

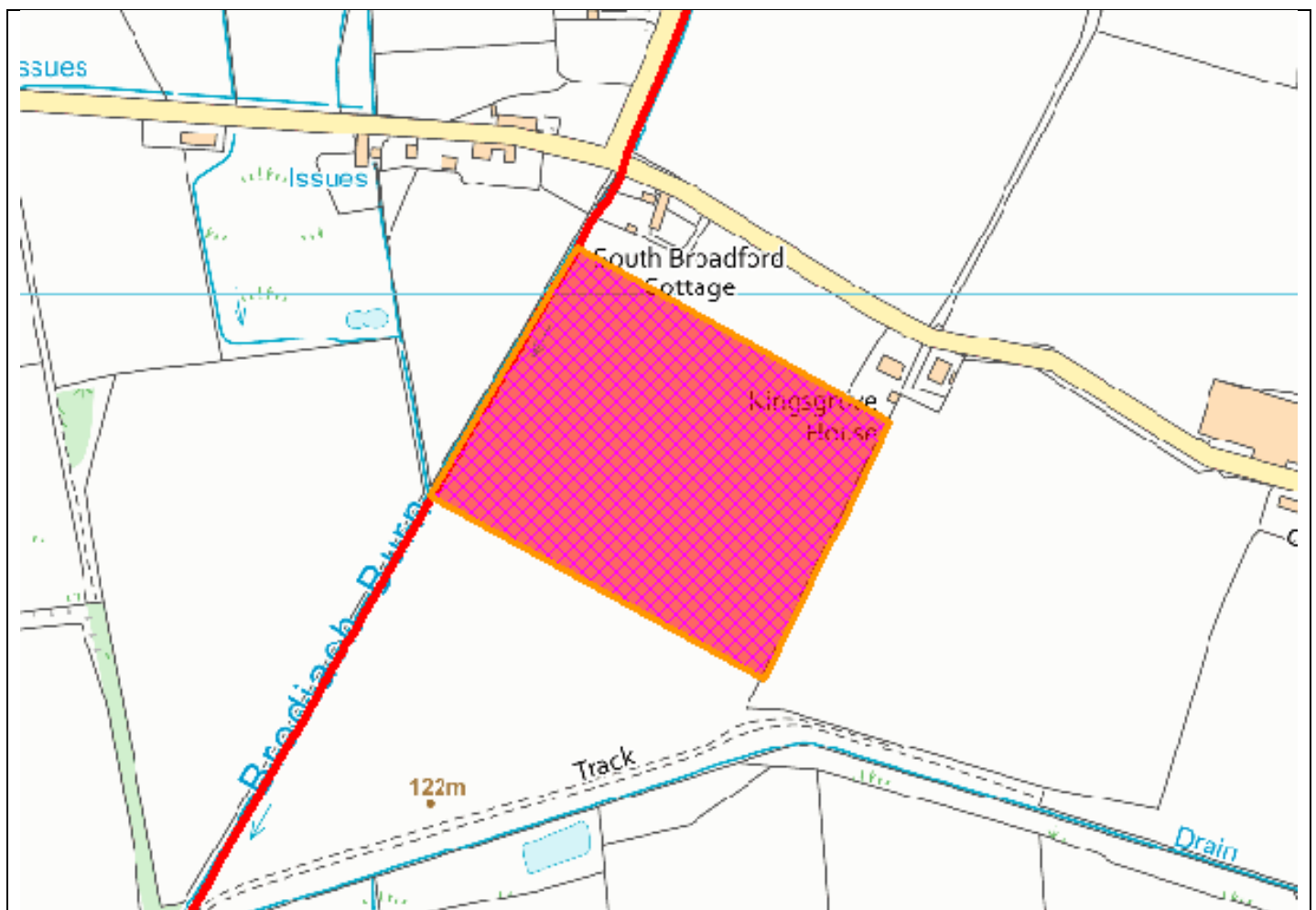


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 27 June 2019

<b>Site Address:</b>	Land Adjacent Former Landfill Site, Cairdhillock Farm, Kingswells, By Westhill, Aberdeen AB15 8QS
<b>Application Description:</b>	Removal of Condition 3 (Provision of scheme of landscaping) of Planning Permission Ref P151807
<b>Application Ref:</b>	190612/S42
<b>Application Type</b>	Section 42 (Variation to Conditions)
<b>Application Date:</b>	12 April 2019
<b>Applicant:</b>	McIntosh Plant Hire (Aberdeen) Ltd.
<b>Ward:</b>	Kingswells/Sheddocksley/Summerhill
<b>Community Council:</b>	Kingswells
<b>Case Officer:</b>	Robert Forbes



## RECOMMENDATION

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Approve Modification/Discharge

## APPLICATION BACKGROUND

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### Site Description

This site lies in open countryside, adjacent to the city's administrative boundary, about 1km east of Westhill, and 2km west of Kingswells. It has been subject to landraising / infill operations associated with agricultural improvement and has recently been restored to agricultural use. It is relatively level and contains no woodland, vegetation or landscape features of significance, other than an uncultivated buffer strip, to the south flowing Brodiach Burn, along the western boundary.

There are a few detached houses lining the public road to the north. The western part of the site acts as flood storage from the burn. About 0.5km to the south lies the A944, a dual carriageway, from which access is obtained via an unmetalled track. The intervening land to the south is undergoing substantive development / earthworks in association with the Kingsford football stadium and associated training facility.

### Relevant Planning History

Application Number	Proposal	Decision Date
95/1530	Infilling of land with subsoil	1995 (expired 2000)
151807	Land infilling / ground raising	Approved 28.10.16

Condition 3 of the above permission states:-

*"No further development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a detailed scheme of landscaping for the western part of the site adjacent to Brodiach Burn. This scheme shall include proposed areas of native tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting.*

*Reason: - In the interests of protection of the visual amenity and ecological value of this green belt area."*

## APPLICATION DESCRIPTION

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### Description of Proposal

Removal of condition 3 of permission ref 151807. The effect of which would be that no tree planting / additional landscaping would be provided within the buffer strip along the western edge of the site, and this area would remain as rough grassland.

Details submitted, seeking to address this condition in a tree planting plan (i.e. drawing 9126 rev.A) set out that...9 individual groups of whip trees of varied species ( e.g. hazel, hawthorn, beech, Norway spruce ) be planted within the existing buffer zone at the edge of the site. A total of 118 trees were proposed. However, following discussion with the Environmental Policy Team, given the low level of detail and the nature / extent of the planting this was not approved, and revised proposals were to be submitted. No such details were subsequently submitted.

### 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=PPSBGKBZMQT00>.

- Supporting Statement

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

The application has been referred to the Planning Development Management Committee as the number of objections received exceeds the threshold figure.

## **CONSULTATIONS**

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**Kingswells Community Council** – No response received.

## **REPRESENTATIONS**

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7 objections raise the following matters:-

1. As there has been no material change in circumstances, there is no compelling reason as to why the condition should be removed;
2. The applicant has not chosen to appeal the condition;
3. Nearby development has been controversial and the integrity of the planning process demands that conditions are complied with, in order to uphold public trust in that process;
4. Trees serve numerous benefits (including reduction of sound / light pollution) and tree planting is required in accordance with the objective of reducing carbon emissions;
5. The site has a history of infilling / unauthorised activity by the applicant and there has been an adverse impact on visual amenity;
6. The site was previously a wetland of wildlife interest and the reinstatement of such wetland should be required to preserve the ecological value of the green belt;
7. Enforcement action should be taken to ensure that the condition is complied with.

## **MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

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

Notwithstanding, section 42 of the 1997 act allows the planning authority to consider only the question of the conditions subject to which the planning permission should be granted.

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

SPP: Expresses a presumption in favour of development which contributes to sustainable development. It acknowledges the role of green belts in terms of settlement strategy.

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

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

maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

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

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

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

D2: Landscape

NE2: Green Belt

NE5: Trees and Woodland

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

- Landscape

### **Background/ other Material Considerations**

A complaint was received from a local resident regarding materials being deposited at the site in December 2014. This complaint was investigated and was thereafter subject of a report to the Planning Development Management Committee (PDMC) of 28 May 2015 regarding a breach of planning control (the unauthorised importation of materials and land raising, etc.) / proposed associated enforcement action. This report is available below:-

<http://committees.aberdeencity.gov.uk/documents/s47409/Alleged%20breach%20of%20planning%20control%20at%20Cairdhilllock%20Farm%20Kingswells.pdf>

The PDMC agreed to enforcement action to address the breach of planning control. The minute of this meeting is available below:

<https://committees.aberdeencity.gov.uk/documents/g3469/Printed%20minutes%2028th-May-2015%2010.00%20Planning%20Development%20Management%20Committee.pdf?T=1>

A Temporary Stop Notice (TSN) was subsequently served in 2015 and the unauthorised operations then ceased, following discussions with the applicant and SEPA.

Planning application 151807 was subsequently submitted and approved, thereby regularising the development. The subject condition was applied to that approval, in attempt to ensure that the potential adverse visual / ecological impacts of the development were addressed (e.g. as a means of protecting the water quality of the Brodiach Burn) and given the potential risk to visual / landscape amenity if the site had remained unrestored.

## **EVALUATION**

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### **Principle of Development / Strategic Impact**

In terms of assessment against the Strategic Development Plan, and notwithstanding the location of the site immediately adjacent to the administrative boundary with Aberdeenshire Council, due to the small scale of this proposal, the proposed development is not considered to be strategic or

regionally significant, and does not require consideration of cross-boundary issues. Furthermore the proposal does not result in any physical development and removal of the condition which was imposed on the parent application (151807) does not in itself result in a requirement for consultation with Aberdeenshire Council. The application therefore, does not require detailed consideration against the SDP.

Whilst the proposal results in no significant contribution to sustainable development, as no physical development is proposed, and notwithstanding the wider sustainability benefits of tree planting (e.g. in terms of biodiversity enhancement, creation of shelter and carbon storage) the wider restoration of the site to productive agricultural use accords with the objectives of green belt policy.

### **Landscape Impact**

Notwithstanding the historic / consented use of the land for importation of materials and land raising, that activity has been completed. At the time of imposition of the condition the site had not been restored to agricultural use and was in a transitional phase where it largely comprised soils in the process of being moved around the site, to create the current levels arrangement. Thus there was a risk that it would remain unrestored and in a degraded visual appearance. The site has now been fully restored to agricultural use, in accordance with the expectations of the planning permission (151807), such that the landscape character and visual amenity of the green belt area has been protected. No further physical development is proposed as part of this application. Therefore, no additional landscape measures or tree planting can now reasonably be required in order to accord with local plan policies D2 and NE2 (e.g. to soften / screen physical development / construction works).

The physical / landscape context of the site and its surroundings has changed significantly since the 2016 approval, primarily as a result of the ongoing 'Kingsford' football related development and development of the AWPR. The former sees previously undeveloped agricultural fields immediately to the south levelled/ raised and platformed and a steep sided engineered embankment created along its northern edge. The latter sees a major road infrastructure project, at times atop a significant embankment, a short distance to the east. Both have resulted in the formal 'rural' landscape context of the site becoming more developed / urbanised, and this will further increase as the Kingsford development progresses. As consented, the northern boundary within the Kingsford site will see strategic landscaping, and that associated tree planting will in time provide a degree of softening of the boundary with the application site, so the field will be largely screened, from the south / A944. When approaching the site from the west via Westhill Road, which lies to the north, it is largely screened by existing vegetation, hedges and trees associated with garden ground, and domestic buildings. Although the site is clearly visible on approach from the east along this road, this is a relatively lightly trafficked road in comparison with the A944 and the burn is not a prominent landscape feature and the predominant means of field division being simple post and wire fencing/ dry stone walling/ and uncultivated field edges.

Indeed it would appear that the historic landscape context of the site is one of open primarily arable farmland with field boundaries defined by fencing and with very limited presence of woodland / specimen trees / hedgerows, although it is recognised that there is a line of mature deciduous trees (primarily beech, sycamore and ash) flanking the section of the Brodiach burn to the north of the site. Thus, setting aside the recognised wider benefit of tree planting, the fact that the provision of tree planting is no longer proposed is largely consistent with the wider landscape and historic context and would not result in visual incongruity in relation to the historic landscape character.

It is considered that the change in the physical context of the site, completion of its restoration to agricultural use, the prevailing open landscape context of the site and the arguable necessity

associated with the tree planting as originally required, are all significant material considerations which provide justification for removal of the condition.

### **Impact on Trees**

The development has not resulted in any loss of / damage to trees and there are no protected trees / woodland in the vicinity. Notwithstanding the objective of policy NE5 to: promote creation of new woodland; the recognised multiple benefits of tree planting; and wider strategic objectives to achieve reductions in carbon emissions, additional tree planting at the site cannot now reasonably be required, particularly given the authorised use of the site as agricultural land, its restored condition and the absence of any new physical development at the site. In addition, the applicant has indicated that the implementation of tree planting at the site may conflict with farm animal husbandry objectives.

In the longer term, the implementation of the Kingsford development will result in a degree of additional planting along the boundary with the site, enhancing tree cover in the wider area. It should however be noted that it was not a requirement or intention that the subject tree planting mitigated the impact of the Kingsford development. Additionally, no tree planting or landscaping measures are required to be implemented on the application site in association with that consented development.

### **Impact on Wildlife**

Notwithstanding the historic designation of part of the site by the Council's predecessor (City of Aberdeen District Council); as a "District Wildlife Site", no such designation now applies. The reason for the designation in the early 1990s appears to have been due to the historically poor nature of drainage of the land, resulting in associated bog vegetation. Importantly it significantly predates the existing situation, and ground levels and drainage characteristics on the site have been significantly modified in accordance with the objective of the completed agricultural improvement works. It can thus be concluded that the impact of approval of the application, whereby trees would not be planted on the buffer strip, would result in no undesirable change from the existing position on site and therefore no impact on wildlife would occur. Notwithstanding the agricultural use, the wider site, and in particular the buffer strip, would continue to have potential biodiversity value – as uncultivated areas and riparian habitat. It would not be reasonable to compel the farmer / landowner to create a wetland feature on the site, although this may occur in times of high rainfall and as the burn overflows into the adjacent lower lying parts, particularly given that authorised use and absence of any physical development proposed. The fact that the buffer strip has remained in situ during the construction work on site has limited potential adverse impact on the ecology of the Brodiach Burn (e.g. due to prevention of sedimentation / run-off from the site during deposition of materials) and this buffer strip would continue to provide such a function irrespective of whether the required tree planting is undertaken.

### **Other Matters**

As the site has been fully restored to agricultural use to an acceptable standard, and no deposition of waste / ground raising is taking place, none of the other conditions imposed on 151807 require to be re-applied. Notwithstanding that the site has a history of unauthorised development and that adjacent development is considered by some members of the public to be controversial, for all the above reasons, it is not considered appropriate to take enforcement action. The fact that the applicant did not choose to appeal against the imposition of the condition is not a valid reason to refuse this application, and the proposal must be assessed on its current merits, as set out above and particularly given the material change in circumstances / context.

## **RECOMMENDATION**

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Approve Modification/Discharge

## **REASON FOR RECOMMENDATION**

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The site has been fully restored to agricultural use in accordance with the expectations of the previous planning permission (Ref: 151807), such that the landscape character and visual amenity of the green belt area has been protected. No further physical development is proposed, therefore, no additional landscape measures or tree planting can now reasonably be required in order to ensure compliance with local plan policies D2 – Landscape and NE2 – Green Belt (e.g. to soften / screen physical development / construction works). The proposals do not result in any loss of existing trees and notwithstanding the objective of local plan policy NE5 – Trees and Woodland to promote creation of new woodland, additional tree planting is not considered necessary, particularly accounting for the prevailing landscape character and changes resulting from infrastructure projects since the application was originally considered and given the authorised use of the site as agricultural land.