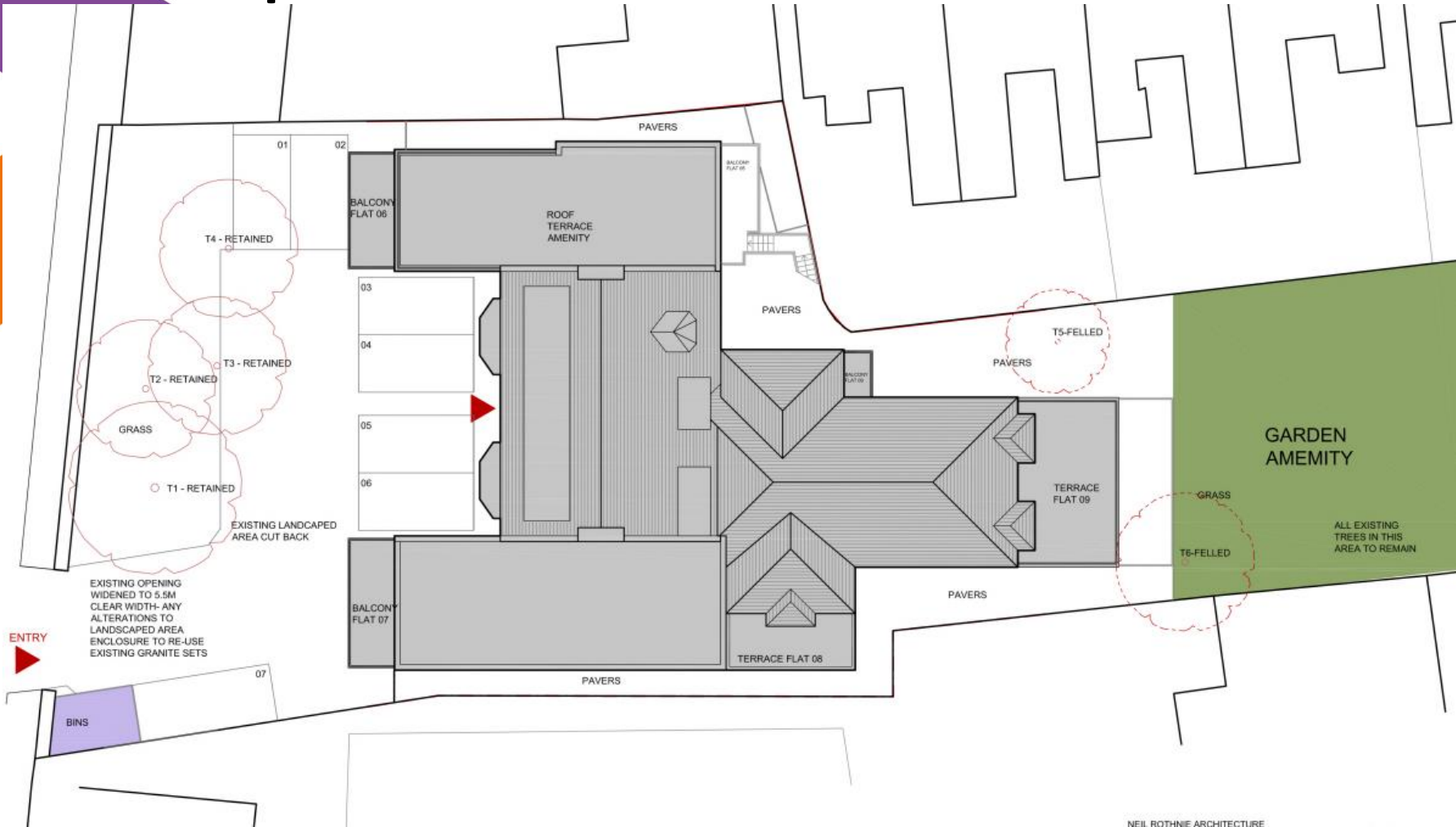
Address: 139 Hardgate

Type of application : Detailed Planning Permission
Application number: 211430/DPP

Location Plan



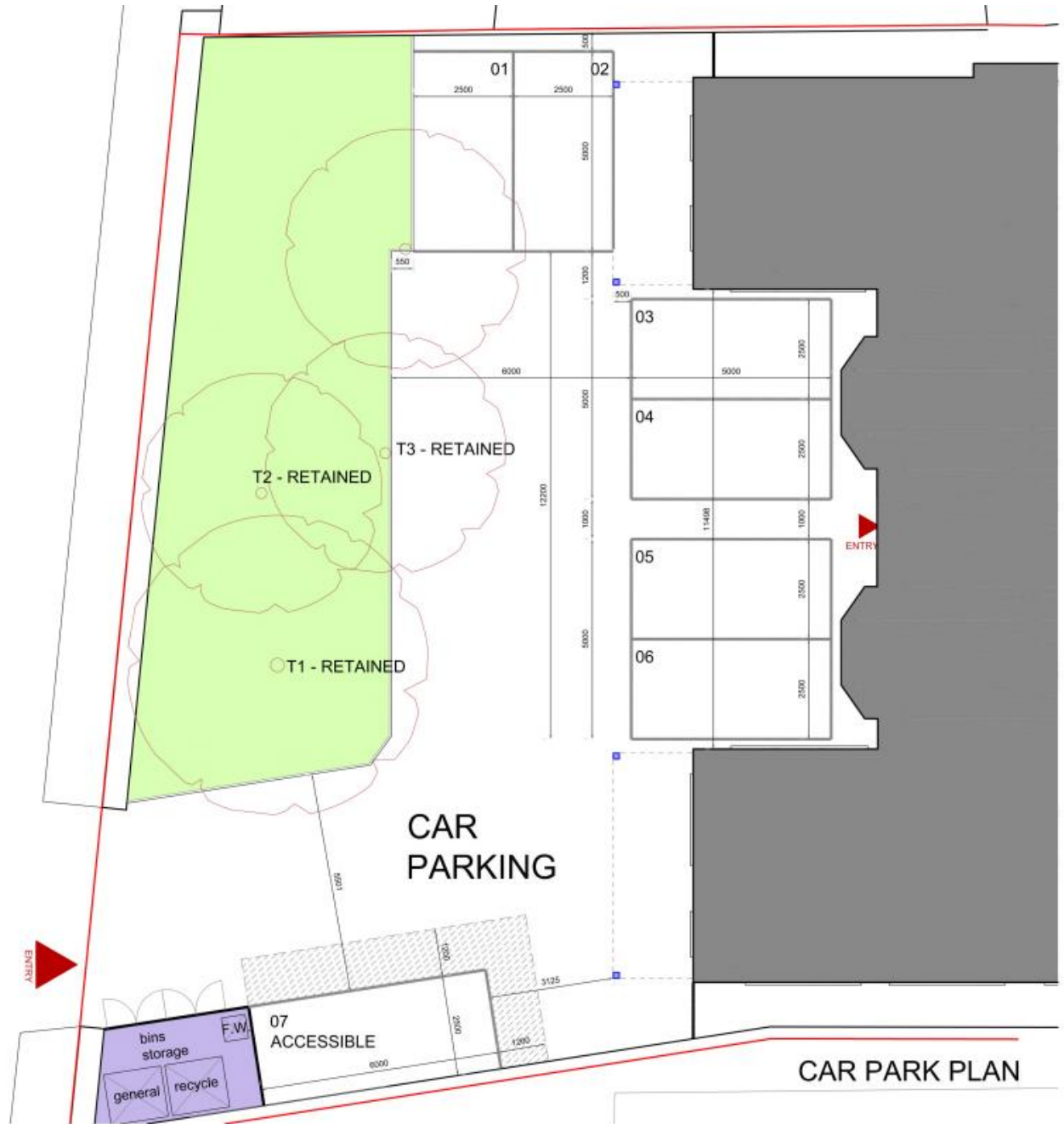
Proposed Site Plan



NEIL ROTHNIE ARCHITECTURE



Site Frontage Layout



Ground Floor Plan

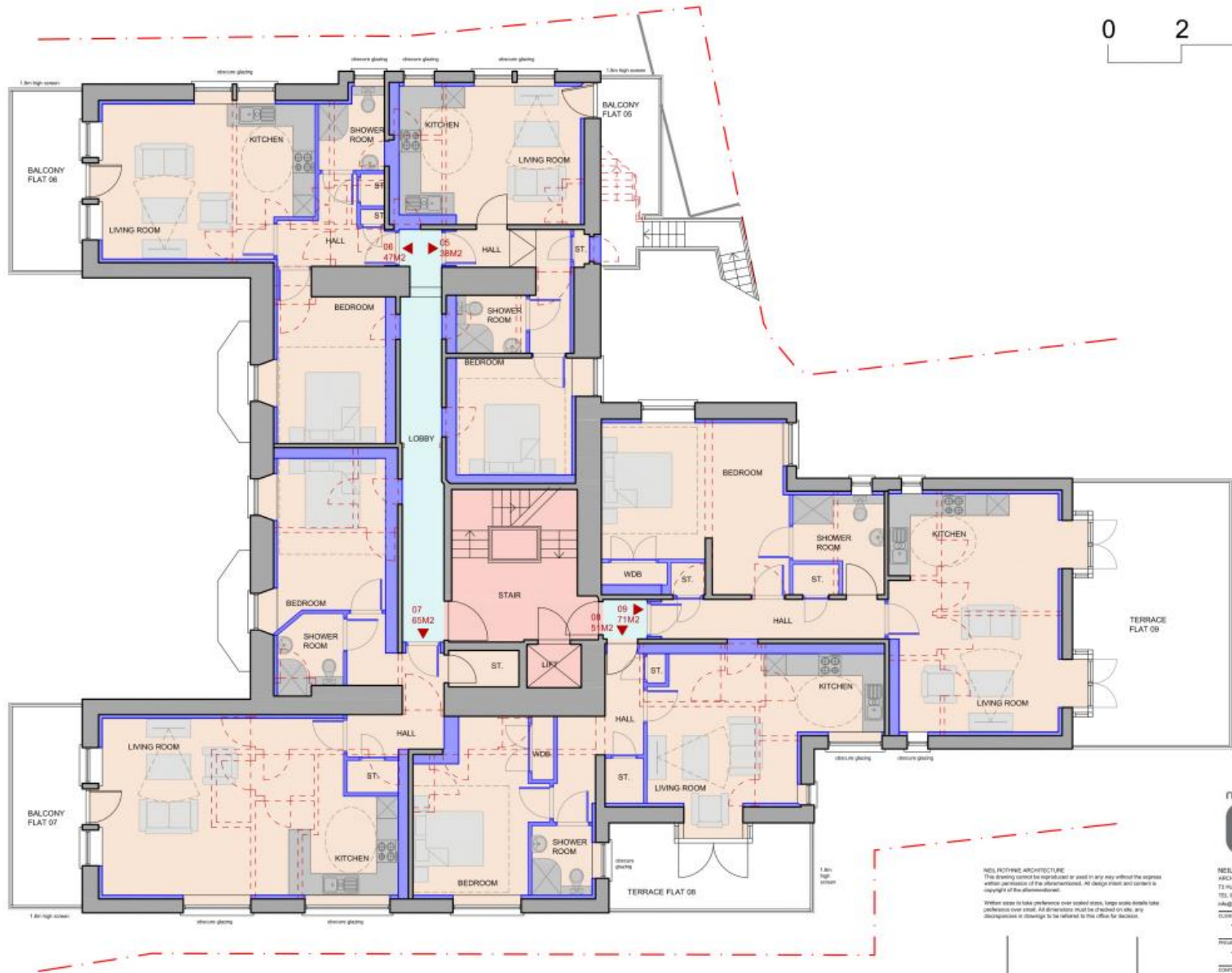


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nr
 NEIL ROTHNIE ARCHITECTURE
 ARCHITECTURE AND DESIGN CONSULTANTS
 11 FLEMING STREET, ABERDEEN, AB9 1TE
 TEL: 01224 837474 FAX: 01224 837475
 www.nroa.co.uk
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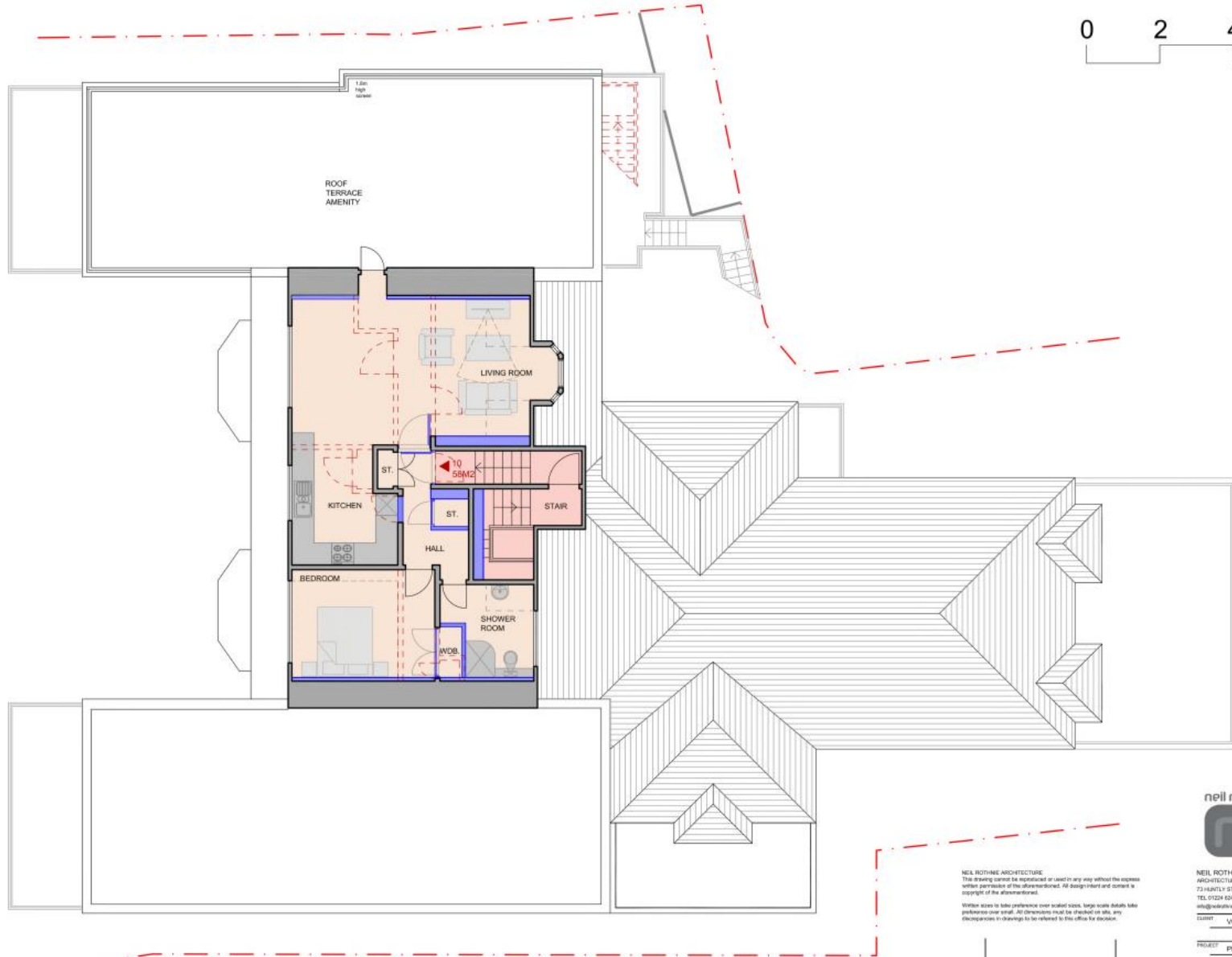
NEIL ROTHNIE ARCHITECTURE
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 copyright of the client/contractor.
 Unless stated to have preference over similar notes, large scale details take
 preference over small. All dimensions must be checked on site, any
 discrepancies in drawings to be referred to this office for decision.

PROJECT: PROPOSED DEVELOPMENT AT
 MILLBURN HOUSE, ABERDEEN
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]
 TITLE: PROPOSED GROUND FLOOR PLAN

First Floor Plan



Second Floor Plan



Proposed Front (West) Elevation



Proposed Rear (East) Elevation

ALL FASCIAS AND PIPEWORK TO BUILDING PAINTED GREY TO MATCH WINDOWS

EST ELEVATION

ALL WINDOWS OVERHAULED AND REPAIRED AS NECESSARY

REAR METAL STAIR TAKEN DOWN

ROOF TERRACE BALCONY REPLACED WITH NEW GLAZED RAILS WHERE REQUIRED

obscure glazing

1.8 m high screen (sandblasted glass)

1.8 m high screen (sandblasted glass)

EXTENSION TO REAR OF EXISTING BUILDING IN ROUGHCAST PAINTED BLACK TO MATCH REST OF BUILDING

EXISTING DOORWAYS BUILT UP AND RENDERED TO MATCH EXISTING

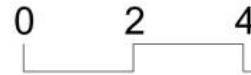
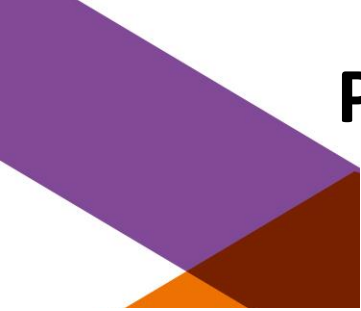
WINDOWS LOWERED TO FORM GLAZED DOORS AND FORM GLAZED TERRACE BALCONIES

ALL EXISTING ROUGHCAST WALLS PAINTED DARK GREY/BLACK

ALL EXISTING WINDOWS OVERHAULED AND REPAIRED AS NECESSARY AND PAINTED GREY

ALL FASCIAS AND PIPEWORK TO BUILDING PAINTED GREY TO MATCH WINDOWS

Proposed North Elevation



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2F

GLAZED BALCONY

1.8 m high screen (sandblasted glass)

GLAZED BALCONY

REMOVE 2 NO. SMALL WINDOWS LOWER SILL AND INSTALL NEW WINDOW

1.8 m high screen (sandblasted glass)

obscure glazing

obscure glazing

obscure glazing

obscure glazing

1.8 m high screen (sandblasted glass)

ALL WINDOWS OVERHAULED AND REPAIRED AS NECESSARY

EXTENSION TO REAR OF EXISTING BUILDING IN ROUGHCAST PAINTED BLACK TO MATCH REST OF BUILDING

ALL EXISTING ROUGHCAST WALLS PAINTED DARK GREY/BLACK
ALL EXISTING WINDOWS OVERHAULED AND REPAIRED AS NECESSARY AND PAINTED GREY

EXISTING DOORWAY BUILT UP AND RENDERED TO MATCH EXISTING

Proposed South Elevation



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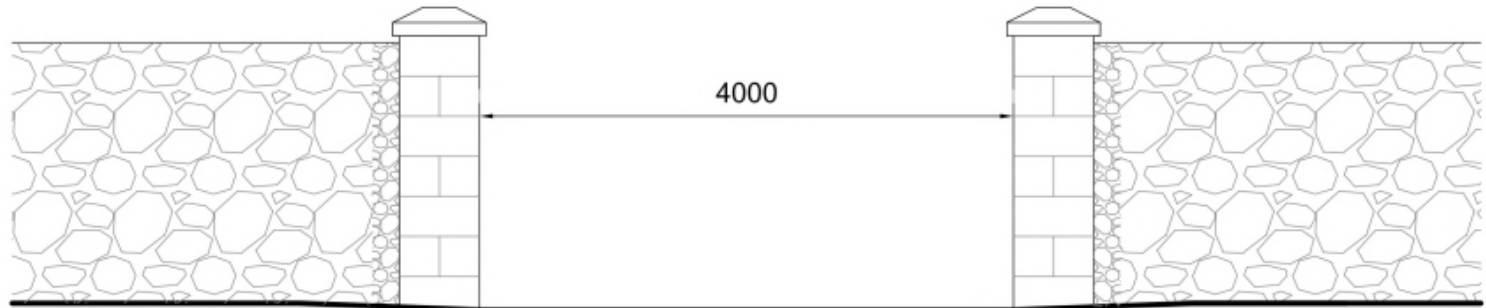
ALL EXISTING ROUGHCAST WALLS PAINTED DARK GREY/BLACK
 ALL EXISTING WINDOWS OVERHAULED AND REPAIRED AS NECESSARY AND PAINTED GREY
 ALL FASCIAS AND PIPEWORK TO BUILDING PAINTED GREY TO MATCH WINDOWS

WINDOW ALTERED TO WHITE PAINTED
 TIMBER FRAME FRENCH DOOR TYPE
 FOR ACCESS TO BALCONY. GLAZED
 PROTECTIVE BARRIERS TO TERRACE
 PERIMETER

EXTENSION TO REAR OF EXISTING
 BUILDING IN ROUGHCAST PAINTED
 BLACK TO MATCH REST OF BUILDING



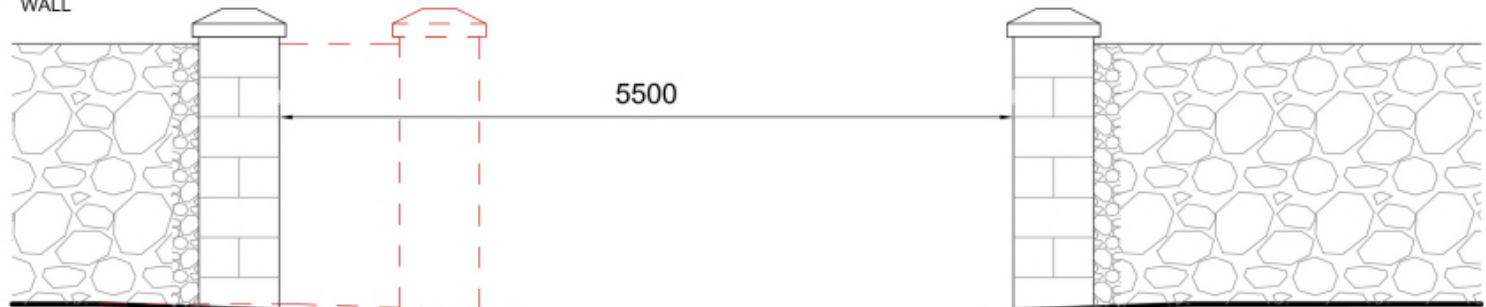
Site Entrance



EXISTING OPENING ELEVATION

TAKE DOWN EXISTING GRANITE PILLAR
AND TAKE DOWN RANDOM RUBBLE
WALL TO ALLOW FOR 5.5M CLEAR
VEHICLE OPENING

REBUILD GRANITE PILLAR EXACTLY AS
BEFORE IN NEW POSITION ENSURING
NEAT JUNCTION WITH RANDOM RUBBLE
WALL



ALTER EXISTING PAVEMENT TO
SUIT WIDENED OPENING
(USE GRANITE KERBS TO MATCH
EXISTING WHERE NECESSARY)

PROPOSED OPENING ELEVATION

Aerial Site Image



Oblique Site View from South



Oblique Site View from North



Site Frontage / Access



West Boundary to Hardgate



Site Frontage Trees / Amenity Area facing Hardgate



Hardgate Frontage Wall / Tree Screen



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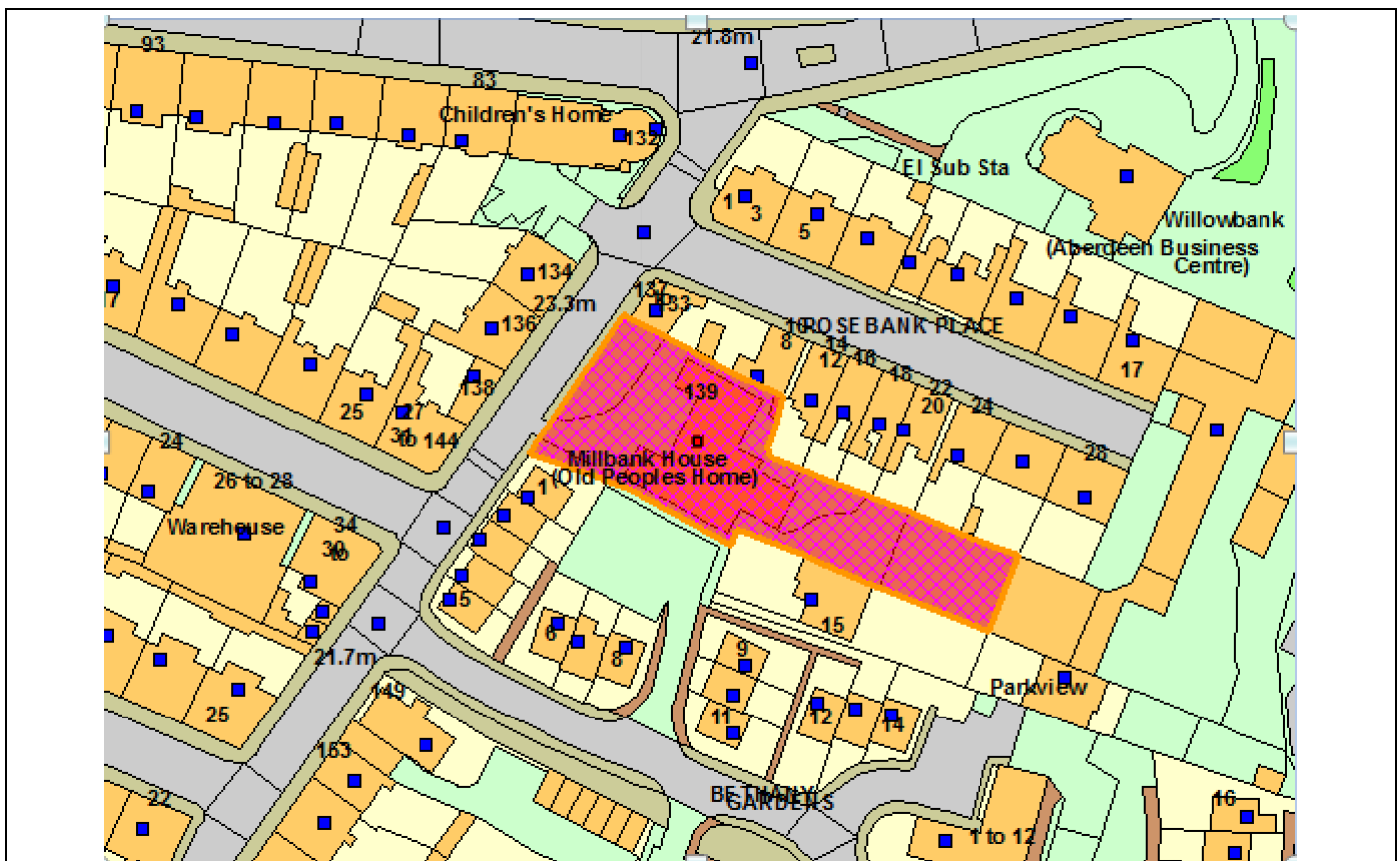


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 26 May 2022

Site Address:	Millbank House, 139 Hardgate, Aberdeen, AB11 6XQ
Application Description:	Change of use from Class 8 (residential institution) to form 10 flats (sui generis), erection of single storey extension to rear, formation of terraces and balconies with associated balustrades, alterations to existing openings and other associated works
Application Ref:	211430/DPP
Application Type	Detailed Planning Permission
Application Date:	8 October 2021
Applicant:	Voluntary Services Aberdeen/Assurance Homes Ltd.
Ward:	Torry/Ferryhill
Community Council:	Ferryhill and Ruthrieston
Case Officer:	Robert Forbes



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RECOMMENDATION

Approve Conditionally & Legal Agreement

APPLICATION BACKGROUND

Site Description

The site comprises a vacant residential institution which was operated by a local charity (VSA). The original granite building on the site is 2½ storey high and is set back from the street frontage. It has been significantly altered and extended with later 2 storey extensions using granite and rendered blockwork. The site retains its historic granite entrance pillars and boundary wall, albeit the access appears to have been widened. The wall provides a degree of privacy and is an imposing feature in the street scene. The front garden contains established deciduous trees and shrub planting which provides amenity and visual softening. The rear part of the site is landlocked and contains a number of established trees which are not visible from any public area.

The site lies within a largely residential area, notwithstanding its proximity to the city centre. There are 4 storey tenement flats overlooking the site frontage located on the west side of Hardgate and 3 storey traditional tenement flats flanking Rosebank Place. 2 storey modern terraced houses with associated parking areas are located to the south, fronting Hardgate and on Bethany Gardens. Immediately to the south of the rear part of the site is a detached Victorian house with associated private garden ground. There are a mix of commercial uses in the immediate vicinity on the Hardgate including a café, a hot food takeaway, and class 2 uses. Nearby on Holburn Street are a range of supporting commercial uses, including a supermarket. A care home is located at the junction of Hardgate and Willowbank Road. Bon Accord Crescent Gardens lies around 270m walking distance from the site.

Relevant Planning History

None for the site

A pre-application enquiry regarding demolition and redevelopment of the site to provide flats was submitted by the current agent in 2020 (ref. 200197/PREAPP). The response encouraged retention and conversion of the existing granite building.

A planning application for redevelopment of a nearby site at 26-28 Hollybank Place to form 11 flats (ref. 211807/DPP) awaits determination.

APPLICATION DESCRIPTION

Description of Proposal

Conversion and alteration / extension of the existing building to form 10 flats (7 x 1 bed units and 3 x 2 bed units). 4 flats are proposed on the ground floor, 5 on the first floor and 1 on the top floor. The flats would be accessed via the existing front door and would share a central stair core and lift. The existing building would be retained and minor external elevational alterations made to accommodate a revised internal layout. These alterations would include formation of external balconies / terraces to provide private amenity areas for occupants. The rear of the building would be further extended to provide additional accommodation. A small single storey flat-roofed extension would be formed on the east elevation of the building; this would measure around 4.4m deep by 7.2m wide. It would be positioned around 2m off the south boundary. An external terrace area would be formed on its roof. The access to the front garden would be altered by widening the access width to 5.5m and reconstruction of the pillars. The existing parking area in the front garden would be adjusted / slightly extended to form additional parking (a total of 7 car parking spaces are proposed).

Amendments

Provision of glazed screens to proposed roof terrace / balconies and obscure glazed windows.

Supporting Documents

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

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R08XCRBZGKH00>

- Tree Survey Report
- Viability Summary Report

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because in excess of 5 objections have been received.

CONSULTATIONS

ACC - Housing – No objection. Advise that ALDP Policy H5 requires a 25% affordable housing contribution from all housing developments of 5 units or more which equates to 2.5 units. For developments of less than 20 units the provision of affordable housing may be on-site, off-site or commuted payments. If the developer intends to provide Low-Cost Home Ownership (LCHO) as an affordable housing contribution, they should enter into early discussions with the Housing Strategy Team regarding this as there is currently little demand for this type of affordable housing.

ACC - Roads Development Management Team – No public safety objection. Note that the site is located in the inner city, in controlled parking zone 'H', very close to City Centre and therefore readily served in terms of walking, with direct access onto the public footpath along Hardgate. Advise that the proposed secure cycle storage is accepted. Advise that a minimum site entrance width of 5.5m is required (as now proposed). Advise that, in terms of ACC transport guidance, the proposal results in a theoretical total car parking requirement of 14 spaces.

ACC - Environmental Health – No response received.

ACC - Developer Obligations – No objection. Advise that contributions are required towards healthcare facilities (£3,808), core path network (£2,455), secondary education (£2,635), open space (£1,208), and community facilities (£12,068).

ACC - Schools Estates Team – No objection. Advise that the proposed development is likely to result in Harlaw Academy further exceeding its capacity, so a contribution would be required from the developer to assist with the cost of creating additional capacity at the school, through the reconfiguration of existing space. There is sufficient capacity at Ferryhill School to accommodate the number of pupils expected to be generated by this development.

ACC - Waste and Recycling – No objection. Advise that communal waste and recycling bins would be provided for residents.

Scottish Water – No objection. The proposed development will be fed from Invercannie Water Treatment Works (River Dee). Unfortunately, Scottish Water is unable to confirm water supply capacity. Advise that there is currently sufficient capacity for a foul only connection in the Nigg Wastewater Treatment works to service the development. Advise that for reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into their combined sewer system.

North East Scotland Biological Records Centre – No objection. Provide information regarding species sightings / records.

Ferryhill and Ruthrieston Community Council – Not currently established.

REPRESENTATIONS

A total of 7 objections have been received, largely from nearby residents. The issues raised can be summarised as follows:

- Traffic generation / need for traffic impact assessment
- Unsuitable access / impact on pedestrian safety
- Adverse impact on existing on-street car parking
- Adverse impact on residential amenity due to overlooking from proposed external terraces / balconies
- Overdevelopment of the site
- Impact on foxes / wildlife
- Waste generation
- Impact on foul drainage
- Temporary impacts during construction works
- Lack of need for more flatted development
- The premises should remain as a car home
- Impact on trees in rear garden area / need for tree works
- Design quality/ adverse impact on historic building facade

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 2014 (SPP) expresses a presumption in favour of development that contributes to sustainable development.

Development Plan

Aberdeen City and Shire Strategic Development Plan 2020 (SDP)

The current SDP for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan 2017 (ALDP)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. The extant local development plan (ALDP) is now beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 was submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of SPP which states:

“Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.”

The following policies are relevant –

H1: Residential Areas

H3: Density

H5: Affordable Housing

T2: Managing the Transport Impact of Development

T3: Sustainable and Active Travel

NE4: Open Space Provision in New Development

NE5: Trees and Woodland

NE6: Flooding, Drainage & Water Quality

NE8: Natural Heritage

D1: Quality Placemaking by Design

D2: Landscape

D5: Our Granite Heritage

R6: Waste Management Requirements for New Development

R7: Low & Zero Carbon Build & Water Efficiency

CI1: Digital Infrastructure

I1: Infrastructure Delivery & Planning Obligations

The southern edge of the city centre boundary, as identified in the ALDP, lies 76m to the north-west of the site.

ALDP Supplementary Guidance (SG)

Affordable Housing SG

Flooding, Drainage and Water Quality SG

Green Space Network and Open Space SG

Landscape SG

Noise SG

Natural Heritage SG

Planning Obligations SG

Resources for New Development SG

Transport and Accessibility SG

Trees and Woodlands SG

Proposed Aberdeen Local Development Plan 2020 (PALDP)

The PALDP was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. 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 relation to this particular application, the policies in the PALDP substantively reiterate those in the ALDP.

The following policies are relevant: H1- Residential Areas; H3- Density; H4- Housing Mix and Need; H5- Affordable Housing; D1- Quality Placemaking; D2- Amenity; D5- Landscape design; D6- Historic Environment; D7- Our granite Heritage; R5 - Waste Management Requirements for New Development; R8- Heat Networks; I1 - Infrastructure Delivery and Planning Obligations; T2 - Sustainable Transport; T3- Parking; CI1- Digital Infrastructure.

Other Material Considerations

The Aberdeen City and Aberdeenshire Housing Need and Demand Assessment 2017 (HNDA). Figures in the HNDA identify up to 1,368 new affordable homes needed per annum over a 20-year period. This estimate of net annual housing need depends greatly on the economy and the housing market.

ACC Open Space Audit 2010.

EVALUATION

Principle of Development

The delivery of housing on a disused brownfield site within a settlement which is accessible by public transport accords in principle with the SPP presumption in favour of development that contributes to sustainable development. Given the non-strategic scale of the proposal and that it does not raise matters of a cross boundary nature, the SDP is of limited relevance in this case. Adequate infrastructure exists to service the development, in accordance with the expectations of ALDP policy I1. Although the site is not specifically identified as a brownfield opportunity site with potential for housing development within appendix 1 of the ALDP, or in the PALDP, the proposal accords with ALDP spatial strategy to encourage the regeneration of brownfield sites and aligns with the aspirations of the HNDA. The principle of a residential conversion at the site was accepted in pre-application advice issued in 2020 and is welcomed. It is considered that there has been no material change in circumstances which changes that opinion. The retention and reuse of a historic granite building is in accordance with the objective of ALDP policy D5. However, the proposal raises a number of issues which require detailed assessment.

Design Quality

The retention and sensitive adaptation of a historic granite building, as opposed to demolition and redevelopment of the site, is particularly welcome in terms of sustainable design. It is considered that the external alterations of the building are limited in extent and are considered to complement the historic character of the building. It is noted that the setting of the original building has been significantly altered by the historic construction of extensions, including the 2-storey flat roofed extensions which flank the frontage. The addition of the proposed balcony features on the front elevations of these extensions would therefore not have a detrimental impact on the historic character of the building. Details of construction of the balconies / terraces can be secured by condition in order to accord with the objective of ALDP policy D1. It is noted that the extension to the rear of the building would not be visible from public view. Although its flat roofed form does not relate to the original historic building form, it is noted that the building already has flat roofed extensions and thus, the extension would not be visually incongruous. Whilst the widening of the access would result in a loss of part of the existing granite wall at the site frontage, which is regrettable, it is designed to be the minimum width that is acceptable to ACC Roads Service. A condition is proposed in order to ensure that the granite wall / pillars are preserved and reinstated in accordance with the objective of ALDP policy D5.

Impact on Existing Residential Amenity

It is noted that the existing use of the site as a care home is of a residential related use. The proposed

use as flats would be of similar nature, and would not conflict with residential amenity in principle. The physical alterations to the building are limited in extent and do not present any fundamental concerns. The proposed single storey ground floor extension at the rear of the site is of limited scale and would not result in any conflict with adjacent amenity due to overlooking, over domination or shading impact. The principal concerns relate to the impact of the terraces and balconies due to potential overlooking.

It is accepted that there would be potential for overlooking of adjacent houses / flats from the proposed terraces / balconies. However, the existing wall at the site frontage provides a degree of screening of the windows of ground floor flat windows. The existing trees at the front of the site provide further screening of the terraces when viewed from the upper floor flats on Hardgate facing the site, particularly in the summer when the trees are in leaf and the terraces are more likely to be used by occupants. The retention of the existing boundary wall and trees at the site frontage is therefore considered to be essential in order to protect adjacent amenity and can be required by condition. It is noted that the south most terrace proposed on the frontage faces onto a single storey hot food take-away and a gap between the facing tenement flats rather than directly overlooking flats to the west. There would be potential overlooking of the rear garden of the adjacent house to the south of the site from the south elevation of this terrace. This potential impact can be addressed by use of condition requiring details of physical screening measures.

There would also be need for provision of physical screening measures on the terraces and balconies located on the non-primary (side) elevations of the building) due to the proximity of these amenity spaces to other housing to the north and the south of the site and potential overlooking concerns. A condition can address the need for provision of details of such measures, as use of screening measures is acceptable on these secondary elevations (in contrast to the front / principal elevation).

It is noted that the extension to the rear of the building would be of limited scale (height and footprint) and sufficiently distant from the site boundaries such that it would have no significant impact on adjacent amenity.

Although there would inevitably be a degree of disturbance and noise generation during the proposed construction / conversion works, these would be of a transient nature and have no long-term effect. It is noted that the Environmental Health Service has not provided comments on the proposal. However, given the existence of other noise nuisance controls, construction noise does not warrant imposition of a condition.

Overall, subject to imposition of suitable conditions, there would be no adverse impact on residential amenity.

Proposed Amenity for Occupants

It is considered that the proposed development would achieve high level of amenity for occupants in accordance with the objective of PALDP policy D2. The flats at the building frontage would be set back from the street and the upper flats would benefit from their outlook onto the existing landscape area and trees at the site frontage. Although it is accepted that the immediate outlook of the ground floor flats at the frontage onto car parking would not be ideal, reduction of the level of car parking proposed on site in order to enhance such amenity would not accord with the wishes of the objectors and could result in overspill parking on adjacent streets. The provision of sizeable private amenity spaces for each upper flat is a welcome feature. In addition, all occupants would have access to a large communal area at the rear of the site which includes existing mature trees of amenity value and would not be affected by the development. This would provide a valuable usable external area and can be suitably landscaped. Overall, an acceptable level of amenity would be created for occupants.

Open space Impact

It is noted that ACC Open Space Audit identifies no public open space as being within the site. No public open space is proposed within the site. The scale and nature of development and its constrained brownfield location is such that public open space cannot reasonably be required to be provided within the site. However, Bon Accord Crescent Gardens, which is a valued public park, lies within easy walking distance of the site. It is accepted that the development would place additional demand on existing public open space. In order to address this matter, a contribution towards the enhancement of open space outwith the site has been agreed with the applicant as part of the developer obligations package in accordance with the objective of ADLP policy NE4 and related SG. Adequate communal external amenity space would be provided for occupants of the development within the site. In addition to the proposed private terraces / balconies, landscaped external seating and drying areas could be provided within the existing garden area at the rear of the site. The detailed layout, planting and design of this can be secured by condition.

Tree Impact

The submitted tree report recommends felling 2 category B cherry trees at the frontage of the site. It is considered that the mature flowering cherry trees within the front garden area of the site are of amenity value. Their retention is required in order to protect amenity and to provide a degree of privacy and softening of the proposed external terraces at the site frontage when viewed from the upper floors of the flats on Hardgate facing the site. As the removal of these trees at the site frontage is not considered acceptable in terms of compliance with the objectives of ALDP policy NE5 and wider amenity / sustainable development objectives, the site plan has been updated accordingly. Further details of tree protection and the precise layout, no dig construction techniques and any adjustment of the external area at the site frontage are required in order to ensure a satisfactory design solution and can be required by use of a suspensive condition.

The two other (Norway Maple) trees in the rear garden area which it is proposed to fell are considered to be of limited amenity value due to not being visible from any public place. Their proximity to the building and site boundary is such that removal of these trees is warranted, subject to provision of replacement planting. Further details of tree protection, management and replacement planting at the rear of the site can be required by suspensive condition in order to ensure continuity of tree cover on site.

Natural Heritage Impact

Although no ecological survey has been submitted in support of the application, the site contains no designated sites of wildlife value and does not lie adjacent to an Local Nature Conservation Site. The information provided by Nesbrec does not indicate a high degree of sensitivity or the likely presence of protected species at or near the site. It does, however, indicate that Swifts are present in the area and thus incorporation of suitable nesting boxes within the building / site would be appropriate. Although bats may be present in the surrounding area, there are no Nesbrec records of bat sightings at or near the site. The submitted tree survey states that the surveyed trees had no bat roosting potential. Given that no works are proposed to the roof of the existing building, it is therefore considered unreasonable to require a more detailed bat survey in this instance. It is noted that foxes are not a protected species and thus no fox survey can reasonable be required. The presence of foxes on the area is not evidenced by Nesbrec records. Although they may be present in the site / surrounding area, the main undeveloped part of the site of potential wildlife value lies to the east of the building and would largely be unaffected by the works (other than removal of two trees). A condition can be imposed to ensure that appropriate ecological enhancement measures and soft planting are implemented in the site in order to enhance its value as an ecological resource in accordance with the objective of ALDP policy NE8 and related guidance.

Drainage

It is accepted that the development would generate foul drainage, as does the existing use. It is noted that foul drainage from the development would connect to the existing public sewer and

Scottish Water have confirmed that adequate foul drainage capacity exists. Thus, there is no basis for refusal of the proposal on grounds of foul waste capacity / generation.

The proposal would result in a limited increase in the extent of building and hard surfacing within the site and thus a limited increased risk of surface water flooding / pollution (e.g. during construction works). The limited scale of the works is such that a DIA is not required. A condition can be imposed to ensure that appropriate SUDS measures are implemented on site in accordance with the objective of ALDP policy NE6 and related SG.

Traffic Generation

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

In this case the development is located within a central area and would provide limited off-street car parking spaces. The site is readily accessible by other modes of transportation such as walking, cycling and buses, due to its central location, with regular bus services nearby on Holburn Street. In addition, the site would be reasonably close to the City's bus and train stations. The site has good access to nearby facilities, including shops and schools and no network / infrastructure interventions are required to enable the development. Given the central location of the development and the variety of transport modes that can be used to access the site, the proposal is considered acceptable in principle in terms of relevant transport policy. The provision of a financial contribution to be used for enhancement of the City Car club would help to minimise any traffic impact (by reduction of parking demand) and would accord with ALDP Transport SG and the objective of policy T2. A contribution of £4000 is required and can be secured by a legal agreement.

It is noted that the limited scale of the development is such that a formal transport impact assessment (TIA) is not required and has not been requested by ACC Roads Service. The site is located within a central area close to the city centre with good access to public transport and varied existing supporting facilities / land uses. It is therefore likely that a significant proportion of trips associated with the development could be made by non-car modes (e.g. relative to a peripheral / suburban development at the outskirts of the city). Given this context and the SPP presumption in favour of development that contributes to sustainable development, the absence of a TIA or Transport Statement does not warrant refusal of the application.

It is noted that ACC Roads Development Management do not object to the proposal on the basis of traffic generation and have raised no specific public or road safety concerns in relation to vehicle traffic generation, servicing and delivery requirements. They acknowledge that pedestrian linkage is acceptable.

Car Parking

Lack of parking provided within the site has been raised as a concern in the objections received for this application. However, the Planning Authority are promoting low car developments within appropriate central areas of the site to encourage sustainable development in accordance with the objectives of alleviating issues such as traffic congestion and climate change, by discouraging car use and incentivising modal shift. Given the central location of the site, it is likely that the development would result in low car usage, relative to more peripheral / suburban locations. In addition, given that the site lies within one of the Council's Controlled Parking Zones, on-street car parking in such areas is regulated. It is recognised that future occupants of the site would be entitled to apply for parking permits for neighbouring streets within this zone, thereby increasing on-street car parking pressure, particularly during the evening / overnight. This is an area where there is already an overprovision of parking permits issued to residents and thus likely high pressure for on-street parking. Although no parking survey has been undertaken by the applicant, it is noted that

during a recent site visit, there was some available on street parking during a midweek evening. Overall, given the existing use of the site and the relatively small scale of development, it is considered the development would unlikely have a significant adverse impact on existing parking pressure and this does not in itself warrant refusal on safety grounds. Use of a condition regarding car parking provision on site and developer contributions towards implementation and use of the city car club is recommended in this case in order to reduce such on-street parking pressure. Prospective occupants would also have the potential use of both Hardgate and Chapel Street public car parks, although these are both some distance from the site, so not highly convenient.

Whilst ACC Roads Development Management Team have requested that 14 car spaces are provided on site, that would not be feasible to achieve, unless the existing building and trees are demolished, which is not an appropriate design solution. In this instance the urban design and sustainability benefits of retention of the existing building and trees necessitates a reduced level of car parking provision on site. Notwithstanding the tension with ALDP car parking guidance, it is considered that a degree of flexibility in the application of the guidance is warranted in this instance, particularly given other amenity considerations (e.g. tree / building retention / landscape design) and the wider objective of sustainable development. It is noted that residential car parking standards are not minima and a degree of flexibility is typically applied, especially in relation to conversion of existing historic building in an inner city location. In accordance with ACC transport guidance, provision of EV charging facilities can be required on site by condition.

With regards to cycle parking, this would be acceptably located within the rear external area, accessed from Hardgate. One secure space would be provided per flat, which is in compliance with the requirements outlined in the Transport and Accessibility Supplementary Guidance. Although further details of provision are required (e.g. of the specific facilities and provision for visitors), this can be addressed by condition.

Access

No specific road / pedestrian safety concerns have been identified by ACC roads service regarding the revised access arrangements which has been adjusted to satisfy their concerns regarding its width. It is noted that the existing shared vehicle / pedestrian site access is onto an existing traffic calmed one way street which carries a relatively low volume of traffic and has relatively low traffic speeds (e.g. relative to Holburn Street and Willowbank Road). It has a 20mph speed limit and on street parking on its west side. It is noted that the proposal would result in a betterment of the existing situation in terms of road safety by widening the existing access and thereby enabling increased visibility at the junction of the site with the public road. It is noted that there are double yellow lines on the east side of Hardgate in the vicinity of the access and no adjustment of the existing on street waiting restrictions or removal of car parking is considered to be required in order to avoid compromise of visibility at the access. The proposed site plan indicates that the existing footway crossing would be removed and replaced with a more formalised access. However, as this would not prioritise pedestrian movement, this would not accord with ALDP policy T3 and is therefore not accepted. Details of any adjustment / reconstruction of the footway crossing, thereby retaining its existing format, which prioritises pedestrian movement, can however be secured and implemented by use of a suspensive condition.

Servicing

It is presumed that refuse vehicles would not enter the site, to avoid reversing and as that would not be convenient for drivers of such vehicles. It is noted that the proposed bin storage area would be located within 15m of the kerbside, such that kerbside uplift would be convenient and in accordance with the expectations of ACC Waste Service. As regards other servicing vehicles, it is noted that many food deliveries are now undertaken using moped / cycles which could easily enter and turn within the site. Space for larger vehicles such as supermarket or other delivery vans to park / offload within the site could be provided but this is not required to accord with SG and would require adjustment of the parking layout and some reduction of residential car parking within it. Precise

details of the proposed vehicle parking, servicing, layout and turning arrangements can be secured by condition.

Energy and Water Efficiency

Whilst no detailed technical information has been submitted in relation to provision of energy and water saving technology on site, as the proposal is for a change of use and only a limited extent of new floorspace is proposed, there is no requirement to provide such equipment this instance in terms of ALDP Policy R7. Thus, notwithstanding SPP objectives of sustainable development, there would be no basis for refusal of the application because of conflict with policy R7.

Other Technical Matters

Whilst the proposed use would generate waste, this would not differ significantly from the existing use. There would be adequate space for provision of suitably screened waste and recycling bins within the external area at the frontage of the site where existing bins are located. A condition can be used to ensure detail and delivery of this in accordance with ALDP policy R6 and related SG.

It is presumed that there is adequate telecoms services (e.g. phone, internet) at the site given its location within a central urban area and thus no conflict with ALDP policy CI1. It is noted that neither the applicant nor the Council has any responsibility for provision of telecommunications infrastructure, which is delivered by private companies. It is noted that the roll out of full fibre broadband within the city is continuing (in part funded by the Scottish Government) and such services are available in the area. Thus, it would not be reasonable to impose a condition requiring any service upgrade. No evidence exists that the development would adversely impact on existing TV reception or other telecommunications signals.

Whilst no connection to the district heating network is proposed, this is not a requirement of current planning policy / guidance. Proposed policy R8 within the PALDP states that heat networks are encouraged and supported. Such heating systems are desired in terms of sustainable design. However, as guidance referred to in this policy (i.e. Aberdeen Planning Guidance regarding Heat Networks and Energy Mapping) has yet to be published, the weight which can be afforded to that policy is limited. It would not therefore be reasonable to refuse the development on the basis that no connection to a heat network is proposed.

Other Concerns Raised in Objection

The site would have an overall density of 68 units per hectare which is considered appropriate for a central urban site (given that the minimum density figure in ALDP policy H3 is 30 units per hectare, and that is applied to more remote urban fringe locations). Given the limited footprint of new building proposed, the limited external alterations and given that significant parts of the site would remain undeveloped, the proposal is not considered to result in overdevelopment of the site. The alleged lack of need for more flattened development is not supported by any evidence and conflicts with the HNDA and the expert advice of ACC Housing Service of a continued need for provision of affordable housing. Such alleged lack of need is not a material grounds for refusal of residential development. Given that the ALDP is not prescriptive regarding the use of the site and zones the site within a general residential area, there is no planning policy basis for insisting that the premises should remain as a care home. In any event, the proposed use requires to be considered on its merits. It is noted the original use of the site would have been for residential purposes (i.e. a house) and the proposed use as flats is consistent with that purpose.

Viability

The viability statement submitted by the agent has been reviewed by the Developer Obligations consultee. Although the site lies outwith the affordable housing waiver area, following negotiation with the Developer Obligations Team and provision of additional viability information by the agent, it has been agreed to waive the requirement for Affordable Housing as expressed in ALDP policy H5 and as referred to by ACC Housing Team. Although the proposal would therefore conflict with

ALDP policy H5, given the overall benefit of securing an appropriate new use for a disused granite building located within a central area close to the City Centre, this is considered to be a justified and reasonable solution. The other elements of financial contribution referred to in the developer obligation assessment and the car club contribution would remain requirements.

Proposed Aberdeen Local Development Plan

In relation to this particular application, other than policy D2 and R8, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is acceptable in terms of both Plans for the reasons previously given. The tensions with proposed policies D2 and R8 are addressed above and do not warrant refusal of the application.

Heads of Terms of any Legal Agreement

In order to address the matters raised by the developer obligations consultee, any approval would require to be deferred pending the conclusion of a legal agreement with the Council. Such agreement would be required to address contribution requirements towards core path network (£2,455), secondary education (£2,635) healthcare facilities (£3,808), open space (£1,208), community facilities (£12,068) and car club contributions (£4,000).

RECOMMENDATION

Approve Conditionally & Legal Agreement

REASON FOR RECOMMENDATION

The delivery of residential development on a disused brownfield site within a built-up central area of the city which is accessible by public transport accords with the presumption in favour of development that contributes to sustainable development as set out in Scottish Planning Policy 2014.

The development is considered to be appropriate for this residential zoned area, subject to conditions, having no adverse impact on the amenity of the area in terms of scale, design, noise, overlooking, or overshadowing. As such, the development complies with Policy H1- Residential Areas, Policy D1 - Quality Placemaking by Design, Policy H3 – Density within the Aberdeen City Local Development Plan 2017 (ALDP). Whilst there will be a loss of some traditional granite walling, it is considered that there is sufficient reuse of granite within the site for the development to be acceptable in terms of Policy D5 - Our Granite Heritage. Although the proposal would conflict with ALDP policy H5 - Affordable Housing, given the overall benefit of securing an appropriate new use for a disused granite building located within a central area close to the City Centre this is considered to be justified.

Contributions are being sought and secured via a legal agreement in line with Policy I1 - Infrastructure Delivery and Planning Obligations. Whilst no public open space is proposed, compensatory contributions are being sought for the enhancement of nearby open spaces and the development is in a good area to provide access to these. Such contribution is required in order to address the objective of Policy NE4 - Open Space Provision in New Development. Suitable tree protection, management and planting can be secured by condition in accordance with the objectives of ALDP policy NE5 - Trees and Woodlands and Policy D2 – Landscape. Connection to public infrastructure is proposed and is acceptable and suitable drainage measures can be provided such that the proposal complies with Policy NE6 - Flooding, Drainage and Water Quality. Suitable mitigation measures can be installed on site to address the expectation of ALDP Policy NE8: Natural Heritage. Appropriate waste provision and digital communications can be provided within the site. Therefore, the proposal complies with Policy R6 - Waste Management Requirements for New Development and Policy C11 - Digital Infrastructure.

The proposal is considered to comply with the objectives of ALDP Policy T2: Managing the Transport Impact of Development and T3: Sustainable and Active Travel of the ALDP and its associated guidance, subject to conditions regarding pedestrian access and cycle provision. The development would be acceptable in terms of traffic generation and in terms of assessment against relevant planning policy regarding transport. The requirement for car club contributions to address the reduced level of off-street parking can be secured via a Legal Agreement. Whilst no EV parking is currently proposed on site, a condition can be used to ensure its delivery and the delivery of visitor and resident cycle parking on site. As such, it is considered that there would be no substantive grounds for refusal of the application on the basis of car parking pressure, transport generation or planning policy.

The proposal would be compliant with the equivalent zoning and topic-based policies in the Proposed Aberdeen City Local Development Plan 2020 (PALDP). Although there would be tension with PALDP policies D2- Amenity and R7 – Heat Networks, this is not considered to warrant refusal. All concerns raised through submitted representations have been addressed and there are no material considerations which warrant refusal in this instance.

CONDITIONS

1. Tree Protection

No development shall take place pursuant to the planning permission hereby approved unless a further scheme for the protection of all trees to be retained on the site during construction works has been submitted to and approved in writing by the Planning Authority and such scheme as may have been approved has been implemented in full for the duration of the site works. No materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the Planning Authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

2. Tree Management

The flats hereby approved shall not be occupied unless a plan and report illustrating appropriate management proposals for the care and maintenance of all existing trees on the site and any new areas of planting (to include timing of works and inspections) has been submitted to and approved in writing by the Planning Authority. The proposals shall be carried out in complete accordance with such plan and report as may be so approved, unless the planning authority has given prior written approval for a variation.

Reason - In order to preserve the character and amenity of the area and ensure continuity of tree cover on the site.

3. Landscape and Amenity Space

No development pursuant to the planning permission hereby approved shall take place unless a detailed scheme of landscaping and amenity space for the site has been submitted to and approved in writing for the purpose by the Planning Authority. This scheme shall include details of the proposed grassed / herbaceous areas, areas of any tree/shrub /climber planting including details of numbers, densities, locations, species, sizes, stage of maturity at planting and establishment / protection measures and management arrangements. All planting, seeding and turfing comprised

in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any planted areas which within a period of 5 years from the completion of the development, are removed or become seriously damaged shall be replaced in the next planting season with others of an extent and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority.

Reason - In the interests of protection of the amenity of the area and ensure a suitable landscape treatment and amenity for occupants.

4. Ecology Enhancement

No development shall take place pursuant to this permission unless details of proposed ecological enhancement measures on site (including provision of bird and bat boxes) and native planting has been submitted to and agreed in writing by the planning authority. The flats shall not be occupied unless such measures have been implemented in accordance with the approved details.

Reason - In the interests of protection of natural heritage and ensure suitable mitigation measures.

5. Surface Water Drainage

No development shall take place pursuant to this planning permission unless the proposed surface water drainage system for the site has been submitted to and approved in writing by the Planning Authority. This shall include details of surface water SUDS measures and associated maintenance measures as required on site. The building hereby approved shall not be occupied unless the approved surface water drainage system has been implemented in full and is permanently retained thereafter in accordance with the approved maintenance scheme. For the avoidance of doubt, no surface water shall discharge from the site onto the public road or connect to the foul sewer.

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

6. Cycle Storage / Parking

No development shall take place pursuant to this permission unless details of secure cycle storage for all occupants and visitor cycle parking at the site frontage has been submitted to and approved in writing by the Planning Authority. The flats hereby approved shall not be occupied unless the approved cycle storage facilities, including those shown on drawing no. 11 B, or such other drawings as may be approved, have been provided. The secure store shall be demonstrated to be secure/lockable, via submission of such details.

Reason: In the interests of encouraging more sustainable modes of travel and the objective of ALDP policy T2.

7. Granite Re-use

No development shall take place pursuant to this planning permission, nor shall any demolition works commence, unless a scheme for the sensitive dismantling, storage and subsequent re-use on site of existing granite walling, gatepost and setts within the site has been submitted to and agreed in writing by the planning authority. Thereafter, the development shall be implemented in complete accordance with the approved scheme.

Reason: In order to secure appropriate re-use of granite within the development in accordance with the expectations of ALDP policy D5 and sustainability objectives.

8. Boundary Wall / Site Entrance

No development shall take place pursuant to this planning permission, unless a detailed scheme for the retention and alteration of the existing granite boundary wall at the site frontage and the

retention, downtaking and subsequent reinstatement of the existing granite entrance pillars has been submitted to and approved in writing by the Planning Authority. The development hereby approved shall not be occupied unless such scheme as may be approved and the site entrance as shown on drawing 17, or such other drawing as may be approved in writing by the Planning Authority, have been implemented in their entirety, unless otherwise agreed in writing.

Reason: In the interest of visual and residential amenity / privacy and to ensure a satisfactory finish of the development.

9. Privacy

Notwithstanding drawing 15 hereby approved, flat 9 hereby approved shall not be occupied unless additional glazed screening has been provided on the south elevation of the proposed external terrace at the roof level of the proposed extension, in accordance with additional construction details to be agreed.

Reason – In the interest of the protection of the residential amenity (privacy) of the adjacent house and private garden ground at 15 Bethany Gardens

10. Building Construction Details

No development shall take place pursuant to this planning permission unless construction details of the proposed windows /doors, balconies / terraces and associated glazed screens; external vents / ducts; including detailed cross sections demonstrating the relationship with masonry, have been submitted to, and approved in writing, by the Planning Authority. For the avoidance of doubt all ventilation pipes and services shall be directed to the rear of the building / roof and any interventions on the granite façade shall be minimised. Thereafter the development shall be carried out in accordance with the details so agreed.

Reason: In the interest of visual amenity and to ensure a satisfactory finish of the development

11. Vehicle Parking / Servicing / Layout / Turning arrangements

The development hereby approved shall not be occupied unless the vehicle parking area hereby granted planning permission has been constructed, drained, laid-out and demarcated in accordance with a detailed approved scheme which shall be submitted to and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of ancillary vehicle parking / provision of access to / servicing the development and use hereby granted approval. For the avoidance of doubt, a minimum of one electric vehicle (EV) parking space shall be provided within the site, together with associated EV charging infrastructure.

Reason – in the interests of public safety and residential amenity

12. Footway Crossing

No development shall take place pursuant to this planning permission unless a detailed scheme for the proposed footway crossing / reinstatement at the site frontage has been submitted to and approved in writing by the Planning Authority.

Reason: In the interests of encouraging sustainable modes of travel and the objective of sustainable development and ALDP policy T3.

13. Bin Storage

The flats hereby approved shall not be occupied unless provision has been made within the application site for the storage of refuse disposal and recycling facilities in accordance with a scheme which has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt such storage shall include suitable screening, ventilation and wash down / drainage facilities.

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

ADVISORY NOTES FOR APPLICANT

Noise from site construction works

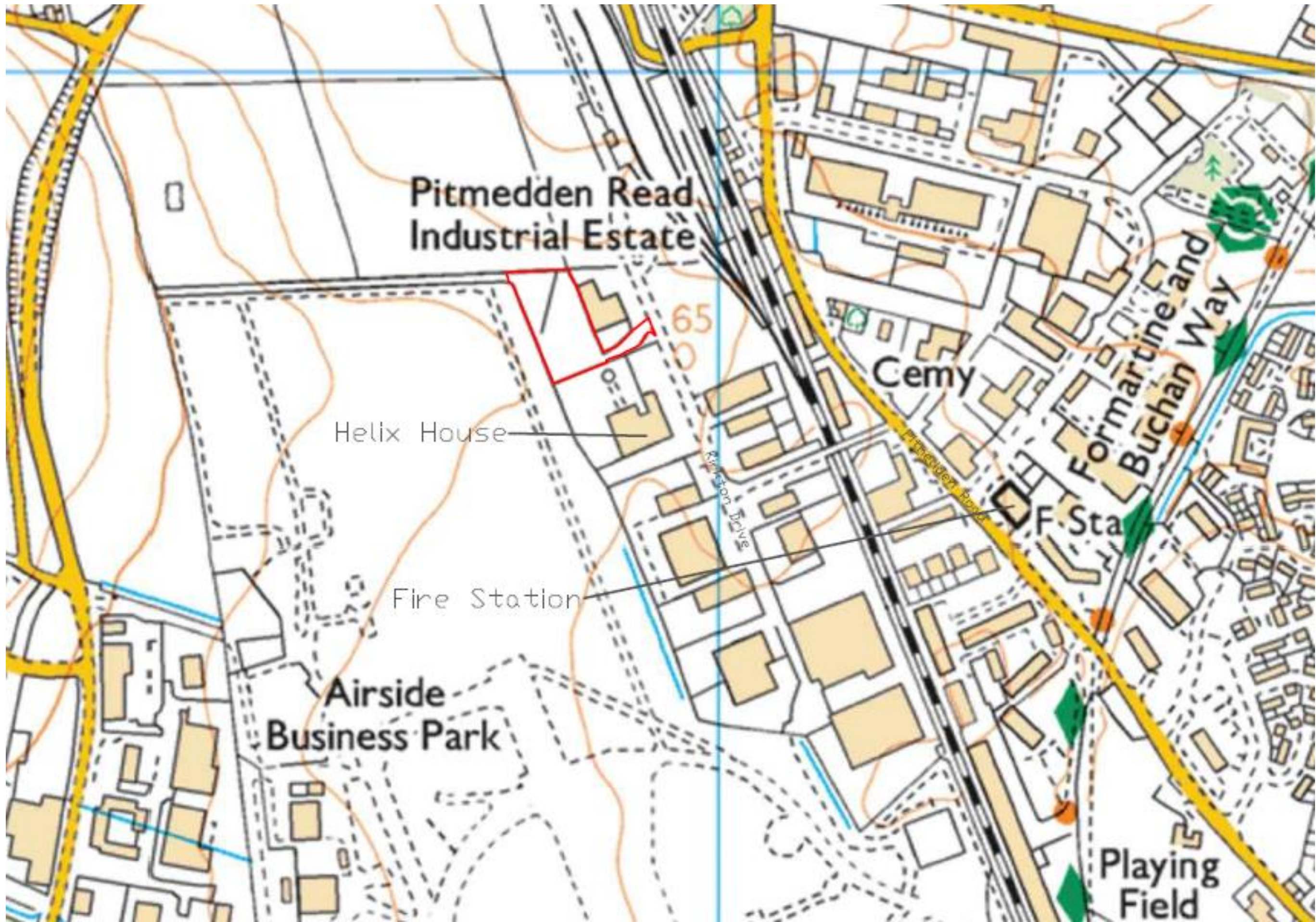
In order to protect amenity of the occupants of the neighbouring residences and prevent any potential noise nuisance outwith the site caused by construction works, it is recommended that construction works / operations should not occur:

- Outwith the hours of 07:00 to 19:00 Monday to Friday and
 - Outwith the hours of 08:00 to 13:00 on Saturdays,
- unless otherwise agreed with the Aberdeen City Council Environmental Health Service

Planning Development Management Committee

220026/DPP | Erection of energy storage facility including containers of batteries, power converters, transformers, stores, meter building, security, fencing and associated infrastructure |

Site North-west of Helix House, Kirkton Drive, Dyce



Pitmedden Road Industrial Estate

Helix House

Fire Station

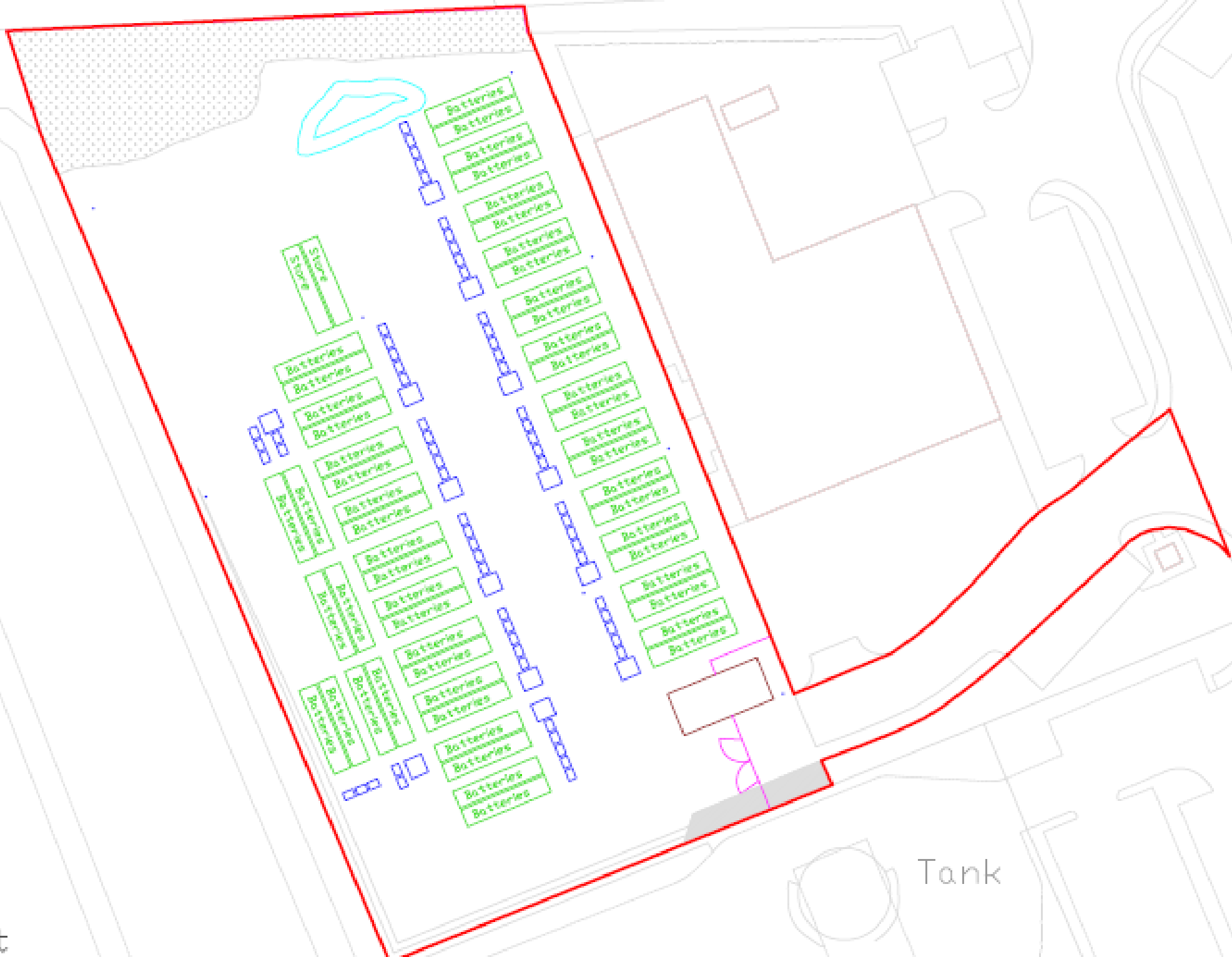
Airside Business Park

Cemy

Formartine and Buchan Way

F Sta

Playing Field



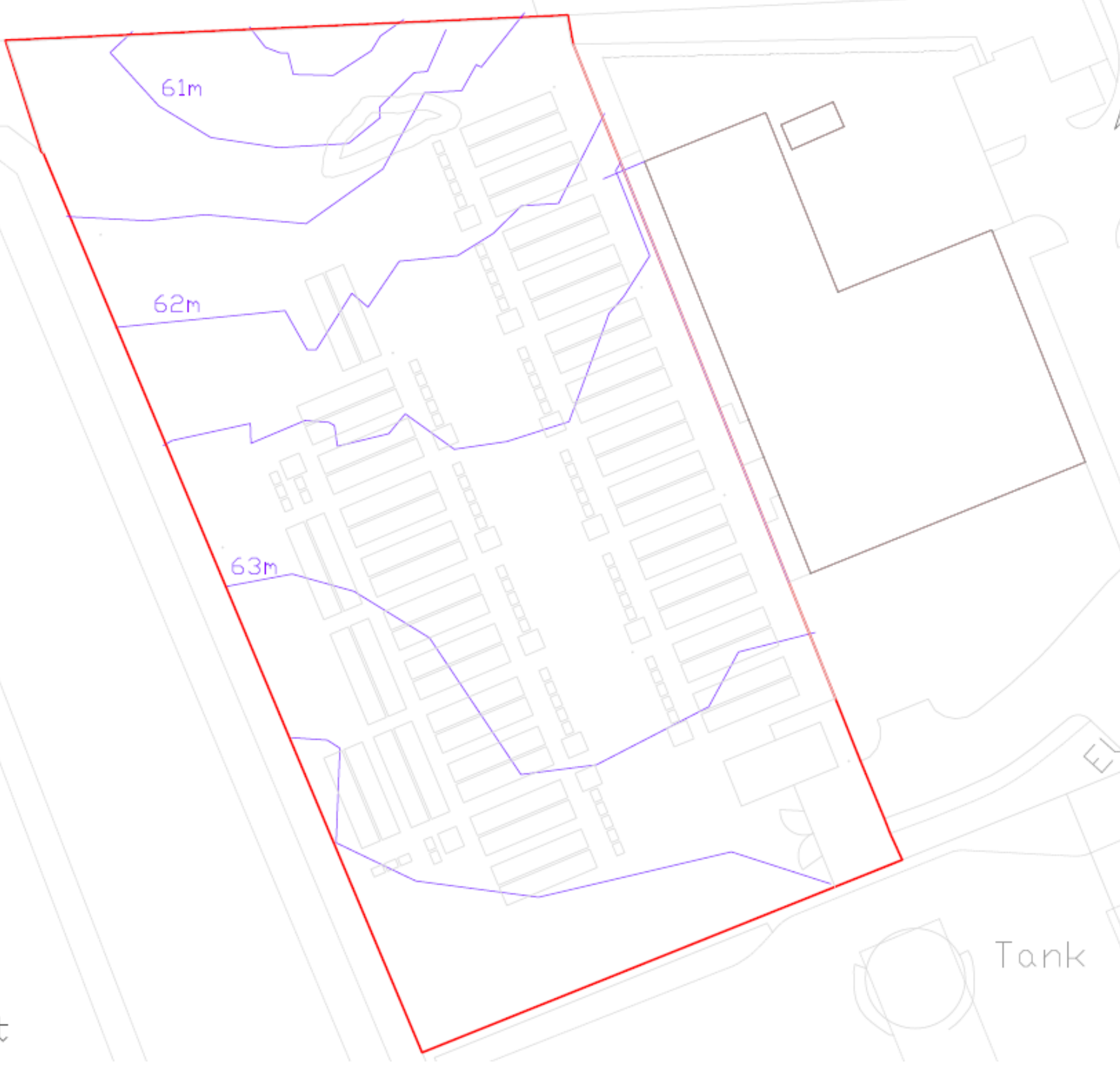
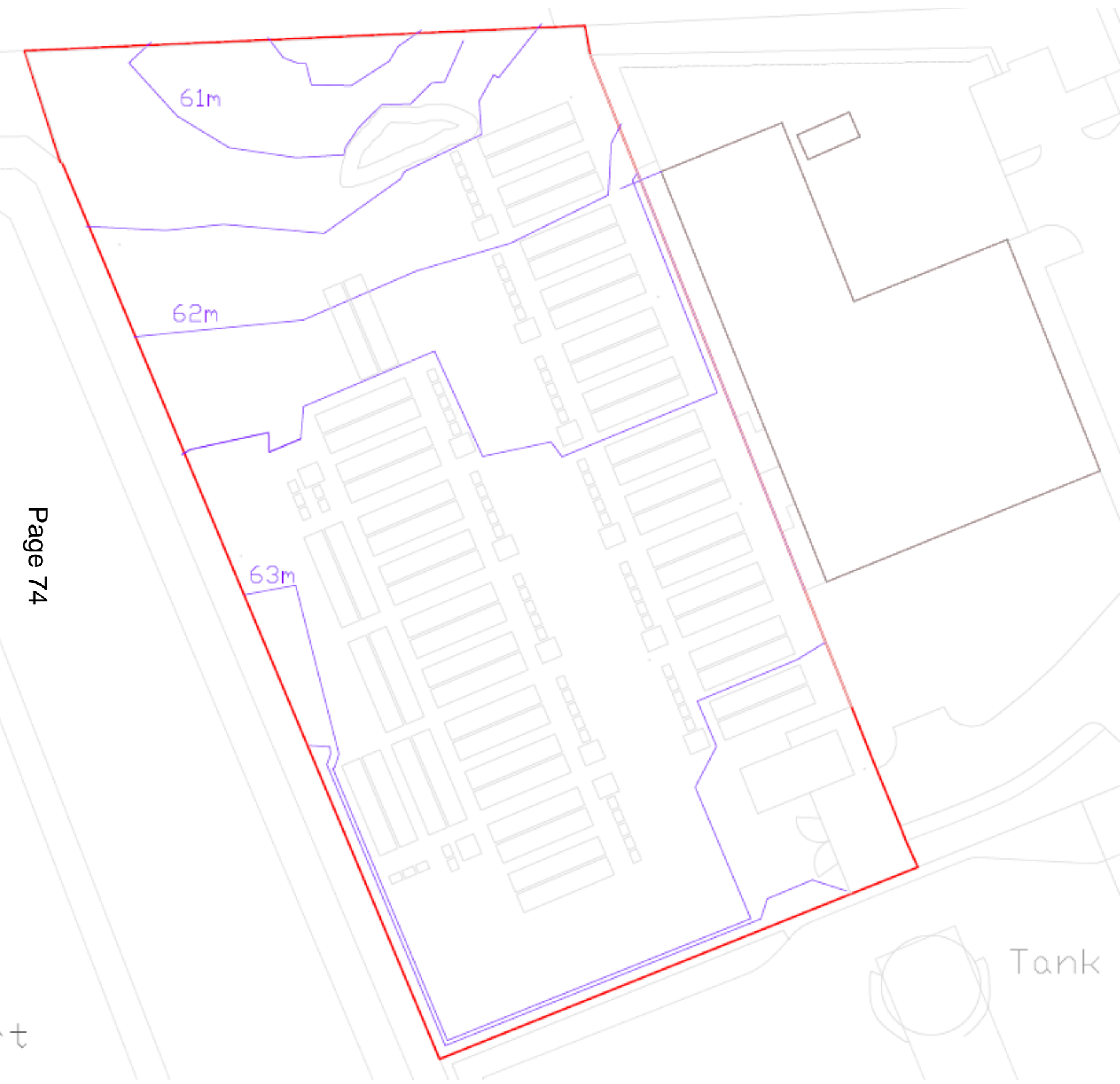
Aberdeen Airport

Tank
Travelling Crane

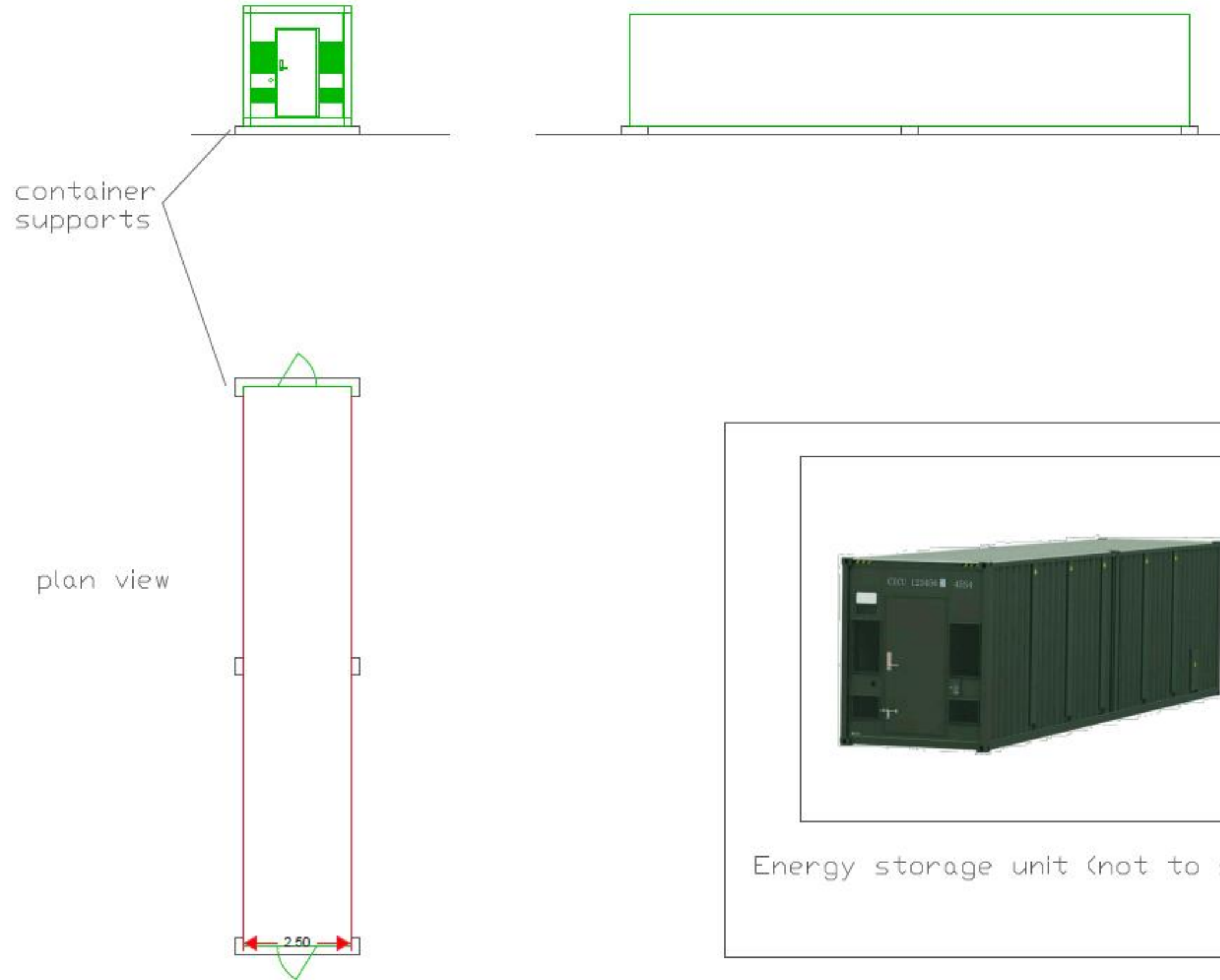
Kirkton

Proposed levels

Existing levels



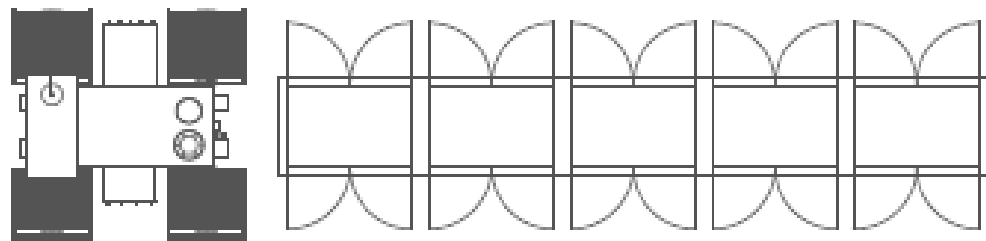
Energy Storage Unit elevations



Energy storage unit (not to scale)

Transformer

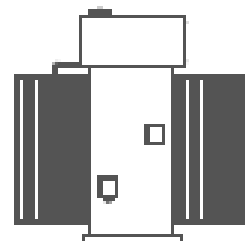
Converters



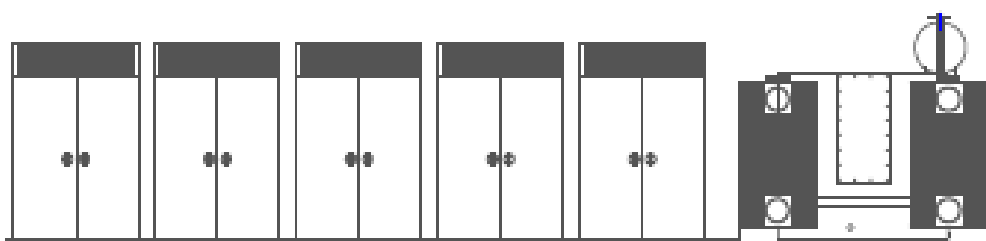
Plan view



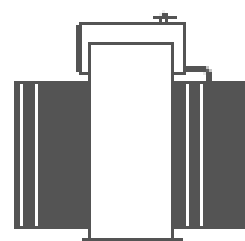
Elevation, side



Elevation, transformer end

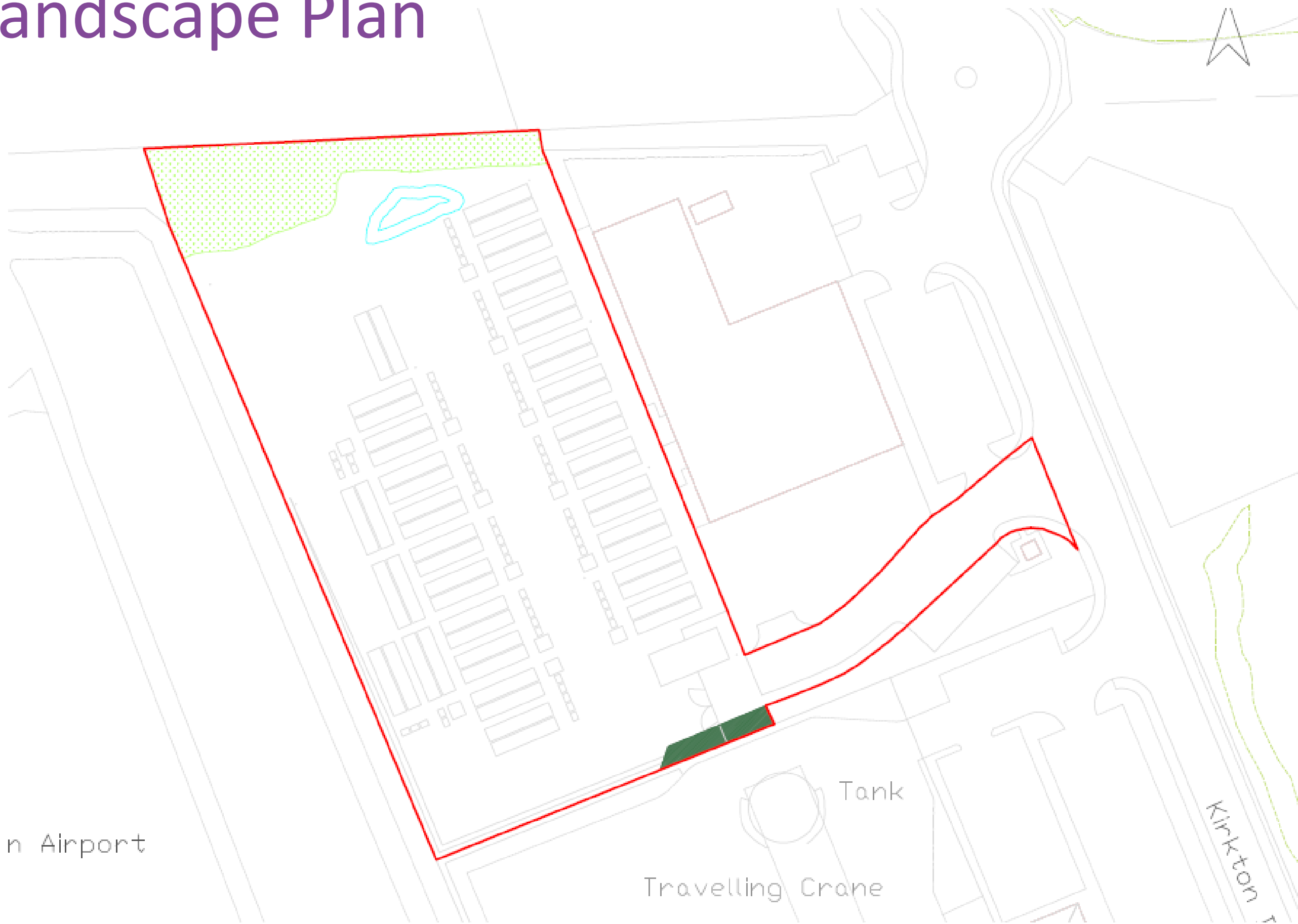





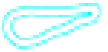
Elevation, opposite side




Elevation, converter end

Landscape Plan



	Site
	Meadow grass
	Area for protection of young trees on boundary
	Balancing pond

Scale 1:750 at A3



metres

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Ordnance Survey 0100031673
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LOGAN^{PM}

n Airport

Travelling Crane

Tank

Kirkton

Supporting documents

- Noise assessment
- Transport Statement
- Drainage Statement
- Landscape Plan
- Planning, Design and Access Statement
- Pre-Application Consultation Report
- Ecological Appraisal



Consultations & Representations



- **ACC - Roads Development Management Team** – Parking and access are acceptable. No objections.
- **ACC - Environmental Health** – No observations. No impact on residential receptors.
- **INEOS Forties Pipeline System** – Safety and integrity of the pipeline will not be affected by the proposed development.
- **ACC - Waste and Recycling** – The development would receive a business waste collection, either from the Council or other providers. General information is provided.
- **Aberdeen International Airport** – No objection, from a safeguarding perspective.
- **Health and Safety Executive** – No objection.
- **Dyce And Stoneywood Community Council** – No observations received.
- **One objection:** Neighbour to south (Helix House)

Aberdeen Local Development Plan 2017

- Policy B1: Business and Industrial Land
- Policy R8: Renewable and Low Carbon Energy Developments
- Policy B4: Aberdeen Airport
- Policy B6: Pipelines, Major Hazards and Explosives Storage Sites
- Policy D1: Quality Placemaking by Design
- Policy D2: Landscape
- Policy NE5: Trees
- Policy NE6: Flooding, Drainage and Water Quality
- Policy NE8: Natural Heritage
- Policy R7: Low and Zero Carbon Buildings, and Water Efficiency
- Policy T2: Managing the Transport Impact of Development
- Policy T3: Sustainable and Active Travel
- Policy T5: Noise

National Policy & Guidance



- Scottish Government's Scottish Energy Strategy, 2018 and Position Statement 2021
- Scotland's Climate Change Plan 2020
- Scottish Planning Policy (SPP)

Aberdeen Local Development Plan 2017

- Policy B1: Business and Industrial Land
- Policy R8: Renewable and Low Carbon Energy Developments
- Policy B4: Aberdeen Airport
- Policy B6: Pipelines, Major Hazards and Explosives Storage Sites
- Policy D1: Quality Placemaking by Design
- Policy D2: Landscape
- Policy NE5: Trees
- Policy NE6: Flooding, Drainage and Water Quality
- Policy NE8: Natural Heritage
- Policy R7: Low and Zero Carbon Buildings, and Water Efficiency
- Policy T2: Managing the Transport Impact of Development
- Policy T3: Sustainable and Active Travel
- Policy T5: Noise

Other Materials Considerations and matters raised



- Matters Raised by Objectors:
 - Fire risk
 - Hazardous Substances
 - Impact on neighbours
 - Proposed Plan
- Conditions



Thank you



Planning Development Management Committee

Report by Development Management Manager

Committee Date: 26th May 2022

Site Address:	Site North West of Helix House, Kirkton Drive, Dyce, AB21 0BG
Application Description:	Erection of energy storage facility including containers of batteries, power converters, transformers, stores, meter building, security, fencing and associated infrastructure
Application Ref:	220026/DPP
Application Type	Detailed Planning Permission
Application Date:	13 January 2022
Applicant:	Intelligent Land Investments Group Plc
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Dyce And Stoneywood
Case Officer:	Lucy Greene



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RECOMMENDATION

Approve conditionally

APPLICATION BACKGROUND

Site Description

The 0.8ha site lies immediately to the east of the airport boundary fence and is currently covered by self seeded vegetation, with one or two larger trees within the site and a narrow tree belt which appears to be along the boundary and within the site to the south. The application site is within and on the north-western edge of the Airport East industrial area, zoned as 'B1' Business and Industrial in the Local Development Plan. A packaging manufacture and supply company occupy relatively new premises to the east of the site, whilst an offshore energy related company (Helix Well Ops) occupies the site to the south, with offices, workshops and outdoor equipment storage. The nearest residential buildings are houses just to the east of the railway line on Pitmedden Road (approximately 220m from edge of the site) and further houses more than 400 m to the north also on Pitmedden Road.

The site is within the middle zone of the INEOS Forties Pipeline consultation area and is not covered by any natural heritage designations.

Relevant Planning History

211091/ESC – EIA Screening for Proposed grid battery energy storage facility with generation capacity up to 50 megawatts - Land at Raiths Industrial Estate by Kirkton Drive off Pitmedden Road Dyce. Confirmed EIA not required September 2021.

150002 - Formation of Office and Workshop Unit with associated car parking and yard area, Kirkton Drive Site 2, Phase 3 Dyce Aberdeen.

Approved conditionally March 2015 – not implemented and now lapsed.

APPLICATION DESCRIPTION

Description of Proposal

The proposal is to erect structures for the housing of energy storage batteries and associated equipment. Capacity of up to 49.9MW of energy storage would be provided. The batteries would be housed in steel shipping type containers, within these they would be stacked on racks. Fifty two (52 no.) containers (13m x 2.5m x 2.6m) are proposed, which together with transformers and converters, a sub-station and other ancillary equipment and buildings would be contained within a fenced compound. The banks of power converter cabinets, sited in front of the battery containers would switch between alternating and direct current and would have a height of up to 3.5m. Beside each power converter group would be a transformer, these would also have a height of stated as 3.5m at most. The submissions state that the standard container units shown in the application allow for final selection of internal equipment at a late stage, as battery technology is progressing rapidly. A prefabricated glass reinforced plastic (GRP) building (painted hollybush green) would be required to house the electricity meter, switchgear, control and health and safety equipment, sited at the SE corner of the site adjacent to the access. The site would be served by an existing shared vehicular access off Kirkton Drive.

The purpose of the facility would be to take excess power from the grid and store it, to then be fed back into the grid for use when needed. It is understood that the power would largely be from renewable energy sources which would otherwise be switched off when power is in excess of demand. The stored energy would not originate from the site.

The containers would be painted in hollybush green (BS 14-C-39).

The applicant states that the site has been selected as it is close to the Dyce grid supply point, which is approximately 800m to the west at Cothal View. This would be linked by a cable laid within the road.

Amendments

None.

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=R5LO86BZJKN00>

The following Supporting Documents have been provided:

- Noise assessment
- Transport Statement
- Drainage Statement
- Landscape Plan
- Planning, Design and Access Statement
- Pre-Application Consultation Report
- Ecological Appraisal

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it falls into the category of Major applications.

Pre-Application Consultation

The applicant undertook statutory pre-application consultation which included an online public consultation event and provision of information online, which was advertised in the Press and Journal. The Dyce and Stoneywood Community Council and local Members were also notified. The applicant states that no adverse comments were received in respect of the proposals.

The applicant presented to the Council's Pre-Application Forum on 30th September 2021. Some discussion occurred regarding how the energy storage facility would operate and fire service access.

CONSULTATIONS

ACC - Roads Development Management Team – Parking and access are acceptable. No objections.

ACC - Environmental Health – No observations. No impact on residential receptors.

INEOS Forties Pipeline System – Safety and integrity of the pipeline will not be affected by the proposed development.

ACC - Waste and Recycling – The development would receive a business waste collection, either from the Council or other providers. General information is provided.

Aberdeen International Airport – No objection, from a safeguarding perspective.

Health and Safety Executive – No objection.

Dyce And Stoneywood Community Council – No observations received.

REPRESENTATIONS

One letter of objection was received, on behalf of the occupier of Helix House (to the south east of the site). This sets out the following:

- Application is contrary to policies B1: Business, B6: Pipelines, Major Hazards and Explosives storage Sites, D1: Quality placemaking by design, and R8: Renewable and Low Carbon Energy Developments; The neighbouring site contains a two storey office, workshop, warehouse and yard. A gantry crane extends from the workshop to a 900m³ wet test tank on the site boundary adjacent to the application site, The objection states that there are 200 office staff and up to 50 people work in the yard;
- Queried whether the proposed use can be classed as low carbon energy;
- Risk of fire, site is unmanned;
- HSE have not issued detailed guidance for these facilities and this should be classed as a major hazard to which Policy B6 applies.
- The LDP (para. 3.74) requires consultation in areas around pipelines and hazardous sites. This should apply in reverse where a hazardous site is proposed. For developments near hazardous sites, the HSE advises that plans are drawn up including for evacuation of people in the surrounding area. A safety zone should be drawn around the proposed site, and that would result in the proposal not being located on the site in question, given the adjacent uses.
- The proposal should be located more remotely and the applicant has not considered alternatives;

A technical note from an insurer sets out site layout standards, however these are not possible, suggesting over development.

- No assessment of noise on occupiers of the objector's premises, which means that the proposal is contrary to Policy T5.

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 Government's Scottish Energy Strategy, 2018 and Position Statement 2021
 Scotland's Climate Change Plan 2020
 Scottish Planning Policy (SPP)

Development Plan

Aberdeen City and Shire Strategic Development Plan (2020)

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan.

The SDP promotes renewable energy and notes the requirement to supply heat and power from renewable sources, as well as supporting reduced emissions from existing power stations. A more diverse mix of renewable energy sources, along with storage, will be needed if we are to meet Scottish Government renewables targets, make best use of the resources available, and ensure continuity of supply to serve communities and businesses across the City Region.

Aberdeen Local Development Plan (2017)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

Aberdeen Local Development Plan (2017)

- Policy B1: Business and Industrial Land
- Policy R8: Renewable and Low Carbon Energy Developments
- Policy B4: Aberdeen Airport
- Policy B6: Pipelines, Major Hazards and Explosives Storage Sites
- Policy D1: Quality Placemaking by Design
- Policy D2: Landscape
- Policy NE5: Trees
- Policy NE6: Flooding, Drainage and Water Quality
- Policy NE8: Natural Heritage
- Policy R7: Low and Zero Carbon Buildings, and Water Efficiency
- Policy T2: Managing the Transport Impact of Development
 - Policy T3: Sustainable and Active Travel
 - Policy T5: Noise
- Policy R2: Degraded and Contaminated Land

- Policy R6: Waste Management Requirements for New Development

Supplementary Guidance and Technical Advice Notes

- Landscape
- Transport and Accessibility
- Noise
- Natural Heritage
- Flooding, Drainage and Water Quality
- Resources for New Development

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 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. 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 are relevant –

- Policy B1: Business and Industry
- Policy WB3: Noise
- Policy NE2: Green and Blue Infrastructure
- Policy NE3: Our Natural Heritage
- Policy NE5: Trees and Woodland
- Policy D1: Quality Placemaking
- Policy D4: Landscape
- Policy R2: Degraded and Contaminated Land
- Policy R5: Waste Management Requirements for New Development
- Policy R7: Renewable and low carbon energy developments
- Policy T2: Transport
- Policy T3: Sustainable Transport
- Policy B3: Aberdeen International Airport and Perwinnes Radar
- Policy B6: Pipelines etc

EVALUATION

Principle of Development

The site is zoned as B1 (Business and Industrial Land) in the Aberdeen Local Development Plan 2017. Policy B1 retains land for office and industrial uses, including Class 4: Business, 5: General Industrial and Class 6: Storage and Distribution. Other uses suited to a business and industrial location will be considered on merit. It is stated that conditions may be imposed restricting levels of noise, hours of operation and external storage. The proposed use is similar to a storage and

distribution use in terms of its function, although would not involve the typical associated vehicular movements, so that in that respect it is less onerous on its surroundings.

In relation to noise an assessment was carried out and is submitted as part of the Supporting Statement. This notes that the environs of the application site is a relatively noisy environment, adjacent to the airport, within 200m of the railway and with significant noise from nearby roads. The noise assessment concludes that no mitigation measures are necessary in respect of nearby residential receptors, which lies around 250m to the north east, on the opposite side of the railway line. Environmental Health have considered the application and supporting documents and have no objection.

It is considered that the proposed use is acceptable in principle within an industrial area and in terms of noise, is acceptable at this particular location.

Renewables and Energy Storage

The Scottish Government's Energy Strategy Position Statement (2021) and Scottish Planning Policy support the renewable energy system in a number of ways, including by encouraging grid connections which can help decentralise power systems across Scotland, noting the role and value of energy storage solutions where the grid is weak.

Policy R8: Renewable and Low Carbon Energy Developments supports in principle proposals for the development of renewable and low carbon energy schemes. The submissions describe how the proposal, whilst not exclusively for use in association with renewables, by its nature complements the generation of renewable energy by allowing it to be stored when generation is greater than need. Although the policy principally envisages renewable energy generating technologies it contains useful criteria for assessing schemes, indicating support where these involve technology operating efficiently and environmental and cumulative impacts are satisfactorily addressed. The criteria relate to: impact on the local environment, landscape and heritage; impact on air quality, tourism and residential amenity.

Impact on local environment: the proposal would be located within an industrial area on a site that is non-designated for natural heritage and had previously been largely cleared, although now contains self seeded species, including a mature silver birch tree. There are a number of small trees along the southern boundary and these would be retained and protected during development, although the centrally located silver birch would be removed. Surveys were carried out for badgers, bats and potential for breeding birds and it was found that the habitat is unsuitable for badgers and bats. Considering the location and nature of the site, it is considered that common species of birds may use the site for nesting and these are unlikely to include any threatened species. It is stated that if groundcover clearance occurs between April and August then a pre-construction breeding bird survey will be required. There were no plant species of note in terms of protection or significant botanical value.

Impact on Air Quality: there are no emissions from the proposed use.

Tourism: no impact; within an industrial area.

Impact on amenity of dwelling houses: no noise impact as noted above, and the site would not be readily visible from any houses.

The proposal would be consistent with the aims of the policy for renewable energy developments, although as noted above, is proposed as a complementary facility in order to allow optimisation of renewable energy.

The Scottish Government's Update to the Climate Change Plan 2018 – 2032 (published December 2020), states:

"We will review and publish an updated Electricity Generation Policy statement by 2022 reflecting the contribution that renewable electricity generation is likely to have to achieving our Net Zero target

in line with the Committee for Climate Change recommendation to do so. We will continue our efforts to ensure a sustainable security of electricity supply, and in 2021 we will launch a call for evidence and views on technologies including energy storage, smart grid technologies and technologies to deliver sustainable security of supply.” .

Although a report is not yet available on energy storage technology, it is clear from a number of sources that storage of renewable energy is an important element in working towards net zero. The proposal does not include the details of the technology to be used inside the storage containers proposed, however, it is considered the approval of this application would allow for the latest technology to be used. A condition would require the finalised details of the containers and other equipment, to be submitted when known and prior to development commencement.

Fire Safety

The applicants also provided a response to the above and noted that the supplier and site operator (maintenance and servicing provider) will align to all relevant and current legislation and best practice for the design, construction and operation of the facility. A Fire Safety Management Procedure will be drawn up for the site. This can be submitted to and agreed in writing by the Planning Service by way of an appropriately worded planning condition.

Natural Heritage, Landscaping and Design

For the reasons noted above, with conditions relating to tree protection and bird nesting, it is considered that the proposal would not impact significantly on natural heritage.

Meadow grass would be planted at the northern end of the site adjacent to the proposed balancing pond proposed as part of the surface water drainage works. The changes in levels required for development would be relatively minor, with the pond being located towards the lower end of the site.

The site lies within an industrial and business area and adjacent to the green belt to the north. As a number of the plans are of ‘typical’ details, it is considered acceptable to condition the details of those based on the overall height being no more than 3.5m as indicated in the submissions. The site is inconspicuous from public viewpoints, in addition it would include meadow planting to the northern end where the site abuts the green belt (albeit land adjacent to the airport runway). Overall it is considered there would be no adverse impact on visual amenity, and the wider landscape setting of the city.

Flooding and Drainage

The site is not identified as being susceptible to flooding. Apart from the tarmac access, the track within the site would be formed from aggregate on permeable geotextile. In addition, the plans indicate space for a detention pond at the north end of the site. A condition is attached requiring a SUDS scheme to be submitted.

Aberdeen Airport

The proposal has been subject to consultation with Aberdeen International Airport, the boundary of which is located immediately adjacent to the site to the west. There are no objections in terms of safeguarding and the Airport has not objected as a neighbour. The proposal would comply with the general provision of Policy B4 (Aberdeen Airport) of the ALDP.

INEOS Pipeline

The proposal has also been the subject of consultation in respect of proximity to the INEOS pipeline and there was no objection.

Matters raised in objection

- Queried whether the proposed use can be classed as low carbon energy, as it does not create energy and there are no carbon reduction figures provided.
Response: although this type of large scale battery storage is relatively new and evolving technology, it is widely referred to (including within Scottish Government position statement) as a facility that is complementary to renewable energy. This is due to the nature of renewables with energy generation being linked to weather conditions for example, rather than demand.
- Facilities of this kind carry risk of fire, which is difficult to control and is often left to burn out. This would be a danger to staff on the neighbouring site and the airport.
- The site is unmanned and this would result in delays before fires are reported. Multiple fire appliances would be required and it noted that is space to turn one appliance.
Response to two points above: the facility would provide storage for a maximum capacity of just under 50MW. For rough comparison a Tesla model S car battery has a capacity of 100kWh, so 50 MW storage is the equivalent of 500 electric cars, which also use Lithium-ion batteries. Domestic energy storage now generally uses Lithium-ion batteries in connection with photovoltaics. As this is relatively new technology also used (at smaller scale) within homes, a UK Government commissioned study was carried out in order to assess the safety of these and is informative as it looks more widely at the use of Lithium-ion battery energy storage, potential risks and the standards that cover both the batteries themselves and the storage systems. The report states that battery safety standards for industrial lithium-ion batteries include functional safety requirements, tests on a battery system level and a thermal runaway propagation test.
<https://www.gov.uk/government/publications/domestic-battery-energy-storage-systems>
It should however be noted that these matters are regulated outside the planning system and the operator as well as component manufacturers would be required to adhere to the standards as well as any requirements of insurance companies. It is not for the Planning Service to get involved in matters that are controlled by other legislation. Fire risk assessments would be required to be carried out and are enforceable by the Fire Service. The applicant has stated within the Supporting Statement that there would be liaison with the Fire Service over incident planning.
- Policy B1: states that low amenity uses must have regard to surrounding uses and not adversely affect their amenity. Whilst paragraph 3.60 states they should be sensitively located.
Response: within this industrial and business site context, the proposal is considered not to be a low amenity use. Environmental Health confirm that noise levels from the facility at Helix House and Peak House offices, based on the NIA, are expected to be within the guidance levels for offices. Background noise levels here, adjacent to the airport, and nearby roads, would mask any noise emissions from the proposed facility. The northern end of the office building would be approximately 74m from the nearest battery storage container on site.
- HSE have not issued detailed guidance for these facilities and this should be classed as a major hazard to which Policy B6 applies.
- The LDP (para. 3.74) requires consultation in areas around pipelines and hazardous sites. This should apply in reverse where a hazardous site is proposed. For developments near

hazardous sites, the HSE advises that plans are drawn up including for evacuation of people in the surrounding area. A safety zone should be drawn around the proposed site, and that would result in the proposal not being located on the site in question, given the adjacent uses.

Response: the proposals do not fall within the scope of the HSE's Control of Major Accidents Hazards nor planning controls on hazardous substances. HSE were consulted on the planning application and the proposal was found to be in line with their PADHI guidance.

- The proposal should be located more remotely and the applicant has not considered alternatives.

Response: The storage needs to be co-located with a grid supply point. It is considered that the proposed use is appropriate within the industrial and business area proposed, relatively close to the grid connection point on the north eastern edge of Dyce.

A generic technical note from an insurer is provided and this provides various suggestions, including installing battery storage a minimum of 20m from important buildings / equipment; 3m separation from public ways, installation of thermal barriers and sprinklers within containers. It appears that the proposal would not comply with these suggestions, suggesting this is over development.

Response: The technical note consists of 'suggestions', is from an insurer rather than a statutory consultee and relates to the US. The applicant will be required to undertake a risk assessment including in relation to fire, which is enforceable by the Scottish Fire and Rescue Service and to comply with the requirements of any insurer.

It appears that there has been no assessment of noise on occupiers of the objector's premises, which means that the proposal is contrary to Policy T5.

Response: Noise is dealt with above. The objector's premises consisting of both office and workshop areas, is located within an area that is currently affected by a number of sources of noise, and is also allocated including industrial use within the extant and proposed LDPs.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) 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

Information has been provided confirming that the proposed development would have no adverse impact on the character and amenity of the surrounding area. The proposed development is considered not to be a 'low amenity' bad neighbour use in this area and would therefore comply with Policy B1: Business and Industrial Land.

It is considered that the proposal would comply with Policy R8 (Renewable and Low Carbon Developments) of the ALDP in that the development will contribute to the development of renewable and low carbon energy schemes without any adverse environmental or cumulative impacts.

All other technical issues have been resolved or can be controlled via appropriately worded planning conditions. The proposal would therefore comply with Policies T2: Managing the Transport Impact of Development, T3: Sustainable and Active Travel, T5: Noise, B4: Aberdeen Airport, D2: Landscape, NE6: Flooding, Drainage and Water Quality, NE8: Natural Heritage and R6: Waste Management Requirements for New Development as well as with the associated Supplementary Guidance in relation to Landscape, Transport and Accessibility, Noise, Natural Heritage and Flooding, Drainage and Water Quality.

For similar reasons the proposal would also comply with Policies B1: Business and Industrial, WB3: Noise, Policy R7: Renewable and low carbon energy developments, B6 Pipelines, NE3: Our Natural Heritage, NE4: Our Water Environment, D1: Quality Placemaking, D4: Landscape, T2: Sustainable Transport, T3: Parking and B3: Aberdeen International Airport and Perwinnes Radar of the Proposed Aberdeen Local Development Plan.

There are no material planning considerations that would warrant refusal of planning permission in this instance.

CONDITIONS

1. That in the event that any battery installed and commissioned fails to commercially operate as intended for a continuous period of six-months and there is no plan in place to bring the battery in to operation within a further period of six-months, then unless agreed in writing with the Planning Authority, the facility will be deemed to have ceased to be required. If deemed to have ceased to be required, the battery, battery storage container and its ancillary equipment will be dismantled and removed from the site, with the cells being appropriately disposed and/or recycled/ re-purposed, and the ground being re-instated to the specification and satisfaction of the Planning Authority by the operator within the following three-month period. Reason: to ensure that any redundant facilities are removed from the site, in the interests of safety, amenity and environmental protection.
2. That in the event of the development hereby approved not operating on a commercial basis to the grid network for a continuous period of 12 months, the company must immediately notify the Planning Authority in writing of the situation and shall, if directed by the Planning Authority decommission the development and reinstate the site to the specification and satisfaction of the Planning Authority. The Planning Authority shall have due regard to the circumstances surrounding the failure to store electricity. Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site. In the interests of safety, amenity and environmental protection.

3. That no development shall take place other than in accordance with the plans unless and until full details of the proposed battery storage containers (and ancillary infrastructure) hereby permitted has been submitted to and approved in writing by the Planning Authority. These details shall include:
 - (a) design, power rating, sound power level modelled at the most sensitive receptor (if deviating from the Noise Impact Assessment accompanying the application), layout and dimensions of the battery storage containers (and ancillary infrastructure) and the metering building to be installed.
 - (b) detailed site layout plan, including surfacing materials, boundary treatment, surface water drainage measures and planting.Thereafter, the battery storage containers and associated infrastructure shall be installed and operate in accordance with these approved details.

Reason: to protect the visual amenity of the area.
4. That no development shall commence until details of the final drainage design has been submitted to and approved in writing by the Planning Authority. The development shall be constructed in accordance with the approved details and thereafter maintained in perpetuity.

Reason: in order to ensure that the site is adequately drained.
5. That no trees shall be removed during the bird nesting season (beginning of April to end of August) unless there has been carried out a nesting bird survey by a suitably qualified specialist, and that specialist remains on site for the duration of the removal operation.

Reason: in the interests of the protection of breeding birds.
6. That no development shall take place unless tree protection fencing is in place on site. This shall be in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

Reason: In the interests of biodiversity and visual amenity.
7. That no development shall commence until details of the final landscaping and drainage design has been submitted to and approved in writing by the Planning Authority. The development shall be constructed in accordance with the approved details and thereafter maintained in perpetuity. Reason: in order to ensure that the site is adequately drained.
8. That prior to the commencement of development, the Fire Safety Management Procedure shall be submitted to, and agreed in writing by the Planning Authority. Thereafter the plan shall be implemented and retained in perpetuity, unless otherwise agreed in writing by the Planning Authority. Reason: in the interests of fire safety and in the amenity of the surrounding area.



Planning Development Management Committee

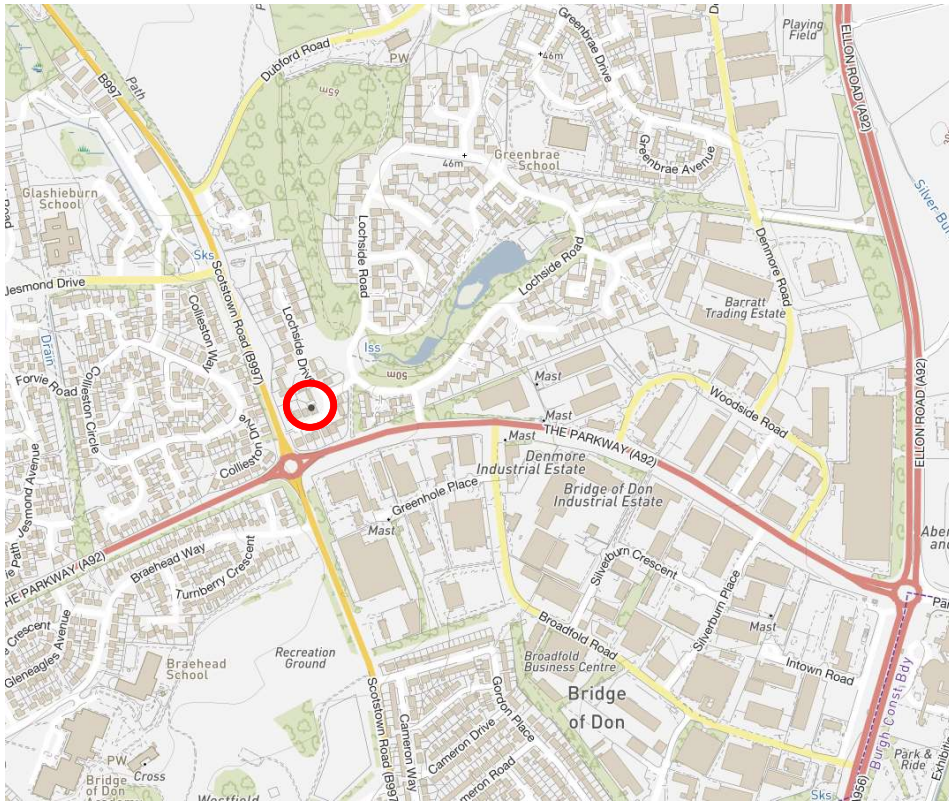
Erection of log cabin to side (retrospective)

7 Lochside Drive

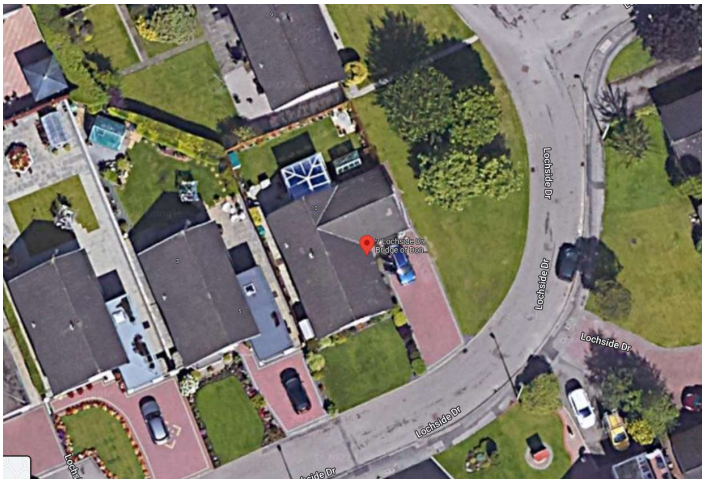
Detailed Planning Application (P220278/DPP)

Case Officer: Rebecca Kerr

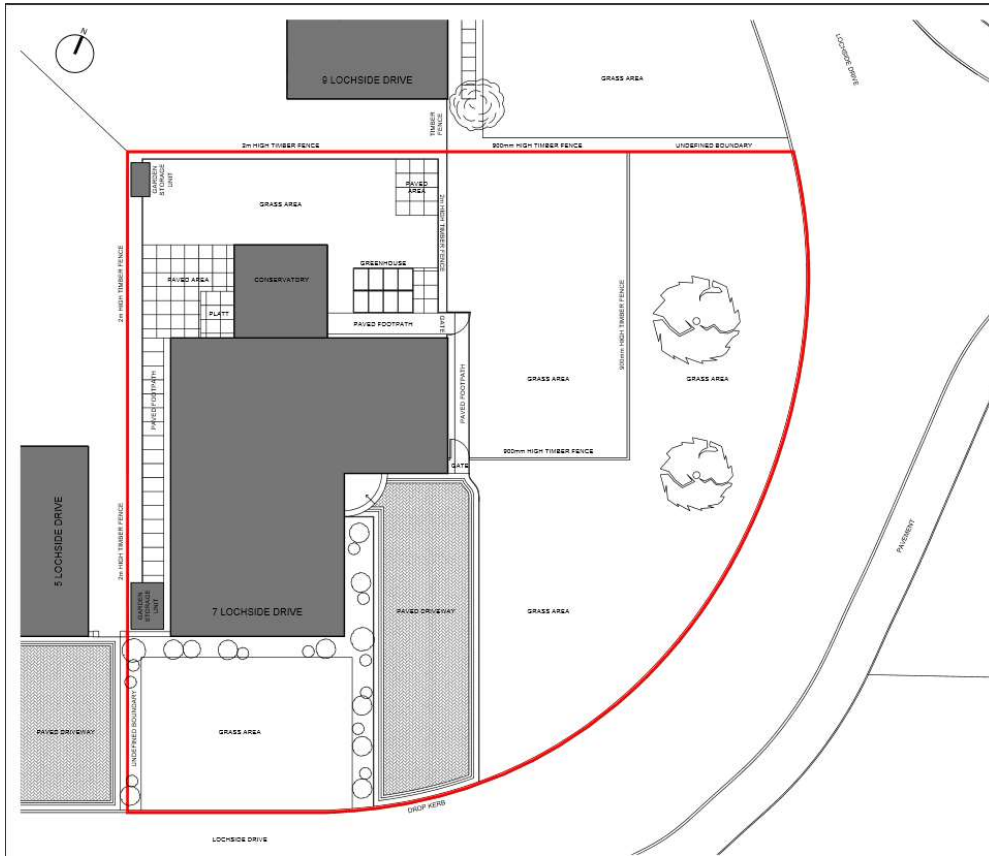
Location Plan



Aerial views



Site Plan



Existing Site Plan

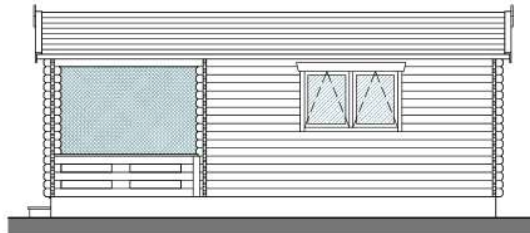


Proposed Site Plan

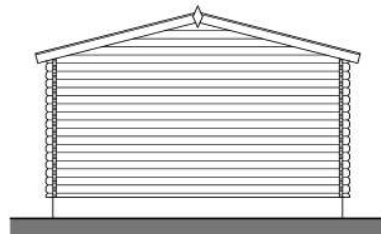
Proposed Log Cabin Elevations



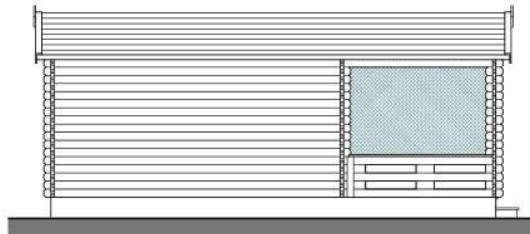
SOUTH WEST ELEVATION



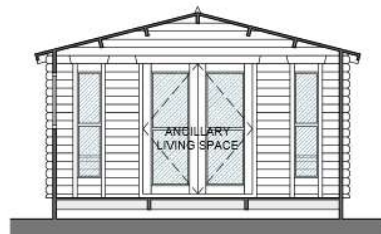
SOUTH EAST ELEVATION



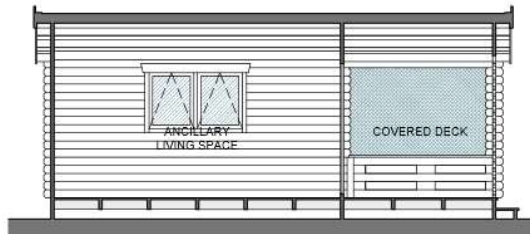
NORTH EAST ELEVATION



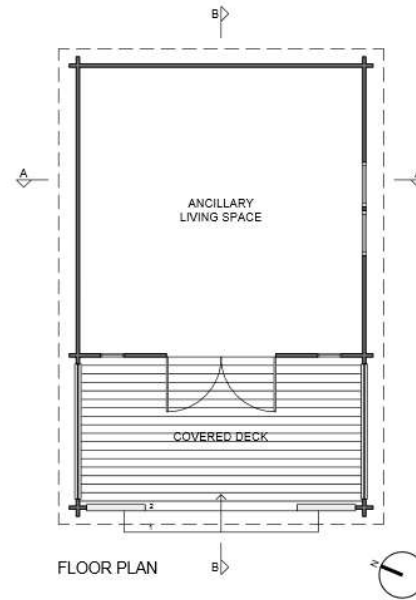
NORTH WEST ELEVATION



SECTION A-A



SECTION B-B



FLOOR PLAN

ORIGINAL FINISHES

- PREFABRICATED LOG CABIN CONSISTING OF 44mm THICK LOG WALLS - NATURAL FINISH, COMPLETE WITH MATCHING TIMBER FASCIA BOARDS, VERGES, AND SOFFITS.
- TIMBER DECKING AND STEPS TO COVERED PORCH AREA - NATURAL FINISH.
- DOUBLE GLAZED TIMBER FRAME WINDOWS AND DOORS, WITH CLEAR GLAZING.
- FROSTED ACRYLIC PERSPEX PRIVACY SCREENS TO SIDES OF COVERED DECK AREA.
- DARK GREY 1/40 FELT ROOF SHINGLES TO PITCHED ROOF.

LEGEND

- CLEAR GLAZING WINDOWS AND DOORS
- FROSTED ACRYLIC PERSPEX PRIVACY SCREENS

Richard Dingwall Architects

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Client

Mr Eric Pirie

Project

Detached Ancillary Building (Retrospective)
 7 Lochside Drive, Aberdeen, AB23 8EH

Title

Proposed Floor Plan, Sections + Elevations

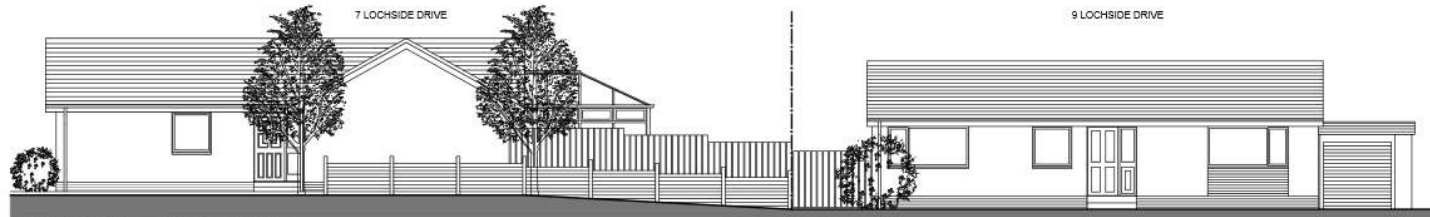
Project No.	DWG No.	Revision	Date
1030	1002	A	06/03/2022

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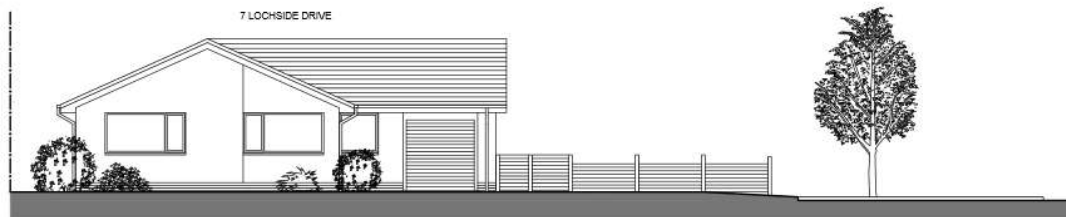
Proposed Elevations



EXISTING NORTH EAST ELEVATION



PROPOSED NORTH EAST ELEVATION



EXISTING SOUTH EAST ELEVATION



PROPOSED SOUTH EAST ELEVATION

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Client:
 Mr Eric Pine

Project:
 Detached Ancillary Building (Retrospective)
 7 Lochside Drive, Aberdeen, AB23 8EH

Title:
 Existing + Proposed Contextual Elevations

Project No.	DWG No.	Revision	Date
1030	1004	A	08/05/2022

Scale @ A3
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Site Visit Photos



Site Visit Photos



Site Visit Photos



Google Street View Comparison



April 2022



August 2009



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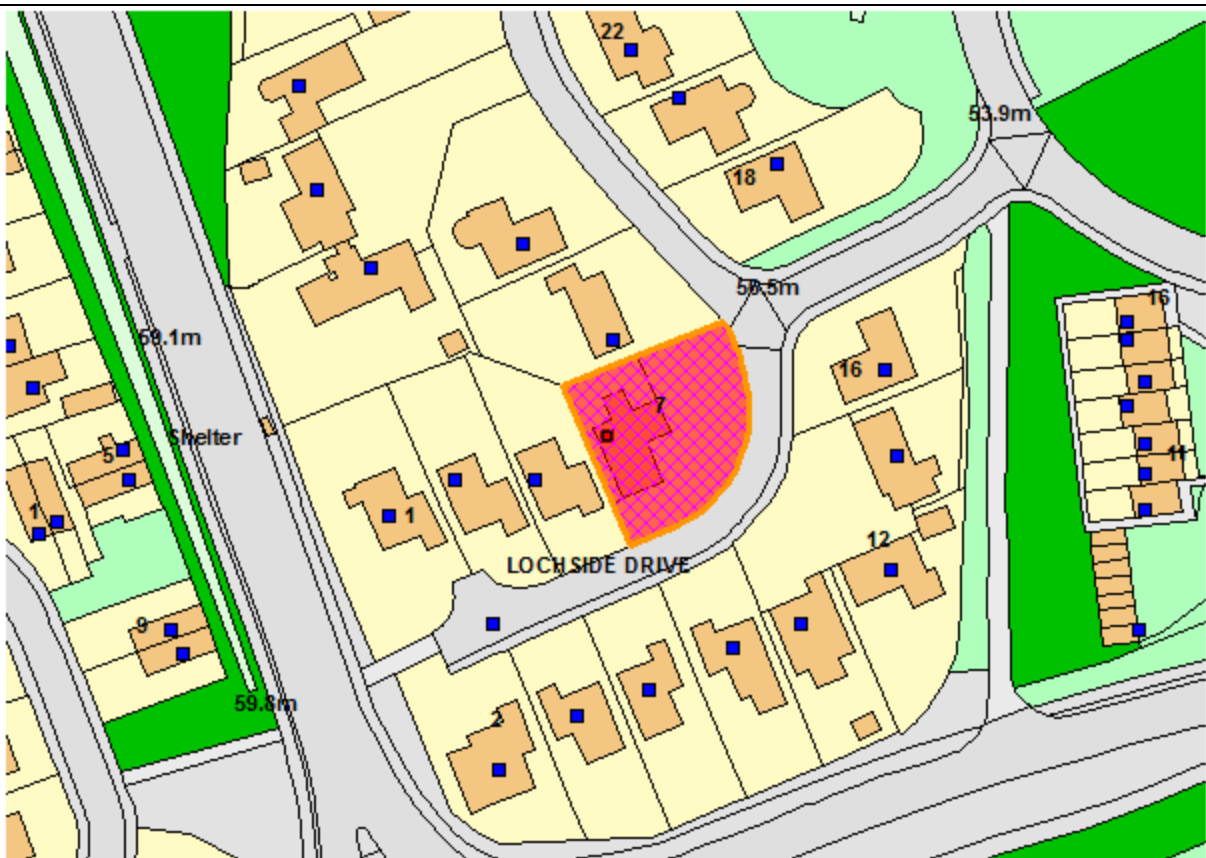


Planning Development Management Committee

Report by Development Management Manager

Committee Date:

Site Address:	7 Lochside Drive, Aberdeen, AB23 8EH
Application Description:	Erection of log cabin to side (part retrospective)
Application Ref:	220278/DPP
Application Type	Detailed Planning Permission
Application Date:	7 March 2022
Applicant:	Mr Eric Pirie
Ward:	Bridge of Don
Community Council:	Bridge of Don
Case Officer:	Rebecca Kerr



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site is located to the north of Aberdeen, in the Denmore neighbourhood, which is part of the wider established residential area of the Bridge of Don. Access to Lochside Drive is gained from Lochside Road, which joins the Parkway (A92) just east of the Scotstown roundabout junction. The application site is visible from and bound by Lochside Drive to the east and south as the road splits to provide access to other properties. The remainder of the site is bound by 9 Lochside Drive to the north and 5 Lochside Drive to the west. The application site occupies a corner plot situated on a curve in the road and its front, rear and side curtilages combined totals approximately 724sqm. The application dwelling is a single storey bungalow, which is a L-plan form with an attached single side garage located to the east, set-back 7m from the main frontage with driveway to front. A small conservatory is located to the rear (north) elevation, positioned centrally on the rear elevation. To the side of the dwelling is a large area of soft landscaping which is primarily grass with 2 small trees.

Relevant Planning History

No relevant planning history.

APPLICATION DESCRIPTION

Description of Proposal

The application seeks planning permission for the erection of a detached ancillary 'log cabin' outbuilding and associated landscaping, situated within the curtilage of the existing dwelling. The application is part retrospective as the applicant stated they were unaware the log cabin structure required planning permission. The log cabin is largely constructed however the roof finishing material, privacy screening and associated soft landscaping have not been completed.

The log cabin outbuilding is located on the eastern side of the existing dwelling, in an area of the side curtilage where fencing has been recently extended to include an additional 100sqm of land within the overall area of self-contained rear garden ground.

The proposal creates an additional 26sqm of ancillary accommodation through construction of a prefabricated timber log cabin with pitched roof and double-glazed timber windows and doors. The log cabin features a covered porch/deck area (8.5sqm) with frosted acrylic perspex privacy screens to the north side. The cabin measures 6.5m in length, 4.5m in width and is 2.9m high, it is finished in natural timber with a proposed roof finish of dark grey felt shingles.

Amendments

None.

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=R8D7KZBZL7O00>

- *Supporting Statement: Response to Representations (14 April 2022)*

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 timeous objections from the public have been received and thus, the application falls out with the Council's Scheme of Delegation.

CONSULTATIONS

Bridge of Don Community Council – none received.

REPRESENTATIONS

The application has received a total of 12 representations, 3 in support and 9 objecting to the development. The matters raised can be summarised as follows:

Support

1. No salient objection to the application.
2. The log cabin doesn't affect the overall character of the street/area.
3. Times have changed since development of estate in 1970s and new owners want to capture the most of their gardens instead of all open space.

Objection

1. No clear dimensions of the log cabin or distances to neighbouring properties on plans.
2. Loss of day/sunlight receipt to neighbouring property (9 Lochside Drive).
3. Loss of view/outlook from 9 Lochside Drive.
4. Overlooking and loss of privacy to bedroom window of adjacent property (9 Lochside Drive).
5. Noise disturbance from social use of the log cabin.
6. Size and scale of log cabin.
7. Cabin is outside and extends beyond the original building line of the street.
8. Not in keeping with open plan ethos of the Denmore Estate and gives negative impression.
9. Eyesore, spoils outlook, especially when entering the street and for properties overlooking 7 Lochside Drive.
10. Sets precedence for similar structures to be erected without obtaining planning permission.
11. Concerns regarding drainage of the structure and excess water impacting neighbouring property.
12. No effort made to blend the building in.
13. Impact on future property resale values.
14. Concern how something so large could have been erected without consent.
15. Area is not part of the original curtilage and the surrounding fence was erected initially too high without consent.
16. Some well-established trees were removed to accommodate the log cabin.

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)

Aberdeen Local Development Plan 2017 (ALDP)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted

to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: “Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration”.

The following policies are relevant –

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

Supplementary Guidance (SG)

- Householder Development Guide SG

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 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. 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 are relevant –

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

EVALUATION

Principle of Development

The application site lies in an area zoned on Aberdeen Local Development Plan ‘proposals map’ as ‘residential area’ and is covered by Policy H1 (Residential Areas). Policy H1 states that a proposal for householder development will be approved in principle if it:

1. does not constitute over development;
2. does not have an unacceptable impact on the character and amenity of the surrounding area;

3. does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and
4. complies with Supplementary Guidance (SG).

The proposed development is related to the erection of a log cabin structure to the side elevation of the existing dwelling, within the residential curtilage. The area of ground to the front and side of the dwelling has been stated on the application form as being within the ownership and control of the applicant. The area of land in question is also indicated on 'ScotLIS' (Scotland's Land Information Service) website as forming part of the title deeds for the dwelling and is therefore understood not to be part of the communal public open space / amenity grounds for the wider Denmore Estate. Due diligence has been undertaken to confirm that this area of ground is not an area of amenity land owned or maintained by the Council. The communal open space and amenity grounds for the estate are managed privately through a factoring arrangement. Furthermore, the area of ground is not identified as a 'Local Open Space' or 'Natural Green Space' in the Open Space Audit 2010 and therefore no loss of open space would occur as a result of development – in accordance with point 3 above. The remaining points 1, 2 and 4 of Policy H1 (Residential Areas) will be discussed in the evaluation below in order to assess the impact of the proposed development on the character and amenity of the area, whether it constitutes overdevelopment and compliance with relevant Supplementary Guidance.

Scale, Design and Impact on Surrounding Area

The relevant SG in this instance is the Council's 'Householder Development Guidance', which outlines general principles for householder developments. Proposals should be architecturally compatible in scale and design with the original house and its surrounding area, materials should be complementary to the original building and any alteration should not serve to overwhelm or dominate the original form or appearance of the dwelling and be visually subservient in terms of height, mass and scale.

The Householder Development Guide also outlines specific criteria to be addressed when considering outbuildings which are relevant to this proposal, including that they must be subordinate in scale to the original dwelling house, should not have a negative impact on the character of the surrounding area, will not usually be acceptable in front gardens due to the damaging impact development forward of a front building line can have on the visual character of an area and any proposal will be assessed on their impact on the amenity of an area, e.g. loss of daylight/privacy, in the same way as extensions.

With regard to the matter of whether the proposed constitutes overdevelopment, the Householder Development Guide states that no more than 50% of the front or rear curtilage shall be covered by development. When considering the dwelling's total rear and side curtilage as extended (including additional 100sqm to side taken as designated rear garden ground) this gives a rear curtilage of 335sqm. The log cabin would occupy a footprint of 26sqm and therefore after development it is calculated that 14% of the rear curtilage (as extended) would be developed (excluding paved areas) and therefore remains within the 50% of development allowed in terms of the Householder Development Guide. Considering the originally designated rear curtilage and the addition of 26sqm ancillary accommodation would result in a plot coverage of 38% which is still within the 50% limit. The proposed log cabin is therefore not considered to represent overdevelopment of the plot in technical terms and a buffer area of side curtilage (fronting Lochside Drive) will remain after development.

Considering the log cabin in isolation, its design is domestic in nature, with timber materials being consistent with similar garden structures ensuring it is architecturally compatible with the existing dwelling. However, when assessing design and scale of the log cabin in context of the existing dwelling there is some tension with Policy D1 (Quality Placemaking and Design) and the Householder Development Guide.

Policy D1 recognises that not all development will be of a scale that makes a significant placemaking impact, it outlines that good design and detail adds to the attractiveness of the built environment. Furthermore, under Policy D1, the design of the proposed development is considered within the context of the site and surrounding area, with factors such as siting, scale, massing, materials, design detail, proportions and the established pattern of development all deemed to be relevant in assessing its contribution and impact. Taking this into account, it is considered that the proposal has failed to adequately consider the context of the site and the surrounding area. The log cabin creates an additional 26sqm footprint which is larger than the existing conservatory extension (16 sqm) albeit it is also recognised that 10sqm of the log cabin consists of an overhang external porch area – overall structure is not considered to be wholly subservient in scale to that of the existing dwelling. Undertaking an analysis of the surrounding area, also indicates that this scale of garden structure is large for the character of the street and surrounding area.

The log cabin occupies a prominent location to the side elevation of the existing dwelling, which has an open aspect, by virtue of its corner plot and being situated on a sweeping curve in the road upon which it fronts – thus making the log cabin a highly visible structure in the streetscape. This area of ground to the side where the cabin is located is bounded by a 900mm high composite panel fence to the side of the dwelling, with grassed area and 2 trees, neither of which offer substantial screening. The remainder of the front and side of the plot is principally grassed with some small shrub planting to the south boundary and a driveway. Whilst it is acknowledged the proposal has not been completed and landscaping opportunities are proposed and highlighted in the supporting statement, due to the size, height, scale and positioning of the log cabin, this is not considered to alleviate the prominence and negative visual impact of the log cabin in context of the surrounding streetscape and area. The supporting statement submitted notes that no regular building lines exists for other properties in Lochside Drive, however regardless of no consistently linear building lines for the built form, there is still an inherent and established pattern of front and rear feus, with generous open landscaped areas to the front and sides of properties. The log cabin is situated beyond the side elevation of the existing dwelling, which is also fronting a road and therefore is considered to be outside and forward of the predominate building line of the application dwelling. Furthermore, the positioning of the log cabin extending beyond the side elevation/building line of the existing dwelling, in combination with the size and scale of the cabin is considered to have an overbearing impact on the neighbouring property at 9 Lochside Drive and thus the outlook afforded to the surrounding area.

In summary, while the development would not typically be considered over development due to the size of the plot, the overall siting, form and scale of the log cabin has failed to take an adequate account of its location, thereby having a negative impact on the visual character of the surrounding area and adversely affecting the built environment. As such, the proposal would be contrary to the requirements of Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) and would fail to address the expectations of the Householder Development Guide.

Impact on Residential Amenity

In respect of residential amenity, Policy H1 (Residential Areas) and the Council's Housholder Development Guide outlines that no extension or alteration should result in a situation where the amenity of any neighbouring property would be adversely affected with regard to impact on privacy, daylight and general amenity.

Appendix 2 of the guidance outlines respective calculations, which are required to determine the impact of proposals on daylight / sunlight receipt and overshadowing relative to habitable rooms or garden ground of neighbouring properties. Undertaking the relevant calculations (45° method) on the proposed log cabin, which would lie south-east of the neighbouring property at 9 Lochside Drive, determines that there would be no adverse impact on overshadowing or sunlight receipt to this property. With regard to internal daylight receipt, again undertaking the calculation (45°

method) determines there would be no impact to any neighbouring windows. The other neighbouring property 5 Lochside Drive is located a sufficient distance away from the extension that there would be no impacts with regard to daylight / sunlight receipt or overshadowing.

With respect of privacy, it is recognised that the non-habitable nature of an ancillary garden log cabin would ordinarily provide limited privacy concerns, however given the location of the log cabin and its relative position to the neighbouring property at 9 Lochside Drive, it is likely that there would be some limited opportunities for indirect overlooking to this property. The inclusion of an obscured 'perspex' privacy screen along the northern boundary where the porch overhang element of the cabin is situated adjacent to the front garden ground of 9 Lochside Drive does indicate where there may be some tension with regard to privacy matters. However, given the obscure nature of the privacy screen, only slight shadows and movements are likely to be discernible from the neighbouring front garden, the cabin is ancillary accommodation so would not be in continuous use and the rear garden are separated by a 2m high boundary fence ensuring adequate privacy to the rear is maintained. Furthermore, the window-to-porch overhang distance is around 3.6m distance which is above the 2m minimum (for windows at 90°) as per Appendix 1 of Householder Development Guide SG. It is acknowledged that this scenario would be somewhat different than the existing window-to-window distances characteristic of the surrounding area and context of the site, however the proposed privacy screen should ensure adequate privacy for neighbouring properties is maintained to suitably comply with the guidance contained in Policy H1 (Residential Areas) and the Householder Development Guide.

Matters Raised in Letters of Representation

1. *No clear dimensions of the log cabin or distances to neighbouring properties on plans.*
Submitted plans are appropriately scaled to ensure appropriate calculations and measurements can be taken.
2. *Loss of day/sunlight receipt to neighbouring property (9 Lochside Drive).*
Matters in respect of day/sunlight receipt have been discussed in the foregoing evaluation under 'Impact on Residential Amenity'.
3. *Loss of view/outlook from 9 Lochside Drive.*
Loss of a view is not a material planning consideration, however, matters in respect of outlook and impact on the surrounding area and residential amenity have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area' and 'Impact on Residential Amenity'.
4. *Overlooking and loss of privacy to bedroom window of adjacent property (9 Lochside Drive).*
Matters in respect of privacy have been discussed in the foregoing evaluation under 'Impact on Residential Amenity'.
5. *Noise disturbance from social use of the log cabin.*
Due to the domestic nature and use of the log cabin noise disturbances as a result of any social use are not considered to be different than is currently possible within the rear garden and it therefore considered to be of negligible impact.
6. *Size and scale of log cabin.*
The design, size and scale of the log cabin have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area'.
7. *Cabin is outside and extends beyond the original building line of the street.*

The design, size and scale of the log cabin have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area'.

8. *Not in keeping with open plan ethos of the Denmore Estate and gives negative impression.*
The design, size and scale of the log cabin have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area'.
9. Eyesore, spoils outlook, especially when entering the street and for properties overlooking 7 Lochside Drive.
The design, size and scale of the log cabin have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area'.
10. *Sets precedence for similar structures to be erected without obtaining planning permission.*
Each planning application is assessment on its own merits regardless of the outcome of this particular application.
11. *Concerns regarding drainage of the structure and excess water impacting neighbouring property.*
Given the domestic nature of the structure and its position within an area which is principally grassed and permeable, drainage is not considered to be a matter of concern.
12. *No effort made to blend the building in.*
The design and screening of the log cabin have been discussed in the foregoing evaluation under 'Scale, Design and Impact on Surrounding Area'. It is acknowledged that the development is not completed and should this application be approved additional landscaping and details of exterior finishes / colour will be required.
13. *Impact on future property resale values.*
Future property valuation is not a material planning consideration.
14. *Concern how something so large could have been erected without consent.*
The application has been considered as part retrospective as the applicant was seemingly unaware that planning permission was required.
15. *Area is not part of the original curtilage and the surrounding fence was erected initially too high without consent.*
The foregoing evaluation has acknowledged that an additional area of ground to the side of the property has been designated rear garden ground, however this area of land is understood to belong to the applicant as part of the title deeds of the property and is not identified as communal / amenity ground within the wider estate. By virtue of the land being located to the side of the dwelling which fronts a road this does mean that relevant permissions are required for development.
16. *Some well-established trees were removed to accommodate the log cabin.*
It is unknown when the 2 trees were removed and whilst it's appreciated the loss of these trees would have impacted on the established streetscape, they were positioned within the residential curtilage and land belonging to 7 Lochside Drive and were removed prior to an application being submitted. Therefore, this matter is outwith the control of the Planning Service and has no bearing on the outcome of the application given they no longer exist.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the Policies H1, D1 and D2 in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan and the proposal is not acceptable in terms of both Plans for the reasons previously given.

Conclusion

In conclusion, while the development would not typically be considered over development due to the size of the plot, the overall siting, form and scale of the log cabin is considered to be inappropriate and has failed to take an adequate account of its location, thereby having and overbearing and negative impact on the outlook and amenity of the surrounding area. Thus concluding, that the proposal would be contrary to the requirements of Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) and would fail to address the expectations of the Householder Development Guide.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

The proposal, its scale and design has failed to consider the context of the site and its surrounding area, and on the basis that the log cabin would occupy a prominent location within the rear curtilage to the side elevation of the existing property it is considered to have an overbearing and negative visual impact on the surrounding area. The proposal is therefore considered to be contrary to the requirements of Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the adopted Aberdeen Local Development Plan 2017; the 'Householder Development Guide' Supplementary Guidance and Policies H1, D1 and D2 of the Proposed Aberdeen Local Development Plan 2020.

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ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	26 May 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Planning Enforcement Activity Report – April 2021 to March 2022
REPORT NUMBER	PLA/22/072
DIRECTOR	Gale Beattie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	Gavin Clark
TERMS OF REFERENCE	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 1st April 2021 to 31st March 2022.

2. RECOMMENDATION(S)

- 2.1 That members note the contents of this report.

3. CURRENT SITUATION

- 3.1 This report provides an annual update for the Planning Development Management Committee of the Planning 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 during the above period 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 2021; 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 cases have been resolved through negotiation and discussion, without recourse to the use of formal enforcement action. In most circumstances, particularly where householders (domestic properties) 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 261 new cases have been investigated since 1st April 2021. This is an increase from 193 in the previous reporting period. The majority of these (146 or 56%) have been resolved without recourse for formal action. These cases fell into one of the following categories: -
- By the approval of a retrospective planning application,
 - By informal negotiation resulting in the breach being rectified by the offending party,
 - Being a minor breach where it would not be reasonable or economic to progress,
 - The case was dealt with by colleagues in Spaces for People, or
 - No breach of planning control.
- 3.5 The remaining 68 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 a significant adverse impact on amenity or a threat to public safety. Ten enforcement related formal Notices have been served during the current reporting period compared to seven in the previous year. Of the historic enforcement cases previously investigated (prior to 1st April 2021), fifteen 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 and these are mostly householder cases. As these cases often do not relate to the priorities identified for action in the Council's Enforcement Charter (properties in conservation areas, involving protected trees or raising issues of public amenity or public safety), they are likely to be of lower priority in terms of consideration of enforcement action, notwithstanding the statutory duty to investigate enforcement complaints. However, these cases can give rise to very strong feelings amongst those affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute.
- 3.7 One of the main issues raised within the reporting period relates to COVID-19 and the Spaces for People initiative. Under the above, a number of businesses erected outdoor seating areas, enclosed structures and areas of decking to provide additional customer capacity. Following the easing of lockdown restrictions, some of these required to be removed. Whilst a proportion of these have been removed, a number remain in situ, and some of those are subject to applications for planning permission. The Council may need to take further action in the future if such structures remain without the required planning approval in place.
- 3.8 A further issue relates to staffing. The Council's previous Planning Inspector retired in December 2021 and a replacement could not be appointed until April 2022. This meant that cases needed to be dealt with by both the Senior Planner and passed on to Planners to investigate. Other tasks, such as the posting of site notices also had to be shared out and dealt with by colleagues. All of the above resulted in slight delays to investigating complaints and queries. This situation has now however improved following the appointment of a new Planning Inspector.

- 3.9 The following table provides a summary of the enforcement caseload since 1st April 2021 and divides the cases into new cases and those dating from the previous reporting period.

New Cases – 1st April 2021 to 31st March 2022	Cases resolved & no further action required.	261
New Cases - 1st April 2021 to 31st March 2022	Under investigation, being negotiated, or application decisions pending.	68
Enforcement Related Notices served		10
Enforcement Notices in process of being prepared		3

- 3.11 An Enforcement Charter, which is a statutory requirement arising from implementation of the 2006 Planning (Scotland) Act, was first adopted by the Council in June 2009. There is a statutory requirement to review this document every two years and it requires to be updated this year. There have been updates on several occasions since 2009, with the most recent update taking place in March 2020. A copy of this document is appended at Appendix 2 for information. The Charter helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service. Due to the aforementioned staffing issues, the Charter has not been updated at the time of writing, however this will be done within the next three months, and no significant changes to the Charter content are anticipated.

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, along with title searches relating to the serving of Enforcement Notices. This can generally be accommodated within existing budgets, actions out with 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. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications arising from this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)	*Does Target Risk Level Match Appetite Set?
Strategic Risk	N/A			N/A
Compliance	N/A			N/A
Operational	N/A			N/A
Financial	Financial costs may be incurred should Enforcement Notices not be complied with	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	L	Yes
Reputational	There may be a negative impact if the Council do not decide to proceed with enforcement action.	Proceed with the enforcement action where required.	L	Yes
Environment / Climate	Not undertaking enforcement action could result in adverse impacts on the built and natural environment	Proceed with the enforcement action where required.	L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
<u>Aberdeen City Local Outcome Improvement Plan</u>	
Prosperous Economy Stretch Outcomes	The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. This report monitors indicators which reflect current economic activity within the city and actions taken by the Council to support such activity.

Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen. This report monitors key indicators impacting on the lives of all citizens of Aberdeen. Thus, the Planning Service will need to measure the effectiveness of measures already implemented, as well as allowing an evaluation of future actions which may be required to ensure an improvement in such outcomes.
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit, operating to the highest environmental standards. This report provides essential information in relation to enforcement related issues to measure the impact of any current action.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Full impact assessment not required.
Data Protection Impact Assessment	Not required.

10. BACKGROUND PAPERS

10.1 None

11. APPENDICES

11.1 Appendix 1 – Enforcement Cases – April 2021 to March 2022

11.2 Appendix 2 – Enforcement Charter – March 2020

12. REPORT AUTHOR CONTACT DETAILS

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Planning Enforcement Charter

a guide to enforcing planning controls

March 2020



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1. Introduction

In Scotland, you need planning permission for most development, except for some minor works (known as permitted development). Sometimes however, someone may carry out work without planning permission, or they don't follow the permission they have been given. The credibility of the planning system depends on effective enforcement action.

This charter outlines how the planning enforcement system operates and the standards of service that we seek to achieve when enquiries are made. Like all Councils in Scotland, Aberdeen City Council has legal powers to enforce planning controls. We do this where we believe that it is in the public interest to do so. We also monitor development that has been given permission, to make sure that it is in line with the approved plans and any conditions that may apply.

Enforcement is one of the most complex parts of the planning system, but it is something that concerns many people and may be their first experience of the planning process. We therefore encourage you to play a role by letting us know if you think planning controls may have been broken.

In Scottish Planning Policy the Scottish Government sets the upholding of the law and the terms of planning decisions as one of the core values expected of the Planning Service. The Council has statutory powers to investigate breaches of planning control and breaches of planning conditions. Formal action can be taken where a satisfactory outcome cannot be achieved by negotiation. A planning authority is not necessarily required to take action in respect of a breach of planning control and any action that is taken must be reasonable and proportionate to the breach.

THIS CHARTER SETS OUT THE PLANNING ENFORCEMENT POWERS CURRENTLY AVAILABLE TO THE COUNCIL AND EXPLAINS HOW WE INTEND TO USE THEM.



A planning authority may issue an enforcement notice where it appears to them to be expedient to do so, having regard to the development plan and to any other material planning considerations.

It is important to remember that a breach of planning control is not a criminal offence unless an enforcement notice has been issued and not complied with. The aim is to resolve breaches rather than punish those who carried out the work. This may be achieved through a retrospective planning application, for example.



2. Identifying and reporting possible breaches of planning control

Members of the public have a vital role to play in the enforcement system by reporting breaches of planning control to us. If you are concerned that someone is carrying out work without permission, or that the works are not in line with the related planning permission, please contact the Enforcement Section of our Development Management Team within Strategic Place Planning. You can phone or email us on the contact details found at the end of this document.

Possible breaches of planning control can include:

- **work being carried out without planning permission or other consent (this includes conservation area consent, listed building consent or advertisement consent);**
- **unauthorised change of use of land or buildings;**
- **undertaking development which is not in line with the approved plans or consent;**
- **carrying out work which is not in line with conditions attached to a permission or consent; or**
- **carrying out work to trees that are protected by a planning condition, a Tree Preservation Order, or by virtue of their location in a Conservation Area.**

The Council does not have the staff resource to actively monitor the implementation of consents or search for breaches of planning control and it is therefore useful if members of the public report information to the planning service if they think that a breach of planning permission has taken place.

You can check if works have consent online through the Council's Planning Portal using the site address:

<https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>

The following information is important and helpful to us when you report a suspected breach in planning control.

- **the address or location of the property or land concerned;**
- **details of the suspected breach of planning control (for example, the nature of the building work or activities being carried out and information on who may be responsible for it); and**
- **dates and times of when the activity is carried out, where appropriate.**

If the suspected breach in planning control directly affects you, or you simply wish to know the outcome of our investigation, please also provide us with contact details for yourself including:

- **your name, telephone number, address and e-mail address (if submitted online).**

In accordance with the Environmental Information (Scotland) Regulations 2004 we will treat the identity of complainants in confidence. We will only release information regarding the identity of a complainant where it is in the public interest to do so, as a result of a ruling by the Scottish Information Commissioner or directed to do so by a court of law.

It is important to understand that planning enforcement is a discretionary power. This means that it is for the Council to determine if it is appropriate to exercise that power. Even if there is a breach of planning control, the Council must consider if it is in the public interest to take enforcement action. In doing so, the Council will consider the level of material 'harm' that the unauthorised development is causing, or, is likely to result in. Although not exhaustive, 'harm' in planning terms can include:



- **impact on the character and appearance of the built and natural environment;**
- **loss of protected trees;**
- **loss or damage to a listed building and demolition of buildings in a conservation area;**
- **impact on amenity including privacy, daylight, overshadowing, noise.**

It may be that these matters require to be properly considered through a planning application.

Some enquiries are about matters that are not breaches of planning control; these may be civil/legal matters, fall under different legislative regimes or cannot be controlled or conditioned through the powers available to planning. These can include the following:

- **private dispute over landownership/title deeds/right of access/maintenance;**
- **devaluation of property;**
- **loss of view;**
- **competition between businesses;**
- **on street parking or allocation of parking spaces.**

Where appropriate, planning will pass enquiries onto the relevant Council service to investigate.

3. Time-Limited Procedures

In some cases, the Council is time-barred from taking enforcement action. The time is limited to four years for enforcement action for “unauthorised operational development” (i.e. the carrying out of building, engineering, mining or other operations in, on, over or under land) and change of use to a single dwelling house. This could include development such as replacement windows, extensions or satellite dishes. ‘After four years following the breach of planning control, the development becomes lawful and no enforcement action can be taken’

A time limit of ten years for enforcement action applies to all other development including change of use (other than to a single dwelling house) and breaches of conditions, after which the development becomes lawful if no enforcement action has been commenced within the 10-year time limit.

There is no time limit for breaches of Listed Building Control (works undertaken to a Listed Building).

You can read further information on the use of enforcement powers on the Scottish Government website at: <https://www.gov.scot/publications/planning-enforcement-charter-guide-enforcing-planning-controls/>

Planning enforcement also covers the display of advertisements such as signs, billboards and advertisement hoardings, although slightly different procedures will apply). Planning control does not cover the actual content of an advertisement, and any complaints about this should be made directly to the Advertising Standards Authority.

4. Monitoring planning conditions

In a large number of cases, conditions will be included within the decision notice attached to the granting of permission. These conditions are part of the approval and must be met in order for the development to be considered lawful.

Monitoring these conditions is undertaken by the Enforcement Section of our Development Management Team. However, as we grant such a large number of permissions each year, it is not possible for the Council to monitor all conditions at all times.



5. Planning enforcement: our processes

Any information that we receive is checked to ensure that the matter raised firstly involves a possible breach of control and secondly includes all the details we need for a possible investigation. After these preliminary checks, the complaint will be registered. We will then send an acknowledgement by letter or e-mail to the person who made the complaint.

When a complaint is registered, it is recorded on the Council's Enforcement Register and delegated to the appropriate officer. Complaints relating to previous / ongoing applications will generally be dealt with by the Planning Officer responsible for that application. The Council's Tree Officer will deal with complaints relating to tree works.

A member of the Planning Service will then visit the site in order to establish if a breach has occurred, and if so, to what extent. The main concern when investigating any breach is whether the development or activity requires planning permission, or breaches a planning permission or planning condition, or has a harmful effect on the area. Where this is the case, we must then decide if action is needed. In some cases, additional investigation or consultation with external bodies (such as Historic Environment Scotland) may be needed.

Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome of the investigation. Example outcomes may include the submission of a retrospective planning application, or confirmation that an operation may be exempt from planning control.

Enforcement investigations and any related discussions or meetings will be clearly documented by the appropriate officer in the electronic case file to ensure transparency and clarity in the process.

If it is decided that an unacceptable breach has occurred, there are three main routes that we may take:

Negotiate a Solution: we will encourage the person responsible for the breach to resolve the problem through discussion and negotiation. They may either choose to stop the activity and carry out work to correct the problem, or they may wish to submit a retrospective application. The time afforded to the person responsible to undertake either of these actions will depend on the severity of the breach and its impact.

Retrospective Application: a retrospective application is an application for development that is submitted after the work has actually started or has been completed. It should be noted that an owner or developer should never carry out work with the expectation of getting retrospective permission for the work. To do so is taking a considerable risk and may lead to formal enforcement action.



Formal Enforcement Action: where a breach in planning control is considered to have caused unacceptable harm to the area, and where negotiations have failed to deal with the problem successfully, we will typically pursue formal enforcement action. This may also occur if we have received a retrospective application that is considered to be unacceptable in planning terms and cannot be rendered acceptable by applying conditions to a planning approval.

When considering taking formal enforcement action, we will take the following into account:

- **the Development Plan, enforcement policies and relevant Scottish Government Circulars;**
- **the severity of the breach and its impact on the surrounding area, including:**
 - ▲ **visual impact;**
 - ▲ **environmental impact;**
 - ▲ **effect on residential amenity; and**
 - ▲ **effect on road safety.**

Current Council priorities will also be relevant in determining whether to pursue enforcement action, for example the current focus on regeneration in Aberdeen City Centre may result in amenity notices being served on properties on Union Street.

Service standard

The most significant breaches of planning control will be given highest priority to ensure the most effective use of the staff resource available in the enforcement team to rectify breaches that are in the long term public interest. Such cases include:

- **significant negative effects on amenity;**
- **those which have a negative impact on the amenity of the City Centre**
- **breaches of condition for major developments;**
- **damage to listed buildings; and**
- **unauthorised felling of, or damage to trees protected by tree preservation orders.**

If you provide us with information, you will receive a formal response within the timescales set out in the customer charter. (See below)

Following our investigation, you will also be advised of any proposed action to be taken. This may include the need for additional investigation prior to deciding on a course of action.

We will let you know if the matter does not involve a breach of planning control.

The length of time required to resolve a case or take action can be affected by a number of factors. Progress can be delayed for the gathering of further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also delay resolution of the case.

The Council recognises that delays can cause considerable frustration to those people who have submitted information, particularly if they consider their amenity is affected. Throughout this investigative process, we will provide regular updates to the complainant on the progress of the case or the outcome.

6. Acting on breaches of planning control

In some cases, action may not be appropriate, even though planning controls have been breached. As stated previously, the purpose of planning enforcement is to resolve problems, not to punish mistakes. The planning authority must consider each case on its merits and decide on the best solution. We are will not? take formal action, for example, over developments which we consider to be acceptable in planning terms. It may be more appropriate in such cases for us to ask for a retrospective planning application to be submitted.

Only a relatively small number of cases require formal enforcement action. This begins with either an enforcement notice or a breach of condition notice being served on those involved in the development. Both notices include the following information:

- a description of the breach of control that has taken place;
- the steps that should be taken to remedy the breach;
- the timescale for taking these steps;
- the consequences of failure to comply with the notice; and
- where appropriate, any rights of appeal the recipient has and how to lodge an appeal.

Appeals against enforcement notices are considered by Scottish Ministers and dealt with, in most cases, by Reporters from the Planning and Environmental Appeals Division (DPEA). There is no right of appeal against a breach of condition notice.

Service standard

Where a planning breach cannot be resolved and action is justified, a formal notice will be served cant think of a circumstance were we wouldn't serve?. This will be either an enforcement notice or a breach of condition notice. The council will write to the recipient of the notice to explain what is required, the timescales involved and the available options to resolve the issue.

If someone does not comply with a notice, we may take further action. This can include a range of possible options including:

- referring the case to the Procurator Fiscal for possible prosecution;
- carrying out work and charging the person for the costs involved;
- seeking a Court interdict to stop or prevent a breach of planning

Where the terms of any enforcement notice are not complied with, every effort will be made to resolve the case to the satisfaction of the council. These options include:

- direct action by the council and/or
- the matter being referred to the procurator fiscal for possible prosecution.

Details of enforcement notices, breach of condition notices, wasteland notices and stop notices are entered into an Enforcement Register. You can inspect these documents in our offices.

The Council has powers to enter any land to:

- establish if there has been a breach of planning control;
- check if there has been compliance with a formal notice; and
- check if a breach has been satisfactorily resolved.

7. Enforcement and advertisements

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with what is called 'deemed consent' which means they do not require advertisement consent providing they meet the criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land.

Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined. The court can impose further fines for each day the breach of the regulations continues.

The Council has the power to serve an enforcement notice for unauthorised advertisements. This specifies a time period (normally 28 days) for compliance with the notice. However, this period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

An enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even if the original advertisement is removed. Any subsequent advertising on this site without permission would be considered as a breach of the notice.

Planning control does not cover the actual content of an advertisement. Any complaints about this (for example the use of language or symbols which are perceived to be offensive) should be made to the Advertising Standards Authority.

8. Making a suggestion or complaint

Aberdeen City Council hopes the public will be satisfied with the planning enforcement service. However, if you have any suggestions, concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any failures.

If you would like to make a complaint about how we have followed our procedures and/or failed to comply with the levels of service set out in this Charter, the following course of action is recommended:

- **Please contact the officer dealing with the enforcement case to discuss your complaint in the first instance**
- **If you need to find out who to contact, please telephone our general enquiries number below or email the address shown below and your complaint will be directed to the appropriate person**
- **If you are not satisfied with the response to the complaint, please contact the officer's line manager, details are on the website of the Council's website.**

If you are still not satisfied your complaint will be dealt with in accordance with the Council's Corporate Weblink to <https://www.aberdeencity.gov.uk/services/have-your-say/make-complaint>. This is also available on paper at Marischal College.

This charter does not comprise an authoritative interpretation of the planning acts.

Planning legislation is complex and therefore if you are in receipt of any formal notice from the council you are advised to seek legal or independent professional planning advice.



9. Enforcement powers

Planning Enforcement powers are set out in Part VI of the Town and Country Planning (Scotland) Act 1997, in part VII, regulations 24 to 26A of the Town and Country Planning (Control of Advertisements)(Scotland) regulations 1984, and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The Planning (Scotland) Act 2019 has introduced charging orders to assist in the recovery of costs to the Planning Authority in association with enforcement notices in order to remedy a breach of planning control.

The Planning Authority will also monitor compliance with planning permissions for major developments, with details of how conditions have been discharged uploaded to the associated planning application file, which can be reviewed on our website. Such monitoring is particularly important in relation to conditions placed on ongoing operations and restoration, for example in relation to quarrying operations.

Government policy on planning enforcement is set out in Circular 10/2009: Planning Enforcement. The Planning Acts and this publication are available online.

Types of Notice

Breach of Condition Notice - this is used to enforce the conditions applied to any planning permission. It is effective from the date it is served. It may be used as an alternative to an enforcement notice (see below) and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal. Contravening a breach of condition notice can result in the Council deciding to prosecute, with a fine of up to £1,000.

Enforcement Notice - this is generally used to deal with unauthorised development but can also apply to breach of planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An enforcement notice will specify a time period

to take effect (a minimum of 28 days); the steps that must be taken to remedy the breach and the time for this to be completed. There is a right of appeal, during which the terms of the notice will be suspended until a decision is reached. Failure to comply with an enforcement notice within the time specified is an offence and may lead to a fine of up to £50,000 in the Sheriff Court. Failure to comply may also result in the Council taking Direct Action to correct the breach (see other powers below).

Listed Building Enforcement Notice - this must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are like those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead to an unlimited fine or even imprisonment.

Stop Notice - this is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a stop notice is served, the planning authority must also issue an enforcement notice. There is no right of appeal against a stop notice and failure to comply is an offence. An appeal can, however, be made against the accompanying enforcement notice. If a stop notice is served without due cause, or an appeal against the www.aberdeencity.gov.uk/planning 10 a guide to enforcing planning controls enforcement notice is successful, the Council may face claims for compensation. The use of stop notices therefore needs to be carefully assessed by the Council.

Temporary Stop Notice - A temporary stop notice requires the immediate cessation of an activity from the moment it is displayed on a site. Typically, a temporary stop notice would be used to stop an activity that would, in the planning authority's view, cause damage to the environment and/or local amenity. The temporary stop notice might not prohibit the activity over the entire site; for example, it might instead restrict it to certain areas or times.

Other Powers

Planning Contravention Notice - under Section 272 (of the Town and Country Planning (Scotland) Act 1997), this is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, a person with any other interest in the land or someone who is carrying out operations on the land. They are required to provide information about operations being carried out on the land and any conditions or limitations applying to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

Amenity Notice - under Section 179 (of the 1997 Planning Act) - this allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. It sets out the action that needs to be taken to resolve the problem within a specified period.

Interdict and Interim Interdict - an interdict is imposed by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and Councils normally only seek interdicts in serious cases or where enforcement notices have been ignored in the past. However, a Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

Advert Removal Notice - under Section 187 (of the 1997 Planning Act) - this allows planning authorities to remove or obliterate certain advertisements.

Direct Action - failure to comply with the terms of an enforcement notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

Discontinuance Notice - having regard to the provisions of the Development Plan, and to any other material considerations, the Planning Authority may consider serving this Notice to discontinue the use of land, or impose conditions on the continued use of the land, or that any buildings or works should be altered or removed.

Request the Submission of a Planning Application - Section 33A of the 1997 Act (introduced by section 9 of the 2006 Act) gives planning authorities the power to issue a notice requiring a retrospective planning application to be submitted.

Fixed Penalty Notice - Where a planning authority believes that a person is in breach of an enforcement notice or breach of condition notice, it may issue that person with a fixed penalty notice. They may do so on condition that: the notice is served within the six months period immediately following the compliance period stated in the enforcement notice; and that no prosecution proceedings have been started in respect of the breach.



10. Performance Targets

The Development Management weblink contains our performance targets:

Performance Indicator	Target
Telephone calls answered within 6 rings	85%
Telephone message returned by the end of the next working day	85%
Response to written correspondence received within 10 working days	90%
Response to formal emails within 10 working days	85%
Response to informal emails by the end of the next working day	85%
Visitors to reception with an appointment seen by an officer within 5 minutes of their appointment	90%
Visitors to reception without an appointment seen by an officer within 10 minutes	85%

11. How to contact us

T: 01224 523470

E: pi@aberdeencity.gov.uk

W: www.aberdeencity.gov.uk/services/planning-and-building

Our address:

Development Management
Strategic Place Planning
Commissioning
Business Hub 4
Ground Floor North
Broad Street
Aberdeen
AB10 1AB

Development Management Manager: **Daniel Lewis**

Chief Officer – Strategic Place Planning: **Gale Beattie**

Opening Hours: Monday to Friday 8:30 am – 5 pm
(except for public holidays)

12. Useful Links

Aberdeen City Council planning information:

<https://www.aberdeencity.gov.uk/services/planning-and-building>

Aberdeen City Council Corporate Complaints procedure:

<https://www.aberdeencity.gov.uk/services/have-your-say/make-complaint>

Scottish Government Planning - for legislation:

www.scotland.gov.uk/Topics/Built-Environment/planning

Strategic Place Planning, Marischal College, Business Hub 4,
Ground Floor North, Broad Street, Aberdeen AB10 1AB



Count of ADDRESS	
CURRENT STATUS	Total
Breach rectified by offender	27
Case closed	12
Certificate of Lawfulness Issued	2
Closed - Duplicate case	2
COVID - Not expedient to enforce	2
DC Application submitted	3
Dealt with by Spaces for People	1
Deemed not expedient to enforce	23
Listed building consent granted	1
New case file created	3
No breach of planning control	91
Not development	3
Notice complied with	1
Notice issued	4
Pending consideration	38
Permitted development	12
Planning application granted	1
Planning permission granted	32
Planning permission granted	1
Planning permission granted (on appeal)	1
ROADS - Dealt with under Roads Act	1
Grand Total	261

Count of ADDRESS	
WARD	Total
1	26
2	24
3	16
4	10
5	9
6	11
7	16
8	19
9	25
10	29
11	22
12	27
13	27
Grand Total	261

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Registered Enforcement Cases - April 2021 - March 2022			
ADDRESS	WARD	COMPLAINT	CURRENT STATUS
3 Danestone Terrace	2	Erection of tall washing poles to rear garden without consent.	No breach of planning control
408 Great Western Road	10	Building works carried out to rear of property without planning consent (Con. Area)	DC Application submitted
48 Corse Drive	2	Large structure erected within rear garden without planning consent	Planning permission granted
37 Earns Heugh Crescent	13	Driveway of building being used for the storage of building materials	No breach of planning control
Newton Croft, Howes Road	1	Premises being used for business purposes without benefit of planning permission	No breach of planning control
Land adjacent to Garage, Howes Road	1	Change of use of open space to land associated with existing garage	Deemed not expedient to enforce
12 Kingshill Road	7	Erection of large structure to rear garden area without planning permission	Permitted development
8 Auchlea Place	3	Large building/structure erected within rear garden area without consent.	Permitted development
Ellon Road (adjacent to B. of D. Retail Park)	2	Unauthorised signboard erected on Ellon Road.	Breach rectified by offender
16 Broomhill Road	11	Development not in accordance with approved plans	Planning permission granted
Baker Hughes Site, Broadfold Road	2	Erection of large warehouse structure without planning permission.	DC Application submitted
Mill of Mundurno (Main entrance, Ellon Road)	2	Unauthorised banner sign erected to grassed verge on north-west side of main entrance.	Breach rectified by offender
213 Victoria Street	1	Alterations to garage within curtilage of flatted property without planning consent	Planning permission granted
Great Western Hotel, 239 Great Western Road	11	Use of external areas or outdoor seating, including the installation of enclosures	Dealt with by Spaces for People
79 Concraig Park	3	Conversion of garage to habitable living accommodation (PD rights removed)	Planning permission granted
8 Brimmonsie	1	Erection of extension to front	Breach rectified by offender
111 Woodend Crescent	10	Installation of flue and decking	Permitted development
45 Springfield Place	10	Right of way queries and non-compliance with plans associated with 120799	No breach of planning control
The Globe, 13 North Silver Street	7	Installation of external lighting	Pending consideration

21 Hamilton Place	10	Fitted kitchen in garage (potential conversion to separate dwelling)	No breach of planning control
71 Craigievar Crescent	11	Installation of driveway within front garden area	No breach of planning control
44 Mile-End Avenue	7	Unauthorised boundary fencing	No breach of planning control
22 Oldfold Crescent	9	Possible encroachment onto council owned land	No breach of planning control
6 Hilton Road	5	Erection of large shed to rear of flatted property without planning permission	Deemed not expedient to enforce
Dolphin Fish and Chips - Hazlehead Crescent	10	Installation of unauthorised signage	Breach rectified by offender
4 Eldenside	9	Erection of new conservatory to front elevation of property without planning permission.	Planning permission granted
7 Gordon's Mills Crescent	6	Unauthorised shed & container located within rear garden area without planning permission.	Breach passed to house - Council tenant
Peter Vardy Land Rover Aberdeen, Wellington Road	13	Condition 10 - parking of vehicles on landscaped areas	Notice complied with
Taco Bell, 123 Union Street	8	Installation of metal bird spikes atop signage	Deemed not expedient to enforce
Douglas Hotel, 62-64 Shiprow	8	Demolition of walls within application site and works associated with creation of beer garden	Planning permission granted
Flat G or Flat H, 7 Rosemount Square	7	Installation of Replacement Windows	DC Application submitted
The Point, Schoolhill	8	Installation of unauthorised signage	Planning permission granted
15-16 Union Terrace	7	Breach of condition re. use of parking area at rear of property.	No breach of planning control
29 Northfield Place	7	Removal of window and installation of door	Deemed not expedient to enforce
53 Newburgh Crescent	2	Rear garden boundary extended into public amenity land.	Pending consideration
14 Countesswells Crescent	10	Development not carried out in accordance with the approved plans (in relation to roof lights)	Breach rectified by offender
34 Corse Drive	2	Installation of outbuilding/ structure to rear of dwelling.	Breach rectified by offender
266 Clifton Road	5	Use of premises as a hot food takeaway	No breach of planning control
68 Rubislaw Den south	10	Removal of boundary wall and various alterations within curtilage of flat	Planning permission granted
57 North Deeside Road	9	Development not in accordance with approved plans (in relation to proposed dormer)	Pending consideration

Westview, 8 Cairn Road	9	Development not carried out in accordance with approved plans	No breach of planning control
Land at Baads Farm, Anguston Road	9	Siting of two additional caravans and various earthworks without the benefit of planning permission	Notice issued
28 Craigbank Drive	9	Installation of driveway gates to rear of dwelling along with a change of use of public open space to garden ground	Planning permission granted
Land at Balmoral Terrace, Cove Bay	13	Various earthworks within car parking area associated with harbour	No breach of planning control
20 Mugiemoos Place	1	Installation of outbuilding to rear	No breach of planning control
Rowett South Development, Bucksburn	1	Landscaping not in accordance with approved plans (171502/MSC)	No breach of planning control
41 St Machar Drive	6	Unauthorised advert board erected to front garden wall	Breach rectified by offender
33 Kings Crescent	8	Erection of unauthorised boundary fencing in Conservation Area.	Deemed not expedient to enforce
Polski Sklep Tradycja Deli Ltd	12	Installation of unauthorised advertisements	Deemed not expedient to enforce
Dorby Mini Market, 75 Victoria Road	12	Installation of unauthorised advertisements	Deemed not expedient to enforce
Scottish and Polish Mini Market, 79 Victoria Road	12	Installation of unauthorised advertisements	Deemed not expedient to enforce
Tradycyjne Polskie Wyroby, 67-69 Victoria Road	12	Installation of unauthorised advertisements	Deemed not expedient to enforce
Former William Hill, 29 Victoria Road	12	Untidy shopfront	Deemed not expedient to enforce
Aberflora, 89 Victoria Road	12	Untidy shopfront (broken window)	Deemed not expedient to enforce
Spar, 80-84 Victoria Road	12	Installation of unauthorised signage covering whole frontage	Deemed not expedient to enforce
Former TSB, 70 Victoria Road	12	Untidy shopfront	Deemed not expedient to enforce
1 Rosewell Drive	10	Installation of fencing to the side of dwelling and erection of an extension to the rear	Breach rectified by offender
1 Seal Craig Gardens	13	Erection of fencing to the rear and side of the dwelling	Breach rectified by offender
50 Elmbank Terrace	8	Use of premises as a House of Multiple Occupation (HMO)	No breach of planning control
Wellington Road, (Land to East of) Charleston	13	Installation of "V" sign board and associated flagpoles adjacent to show home and associated with 201078/DPP	Planning permission granted
15 Northcote Park	11	Erection of outbuilding and fencing along mutual boundary	Deemed not expedient to enforce
17 Goodhope Avenue	1	Installation of pergola and decking to rear	No breach of planning control
Central Coffee, 498 George Street	8	Non compliance with conditions (condition 5 - hours of operation)	Breach rectified by offender

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ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	26 May 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	A Revised Guide to Planning Consents for the Aberdeen Inner-City Multis
REPORT NUMBER	PLA/22/085
DIRECTOR	Gale Beatie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	Sepideh Hajisoltani
TERMS OF REFERENCE	5. adopt non-statutory planning management guidance

1. PURPOSE OF REPORT

- 1.1. This report presents a revised guide on Planning Consents for the Aberdeen Inner-City Multis which have been listed as Category A by Historic Environment Scotland. The report also seeks approval to adopt the revised document which reflect the changes to the buildings list descriptions by Historic Environment Scotland as Aberdeen Planning Guidance (non-statutory planning guidance).

2. RECOMMENDATION(S)

That the Committee:

- 2.1. Approve the content of the revised '**Guide to Planning Consents for the Aberdeen Inner-City Multis**' (Appendix 1) as Aberdeen Planning Guidance (non-statutory planning guidance).

3. CURRENT SITUATION

3.1. Background

- 3.1.1. Eight multi-storey blocks of flats in Aberdeen were designated as Category A listed buildings by HES on 18 January 2021. These concrete buildings were constructed as part of the city's post-second World War housing programme.

These eight blocks included:

- 1-75 Gilcomstoun Land;
- 1-72 Porthill Court;
- 1-126 Seamount Court, shop units at 152-158 (even numbers) Gallowgate, including multi-storey car park to West North Street, Gallowgate;
- 1-48 Virginia Court;

- 1-108 Marischal Court;
- 1-126 Thistle Court;
- 1-140 Hutcheon Court; and,
- 1-144 Greig Court.

3.1.2. In the absence of any national guidance on this topic, a draft guidance document was presented to the committee to seek approval on the content of the guidance document for a 6-week public consultation on 18 March 2021. This local guidance document provided answers to a number of expected common questions that homeowners and other stakeholders may have regarding the need for listed building consent and/or planning permission for works to these multi-storey buildings. A 'traffic light' system has been used to show how proposed works to these listed buildings will be categorised by the Planning Authority (Green, Amber, Red).

3.1.3. On 16 April 2021, Aberdeen City Council made appeals under Section 5B of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 against the decision by Historic Environment Scotland to include the inner-city multi-storey flats in the List of buildings of Special Architectural or Historic Interest. The case was placed on hold for some time to allow Aberdeen City Council to submit a full statement of case on these appeals due to limited access to certain documents during the Covid-19 lockdown. It was considered that the guidance document could provide guidance on the requirement for Planning Consents as long as these buildings were included in the List of Buildings of Special Architectural or Historic Interest.

3.1.4. In August 2021, Members of the Planning Development Management Committee noted and considered the comments from the public consultation on '**A Guide to Planning Consents for the Aberdeen Multis**' and the responses of officers to the comments received in the consultation and approved the change to the title of the guidance to '**A Guide to Planning Consents for the Aberdeen Inner-City Multis**' and the adoption of the guidance as Aberdeen Planning Guidance (non-statutory planning guidance).

3.1.5. In February 2022, the Building Designation Appeal decision by the Scottish Government Planning and Environmental Appeals Division (DPEA), allowed the appeal for the following buildings to be removed from the List:

- 1-140 Hutcheon Court;
- 1-144 Greig Court
- 1-126 Thistle Court

3.1.6. The other buildings located at three sites maintained their listing; however, the listings were amended to legally exclude the internal areas within individual residential units and the internal areas within the shop units. These five multi-storey buildings that have been added to the Scotland's listed building register include:

- 1-75 Gilcomstoun Land;

- Gallowgate (1-72 Porthill Court, 1-126 Seamount Court, Shop Units At 152-158 (Even Numbers) Gallowgate, Including Multi-Storey Car Park To West North Street); and
- Castlehill (1-48 Virginia Court, 1-108 Marischal Court).

3.1.7. The revised local guidance document before Members today (Appendix 1) reflects these changes to the listing of these multi-story buildings. The easy-to-use format will be helpful for homeowners, planning officers, other stakeholders and will ensure a consistent approach to decision making across the affected blocks.

4. FINANCIAL IMPLICATIONS

4.1. The cost associated with the preparation and revision of this document and the previous public consultation has been met within the existing provisions of the Strategic Place Planning budget.

4.2. As an affected part-owner, Listed Building Consent and/or applications for Planning Permission by Aberdeen City Council (Corporate Landlord) for any of the affected blocks will be considered against the principles set out in the guidance document to be approved.

4.3. From a wider Planning Authority perspective, the decision of Historic Environment Scotland to list these building is likely to lead to an increase in Listed Building Consent applications and queries which will result in added pressure on the finances and staff resources of the Council's planning service. It is hoped that preparation of this guidance document will help mitigate this impact.

5. LEGAL IMPLICATIONS

5.1. There are no known legal implications arising from this report.

6. ENVIRONMENTAL IMPLICATIONS

6.1. A Strategic Environment Assessment (SEA) is not required for '**A Guide to Planning Consents for the Aberdeen Inner-City Multis**'. A SEA Screening submission was sent to the Scottish Government.

6.2. A Habitat Regulations Appraisal (HRA) is not required for '**A Guide to Planning Consents for the Aberdeen Inner-City Multis**' as it does not specifically recommend any actions or projects. However individual planning applications within these buildings may require an HRA.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	N/A	N/A	N/A	N/A
Compliance	By not providing a clear advice on what is covered by the listing there will be a risk of Non-Compliance with Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.	The revised guidance document provides advice on Planning Consents for these listed buildings.	M	Yes
Operational	By not providing updated guidance Officers could, over time, provide inconsistent advice.	The guidance document provides greater clarity, consistency, and certainty in terms of the requirement for listed building consent and planning permission.	M	Yes
Financial	Resourcing issue due to an increase in the number of Listed Building Consent applications and potential future introduction of fees for Listed Building Consent by Scottish Government.	The revised guidance document should reduce the number of queries and applications by identifying proposed works that would not affect the special interest or character of these multi storey buildings. Whether or not a fee is to be introduced by the Scottish Government for Listed Building Consent applications is still to be determined.	M	Yes
Reputational	Not providing guidance opens the possibility of inconsistency	In the absence of specific national guidance on buildings of this type, the preparation and approval	L	Yes

	and misinformation.	of the guidance and its timely revision to reflect changes in the listing description illustrates the Planning Authority's proactive approach.		
Environment / Climate	Not providing a revised guidance could result in misunderstanding and lost opportunities for sensitive maintenance and management of these multi storey buildings and confusion on what is covered in the listing.	The revised guidance document is prepared in order to give clarity on the requirement for Listed Building Consent and/or Planning Permission so these listed buildings are managed sensitively.	M	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
Impact of Report	
Aberdeen City Council Policy Statement	The revised guidance document contributes to a consistent approach in sensitive management of the listed Aberdeen multi-storey buildings as buildings of special architecture or historic interest can increase the city centre footfall.
<u>Aberdeen City Local Outcome Improvement Plan Themes</u>	
Prosperous Economy Stretch Outcomes	The report seeks approval for the revised guidance document which contributes to implementation of a consistent approach in sensitive management of the listed Aberdeen multi-storey buildings whilst taking into consideration Aberdeen's distinct sense of place which helps strengthen the identity of Aberdeen for economic investment (LOIP Stretch Outcome 3).
Prosperous People Stretch Outcomes	Public consultation was available to all ages helping to foster inclusive decision making. Promoting planning advice that is subject to an inclusive approach of public engagement and consultation gives the opportunity for interested parties to shape and take ownership of policy and advice that guides development in Aberdeen (LOIP Stretch Outcome 8).
Prosperous Place Stretch Outcomes	The guidance ensures a consistent approach is taken with the conservation of the Aberdeen Inner-City listed multis which will help ensure the buildings are able to be used for many years to come. This will allow people to live in the city centre and travel sustainably (e.g. bike, bus etc.). (LOIP Stretch Outcome 14)
Regional and City Strategies	The revised guidance document supports policy D4- Historic Environment of Aberdeen Local Development Plan 2017 and

City Strategies and Strategic Plans (Local Development Plan)	Policy D6- Historic Environment of Proposed Aberdeen Local Development Plan 2020 in protecting, preserving and enhancing the historic environment in line with national and local policies.
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8. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Integrated Impact Assessment completed (see Appendix 2) – The assessment shows a neutral impact on the protected groups.
Data Protection Impact Assessment	Not required.
Other	Not required.

10. BACKGROUND PAPERS

10.1. HES Listing Descriptions:

- [1-75 Gilcomstoun Land](#)
- [1-72 Porthill Court, and 1-126 Seamount Court](#)
- [1-48 Virginia Court, and 1-108 Marischal Court](#)

10.2. Planning and Environmental Appeals Division Documents:

- [1-140 Hutcheon Court, 1-144 Greig Court](#)
- [1-126 Thistle Court](#)
- [1-48 Virginia Court, 1-108 Marischal Court](#)
- [1-75 Gilcomstoun Land](#)
- [1-72 Porthill Court, 1-126 Seamount Court, Shop Units At 152-158 \(Even Numbers\) Gallowgate, Including Multi-Storey Car Park To West North Street](#)

10.3. Aberdeen Local Development Plan:

- [Aberdeen Local Development Plan 2017 \(ALDP\)](#)
- [Proposed Aberdeen Local Development Plan 2020 \(PALDP\)](#)

11. APPENDICES

11.1. **Appendix 1-** A Guide to Planning Consents for the Aberdeen Inner-City Multis

11.2. **Appendix 2-** Integrated Impact Assessment for the Revised Guide to Planning Consents for the Aberdeen Inner-City Multis

12. REPORT AUTHOR CONTACT DETAILS

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Tel	01224 522228

A Guide to Planning Consents for the Aberdeen Inner-City Multis



May 2022

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1. Introduction

1.1. Five multi-storey blocks of flats in Aberdeen have been designated as Category A-listed buildings by Historic Environment Scotland (HES). These concrete buildings were constructed as part of the city's post-Second World War housing programme, and are considered by HES to be outstanding examples of Brutalist architectural style. The buildings were found to meet the criteria for listing and were designated by HES on 22 February 2022.

1.2. Who is this guide for?

This guide provides clarification on what Category A designation means for these buildings, their owners and the people who live in them. Listing will usually only affect you if you want to make changes to a listed building. Depending on the works you plan to carry out, you may need Listed Building Consent or Planning Permission from Aberdeen City Council as the Planning Authority before starting work. This guide provides more information on what may or may not require consent.

1.3. Why has a guide been produced?

We have put together this guide to answer some anticipated questions from those who live in, or care for, these listed buildings.

Most people associate listing with more historic buildings, Victorian or earlier examples, constructed from traditional materials. There are however many examples of Modern and Post-Modern buildings that have been selected for listing across Scotland. The lists of buildings of special architectural or historic interest are continually being refreshed and new proposals for the post-war period are increasingly being suggested to HES.

Several post-war tower blocks across Scotland have been previously listed to recognise their particular importance. Listing designations have implications on the requirement for Listed Building Consent and may raise various questions in terms of maintenance and alterations.

This guidance has been prepared to provide clarification on managing change sensitively to meet the needs of these particular listed multi-storey buildings. There is currently no specific national guidance on the management of change to post war buildings, however if any such guidance is prepared by Historic Environment Scotland then this guidance will be reviewed and updated if required.

1.4. What status does this guide have?

This is a Non-Statutory Planning Guidance document which means it has been prepared to provide detail on an emerging topic and can be updated as required. This guidance supports Aberdeen Local Development Plan Policy D4 (Historic Environment) and, once adopted, will be a material consideration in decision making.

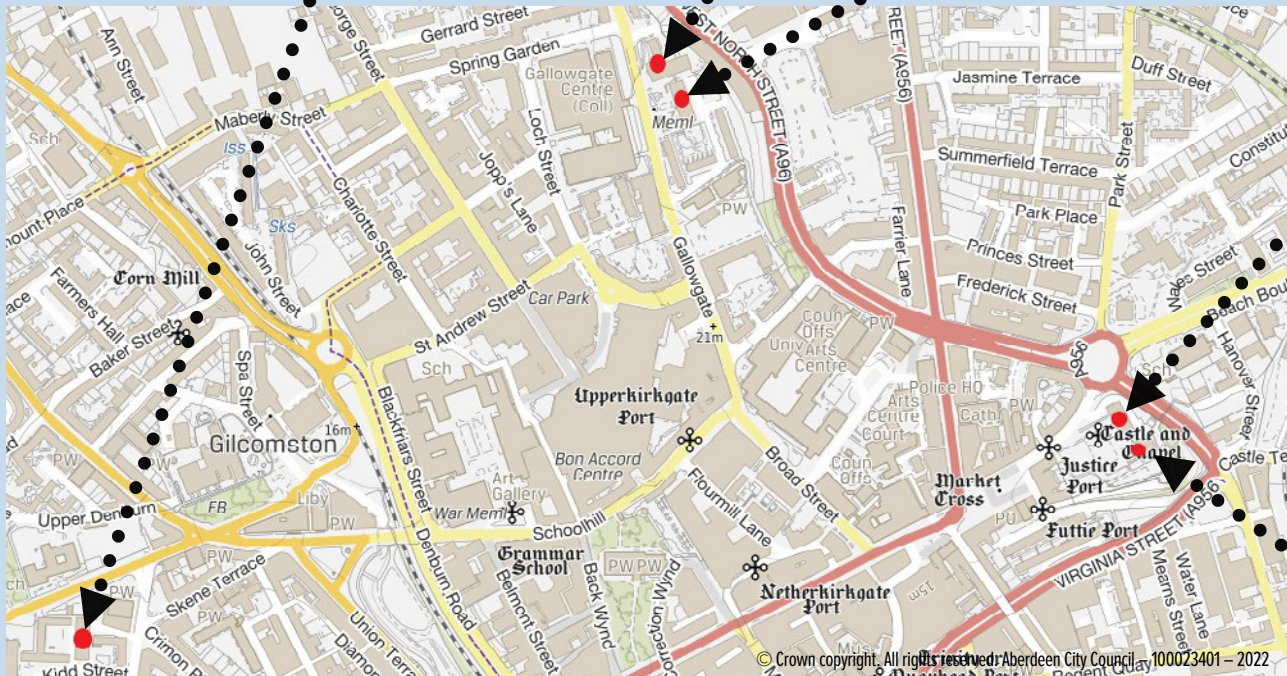
1.5. Who do I contact with any questions?

If you have any questions, please contact Aberdeen City Council Strategic Place Planning:

Email: pi@aberdeencity.gov.uk

Tel: 01224 523470

www.aberdeencity.gov.uk/services/planning-and-building



1 1-75 Gilcomstoun Land, Aberdeen ([LB52522](#))

2 **3** 1-72 Porthill Court, and 1-126 Seamount Court ([LB52524](#))

4 **5** 1-48 Virginia Court, and 1-108 Marischal Court ([LB52523](#))

2. Listing

2.1. What is a Listed Building?

Historic Environment Scotland lists buildings of special architectural or historic interest. Listing is carried out under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. To merit listing, the structure must meet the listing criteria. Once listed they are included on a list of buildings of special architectural or historic interest compiled by HES on behalf of Scottish Ministers. The policy which explains the selection criteria for listing can be found in Annex 1 of the HES [Designations Policy and Selection Guidance](#).

2.2. Which Multis Blocks have been Listed?

Five inner-city multi-storey blocks of flats have been designated by Historic Environment Scotland at three separate sites. One of the listings at Gallowgate (Porthill Court and Seamount Court) also includes an associated parade of shops and a multi-storey car park. The listings are all Category A. This is the highest category of listing in Scotland for buildings of special architectural or historical interest and includes outstanding examples of a particular period, style or building type.

The buildings were listed due to Historic Environment Scotland considering them to be of significant architectural interest and outstanding examples in Scotland of the modernist New Brutalism style in multi-storey housing. The Listed Building Records explain why the buildings have been listed.

3. What Listing Means

Listing will usually only affect you if you want to make changes to a listed building. Depending on the works you plan to carry out, you may need Listed Building Consent or Planning Permission from the Planning Authority before starting work. The Planning Authority in Aberdeen is part of Aberdeen City Council. There is currently no charge to apply for Listed Building Consent, and you apply in much the same way as for Planning Permission, i.e. submitting an application form and plans of the proposed work. You can submit your application online using the Scottish Government's ePlanning website. Historic Environment Scotland advise on Listed Building Consent applications when asked to do so by the Planning Authority.

Importantly, it is a criminal offence to demolish or extend a listed building without Listed Building Consent. It is also a criminal offence to alter a listed building in any way which would affect its character as a building of special architectural or historic interest unless you have Listed Building Consent. This can all include objects or structures fixed to the listed building.

3.1. Role of Aberdeen City Council as Factor

Listing a building does not affect routine repairs and maintenance and does not add an additional requirement on owners to maintain their buildings. As before, the mutual owners (including the Council) of these buildings are responsible for maintaining them. In 2013 the council was appointed as property factor to manage and arrange repairs on their behalf. To request a repair contact:

Aberdeen City Council, Housing, Tel 03000 200 292

www.aberdeencity.gov.uk

4. When is Consent Required?

In this guide we have used a traffic light system to show how works to the Aberdeen Multis will be categorised.

GREEN – examples of works where Listed Building Consent / Planning Permission will not be required and do not need discussion with the Planning Authority.

AMBER – examples of works which need an initial discussion with the Planning Authority to see if Listed Building Consent / Planning Permission is required.

RED – examples of works which will need Listed Building Consent and/or Planning Permission application(s).

Please note that these categories are applicable to the Aberdeen Multi-storey Buildings only and have been prepared with due recognition of their particular special architectural and historic interest. This guide is not applicable to other listed buildings across the city, proposals for which will be considered on their own individual merits.

GREEN

Green works are works to the Multis which the Planning Authority would consider are always acceptable and would not affect the character of the building or its special architectural or historic interest. These could be works to communal areas or communal property led/carried out by Aberdeen City Council as majority building owner or works carried out by individual flat owners / tenants (depending on the tenancy agreement). For example:

Green works by individual flat owners / tenants:

- replacement windows / external (outside) doors where these use the same materials, have the same method of opening, and have the same proportions as the existing windows or external doors.
- the removal or alteration of non-structural internal walls within a flat.
- like-for-like works replacing elements of shopfronts (applicable to the Gallowgate blocks).

Green works by owners (normally led or carried out by Aberdeen City Council) to communal areas or communal property:

- routine maintenance and repairs to the outside of the buildings where these use the same materials and details as currently exist, and where the work carried out matches exactly what was there previously.
- replacement windows / external (outside) doors where these use the same materials, have the same method of opening, and have the same proportions as the existing windows or external doors.
- non-invasive cleaning and repainting of the exterior (outside) if there is no obvious change in colour.
- interior repair / upgrade / modernisation / redecoration to communal areas (including entrance areas, stairs, lifts, and undercroft facilities, such as laundry and storage buildings).
- the removal or alteration of non-structural internal walls.
- repair and replacement of existing utilities.

AMBER

Amber works are where advice should be taken from the Planning Authority to find out if an application for Listed Building Consent and/or Planning Permission is needed. For example:

Amber works by individual flat owners / tenants:

- individual flat window / external (outside) door replacement where these will not use the same materials as the existing ones, or do not have the same method of opening or the same proportions.

Amber works by owners (normally led or carried out by Aberdeen City Council) to communal areas or communal property:

- localised repair / replacement of concrete frame / panels, granite aggregate, and balcony parts which do not match exactly what was used previously.
- localised repair/replacement of existing roof installations which do not match exactly what was used previously.
- individual flat window / external (outside) door replacement where these will not use similar materials, have the same method of opening, or have the same proportions as the existing.
- thermal upgrade programmes.
- minor adaptation (introduction of ramps or handrails) to exterior or interior communal areas to improve accessibility / meet Equality Act 2010 standards.
- comprehensive new utilities scheme affecting more than one flat – for example heating, plumbing, electrical systems etc.
- undercroft works such as resurfacing, repaving, minor new facilities (stores, bike-sheds).
- replacement or new lighting, cabling, CCTV cameras, replacement or new signage (all exterior only).
- structural alteration to interior layout of flats and maisonettes (such as taking down a load bearing wall).
- installation of exterior telecommunication equipment.
- installation of communal/shared satellite dishes.

RED

Red works will require Listed Building Consent and Planning Permission and include alterations or demolition works that would affect the special architectural or historic interest of the buildings. Most of these examples would be led or carried out by Aberdeen City Council as majority building owner. The requirement for consent does not mean that the works will not be able to proceed but full assessment in line with relevant policy and guidance will be required first.

Red works by individual flat owners:

- balcony alterations.
- the installation of individual satellite dishes.

Red works by owners (normally led or carried out by Aberdeen City Council) to communal areas or communal property:

- comprehensive exterior refurbishment schemes, such as window / door replacement where these will not use the same materials, have the same method of opening, or have the same proportions as the existing.
- extensive non “like-for-like” repair and/or replacement of concrete frame/panels, granite aggregate.
- introduction of new external cladding.
- balcony alterations, including infill screens/glazing,
- new roof additions,
- alterations/extensions to undercroft areas, e.g. involving significant infill of open space and enclosure of concrete piers.
- comprehensive fire safety upgrades, including major works such as stair tower additions.
- major thermal upgrade schemes which impact on external appearance.
- major internal alterations that affect the structure of the building.
- wholesale demolition or substantial demolition of building.

The above lists are presented as guidance and are not exhaustive. If you have any doubt regarding the need for consent then the Planning Authority should be consulted in the first instance. Works to communal areas will still require a “scheme decision” by the owners in line with the Tenements (Scotland) Act 2004.

4.1. Building Standards

Some works listed above may also require a Building Warrant. This should be clarified with Building Standards through the Application Support Team.

Aberdeen City Council, Strategic Place Planning

Tel 01224 523470

Email pi@aberdeencity.gov.uk

www.aberdeencity.gov.uk/services/planning-and-building

5. Further information

You can find further details on policy and guidance in the following links:

[Historic Environment Scotland Designation Policy and Selection Guidance Scotland’s Listed Buildings](#)

[Historic Environment Policy for Scotland \(HEPS\)](#)

[Managing Change in the Historic Environment](#)

[Aberdeen Local Development plan](#)

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If you are deaf or have a hearing impairment, you can still communicate with the Council via Text Relay by dialling 18001 + telephone number:

Application Support Team
01224 523470



Integrated Impact Assessment



The Integrated Impact Assessment (IIA) supersedes the previous Equality and Human Rights Impact Assessment (EHRIA) form.

Note: This form should be completed using the guidance contained in the document: 'Guide to Completing an Integrated Impact Assessment'.

1. Essential Information

1.1 Purpose

Aberdeen City Council wants Aberdeen to be a place where all people can prosper. We want everyone in Aberdeen to have fair opportunities regardless of their background and circumstances. The aim of this assessment is to allow you to critically assess:

- the impact a proposal will have on different communities.
- whether Aberdeen City Council is meeting its legal requirements in terms of [Public Sector Equality Duty](#), [Equality Outcomes](#) and [Human Rights](#);
- whether [Children's Rights](#) have been impacted;
- whether [Socio-economic disadvantage](#) is reduced;
- whether any measures need to be put in place to ensure any negative impacts are eliminated or minimised.

1.2 Background / Essential Information

Title* Name your business case, policy, strategy or proposal (including budget proposals)	A Guide to Planning Consents for the Aberdeen Inner-City Multis
Function*	Commissioning
Cluster*	Strategic Place Planning
Date of assessment*	09/05/2022
Date of committee	26 May 2022

Lead Officer 1*	Sepideh Hajisoltani
Lead Officer 2	Ross Wilson
Chief Officer*	David Dunne

Brief description of proposal (including intended outcomes and purposes) *	<ul style="list-style-type: none"> To clarify the implications of Historic Environment Scotland (HES) decision to list 5 of the Aberdeen multi-storey buildings and to provide advice on Planning Consent for these buildings. To answer some anticipated questions from those who live in, and care for the listed multis.
State who is, or may be affected by this proposal and how*	<ul style="list-style-type: none"> The proposed revised guidance documents will affect, employees, service users and members of the public and anyone interested in the topic of listed modern multis.

2. Human Rights

Human Rights

Does the proposal have an impact on [Human Rights](#)? Select all that apply, then record relevant impacts.

	Positive impact	Negative impact	Neutral impact
--	------------------------	------------------------	-----------------------

Article 6 Right to a fair and public hearing			x
Article 7 No punishment without law			x
Article 8 Right to respect for private and family life, home and correspondence			x
Article 9 Freedom of thought, conscience and religion			x
Article 10 Freedom of expression			x
Article 11 Freedom of assembly and association			x
Article 12 Right to marry and to found a family			x
Article 14 Right not to be subject to discrimination			x
Article 1 of Protocol 1			x

Protection of property			
Article 2 of Protocol 1 Right to education			x
Article 3 of Protocol 1 Right to free elections			x
For each negative impact identified above, please state your mitigating actions below			
N/A			

3. Children’s Rights

The United Nations Convention has 54 articles that cover all aspects of a child’s life and set out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. It also explains how adults and governments must work together to make sure all children can enjoy all their rights.

Children’s rights apply to every child/young person under the age of 18 and to adults still eligible to receive a “children’s service” (e.g. care leavers aged 18 – 25 years old).

Identify all Articles of the United Nations Convention on the Rights of the Child ([UNCRC](#)) and [Optional Protocols](#) which are relevant to your proposal.

	Positive impact	Negative impact	Neutral impact
--	------------------------	------------------------	-----------------------

Article 1 definition of the child			x
Article 2 non-discrimination			x
Article 3 best interests of the child			x
Article 4 implementation of the convention			x
Article 5 parental guidance and a child's evolving capacities			x
Article 6 life, survival and development			x
Article 7 birth registration, name, nationality, care			x
Article 8 protection and preservation of identity			x

Article 9 separation from parents			x
Article 10 family reunification			x
Article 11 abduction and non-return of children			x
Article 12 respect for the views of the child			x
Article 13 freedom of expression			x
Article 14 freedom of thought, belief and religion			x
Article 15 freedom of association			x
Article 16 right to privacy			x

Article 17 access to information from the media			x
Article 18 parental responsibilities and state assistance			x
Article 19 protection from violence, abuse and neglect			x
Article 20 children unable to live with their family			x
Article 21 adoption			x
Article 22 refugee children			x
Article 23 children with a disability			x

Article 24 health and health services			x
Article 25 review of treatment in care			x
Article 26 social security			x
Article 27 adequate standard of living			x
Article 28 right to education			x
Article 29 goals of education			x
Article 30 children from minority or indigenous groups			x
Article 31 leisure, play and culture			x

Article 32 child labour			x
Article 33 drug abuse			x
Article 34 sexual exploitation			x
Article 35 abduction, sale and trafficking			x
Article 36 other forms of exploitation			x
Article 37 inhumane treatment and detention			x
Article 38 war and armed conflicts			x
Article 39 recovery from trauma and reintegration			x

Article 40 juvenile justice			x
Article 41 respect for higher national standards			x
Article 42 knowledge of rights			x
Optional Protocol on a Communications Procedure			
For each negative impact identified above, please state your mitigating actions below			
N/A			

4. Protected Characteristics

Aberdeen City Council wants to ensure everyone is treated fairly. Explain what the positive and/or negative impacts of the proposal are on the [protected characteristics](#)

	Positive impact	Negative impact	Neutral impact
Age			x

A person belonging to a particular age (for example 32-year olds) or range of ages (for example 18 to 30year olds).			
Disability people with disabilities / long standing conditions			x
Race (including Gypsy / Travellers) people from minority ethnic communities and different racial backgrounds			x
Religion or belief people with different religion and belief to include those with no beliefs			x
Sex - Gender identity men or women, boys and girls			x
Pregnancy and maternity women who are pregnant and / or on maternity leave			x

Sexual orientation lesbian, gay, bisexual, heterosexual / straight			x
Gender reassignment - Trans/Transgender anybody whose gender identity / expression is different to the sex assigned to them at birth			x
Marriage and civil partnership people who are married or in a civil partnership			x
For each negative impact identified above, please state your mitigating actions below			
N/A			

How does this proposal contribute to the [Public Sector Equality Duty](#) to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations?

The first guidance document 'Guide to Planning Consent for the Aberdeen Inner-City Multis' approved by the PDMC committee in August 2021, was informed by external engagement and consultation which allowed its content to be the basis for interested party scrutiny and involvement in order to be able to shape the guidance document. Engagement and consultation will provide a mechanism to foster good working relations with owners, tenants and interested parties as well

as constituted groups to have ownership of policies and advice that shape Aberdeen. The current proposal for a revised guidance document reflects changes to the list description of these listed buildings by Historic Environment Scotland. Under the terms of the Local Government (Scotland) Act 2003 we aim to provide a Best value approach to our service design and the resources that we have in order to provide customer service excellence better meeting the needs and expectations of our customers.

How does this proposal contribute to the Council's [Equality Outcomes](#) ?

Mainstreamed Equality Principles 1: An informed community

The approval of the revised guidance document would contribute to the equality principle- an informed community in a city whose built environment continually offers scope for an improved quality of life.

5. Consultation

5.1 Consultation	Yes	No
Have you undertaken any of form of consultation with any of the affected groups?		Public consultation was carried out in 2021 for a period of six weeks. The current proposal seeks approval for amendments to the guidance document that was previously approved by the PDMC committee in August 2021 to reflect changes to the listing description by HES. As such no further public consultation has been carried out.
Describe the consultation processes/methods undertaken and the number of participants/respondents		N/A

What impact(s) has the consultation had upon your proposal?	N/A
5.2 Evidence List below the evidence that has been used in this assessment.	
Internal data: This can be from customer satisfaction surveys, equality monitoring data, customer complaints and cluster specific data	Committee report internal consultation responses to be considered and actioned as necessary.
Consultations with officers or partner organisations:	Committee report internal consultation
External data: E.g. Available statistics, census or research data	Historic Environment Scotland (HES) amended list description
Other (please state)	N/A

6. Fairer Scotland Duty (Socio- economic disadvantage)

Will this proposal have an impact on the socio-economic inequalities? (For strategic proposals).

This guidance is not considered a strategic proposal, so this section is not applicable.

	<p>Mitigation If a negative impact has been identified, what options have you considered to modify the proposal or mitigate the impact?</p>
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<p>6.1 Low income / income poverty – those who cannot afford regular bills, food, clothing payments.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>N/A</p>
<p>6.2 Low and/or no wealth – those who can meet basic living costs but have no savings for unexpected spend or provision for the future</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>N/A</p>
<p>6.3 Material deprivation – those who cannot access basic goods and services, unable to repair/replace broken electrical goods, heat their homes or access to leisure or hobbies</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>N/A</p>
<p>6.4 Area deprivation – consider where people live (rural areas) and where they work (accessibility of transport)</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>N/A</p>
<p>6.5 Socio-economic background – social class, parents' education, employment, income.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>N/A</p>

6.6 You might not be discriminating, but could your proposal offer a better advantage to those in need?	Yes <input type="checkbox"/> No <input type="checkbox"/>	N/A
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7. Approval

Signed off by (Chief Officer):	
Date:	
<p>This IIA will be published on Aberdeen City Council's website under http://www.aberdeencity.gov.uk/xeq_EHRIA_Search.asp</p> <p>Please send this IIA in an electronic format to: equality_and_diversity@aberdeencity.gov.uk</p>	

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ABERDEEN CITY COUNCIL

COMMITTEE	Planning and Development Management Committee
DATE	26 May 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Affordable Housing Waiver Extension
REPORT NUMBER	PLA/22/091
DIRECTOR	Gale Beattie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	David Dunne
TERMS OF REFERENCE	5

1. PURPOSE OF REPORT

- 1.1 This report seeks to extend the current Affordable Housing waiver which is due to expire in June 2022, until the formal review of the waiver is reported to Council in August as part of the City Centre Masterplan Review.

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Extend the Affordable Housing Waiver until September 2022, or until such time as Council determine the future of the waiver.

3. CURRENT SITUATION

- 3.1 At its meeting on 20th September 2018, the Planning Development Management Committee approved the introduction of a two-year waiver on affordable housing requirements for developments within the city centre until 31st December 2020 (RES/18/178). After a review of the effectiveness of the waiver in 2020 it was decided to extend the waiver until June 2022 when a full review would be undertaken.
- 3.2 As part of the refresh of the City Centre Masterplan a review of the effectiveness of the waiver is being undertaken through the City Centre Living report. This will make a recommendation on the future of the waiver.
- 3.3 The purpose of this report is therefore to extend the current waiver, which is due to expire in June 2022, until after a formal decision can be made on the future of the waiver by Council in August of this year.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

5.1 There is a risk that the decision to extend the waiver on affordable housing contributions for developments in the city centre may be challenged by third parties; particularly from city centre peripheral and non-city centre developments who are required to make contributions towards affordable housing. However, the risk of a successful challenge is considered to be low. This is because there is evidence that the waiver is required in the City Centre, as outlined in the City Centre Living Study, and because financial viability can be a material consideration and is detailed as a consideration in terms of the Supplementary Guidance. In addition, and in line with Supplementary Guidance: Affordable Housing, the Planning Authority shall continue to negotiate with all developers and consider the impact of viability of the development and affordable housing contributions.

5.2 Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 requires the Planning Authority, when determining applications for planning permission, to determine in accordance with the provisions of the development plan unless material considerations indicate otherwise. The Planning Authority will continue to determine applications in line with legislation.

6. ENVIRONMENTAL IMPLICATIONS

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

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	None	N/A	N/A	N/A
Compliance	Low	As noted in the legal section there is a limited risk of legal challenge however the policy has been in place since September 2018 with no challenges to date.	L	Yes

Operational	None	N/A	N/A	N/A
Financial	None	N/A	N/A	N/A
Reputational	None	N/A	N/A	N/A
Environment / Climate	None	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
	Impact of Report
<p>Aberdeen City Council Policy Statement</p> <p>Policy Statement 4 (Economy) - Increase city centre footfall through delivery of the City Centre Masterplan including the redesigned Union Terrace Gardens.</p>	<p>The proposals in this report will help to deliver CCMP objectives:</p> <ul style="list-style-type: none"> • Changing perceptions - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit. • Made in Aberdeen - Building on local distinctiveness and maximising local business opportunities. This supports inclusive economic growth. <p>This supports inclusive economic growth.</p>
<u>Aberdeen City Local Outcome Improvement Plan</u>	
<p>Prosperous Economy Stretch Outcomes</p>	<p>The proposals in this report will help to deliver LOIP objectives:</p> <p>Stretch Outcome 1. No one will suffer due to poverty by 2026</p> <p>Key Driver 1.2 Ensure those experiencing in-work poverty have access to all appropriate benefits.</p> <p>The promotion of city centre living will provide more housing choice in Aberdeen that will help people to be supported to live as independently as possible.</p>
<p>Prosperous People Stretch Outcomes</p>	<p>The proposals in this report will help to deliver LOIP objectives:</p> <p>Stretch Outcome 5. 90% of Children and young people will report that their experiences of mental health and wellbeing have been listened to by 2026. This is reflected in interactions, activities, supports and services.</p> <p>Key Driver 5.1 Improving timely access to support.</p>

	The promotion of city centre living will provide more housing choice in Aberdeen that will help people to be supported to live as independently as possible.
Prosperous Place Stretch Outcomes	<p>The proposals in this report will help to deliver LOIP objectives:</p> <p>Stretch Outcome</p> <p>14. Increase sustainable travel: 38% of people walking and 5% of people cycling as main mode of travel by 2026</p> <p>The promotion of city centre living will provide more housing choice in Aberdeen that will help people to be supported to live as independently as possible.</p>
Regional and City Strategies City Centre Masterplan	<p>The proposals in this report will help to deliver CCMP objectives:</p> <ul style="list-style-type: none"> • Changing perceptions - Promoting the view of Aberdeen city centre as an energetic, inclusive and fascinating place where people will want to live, work and visit. • Made in Aberdeen - Building on local distinctiveness a

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Integrated Impact Assessment not required
Data Protection Impact Assessment	Not required
Other	Not required

10. BACKGROUND PAPERS

10.1 PLA/20/100 - Review of Two-Year Waiver on Affordable Housing in the City Centre

11. APPENDICES

None

12. REPORT AUTHOR CONTACT DETAILS

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