



## Pre-Application Forum

Report by Development Management Manager

**Meeting Date:**

<b>Site Address:</b>	Land Adjacent To Rubislaw Quarry, Hill Of Rubislaw, Aberdeen, AB15 6XL
<b>Description of Proposal:</b>	Major development of c.250 private flats, gym, function room, public bistro, promenade, car parking and amenity space
<b>Notice Ref:</b>	191486/PAN
<b>Notice Type:</b>	Proposal of Application Notice
<b>Notice Date:</b>	30 September 2019
<b>Applicant:</b>	Hill Of Rubislaw (Q Seven) Limited
<b>Ward:</b>	Hazlehead/Ashley/Queens Cross
<b>Community Council:</b>	Queen's Cross And Harlaw
<b>Case Officer:</b>	Matthew Easton



## **APPLICATION BACKGROUND**

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### **Site Description**

The site is situated on the southern edge of the Hill of Rubislaw office park and comprises the land adjacent to the northern edge of the disused Rubislaw Quarry, which is now filled with water.

The land is undeveloped and comprises mostly scrub vegetation and bare ground. A small area at the western end of the site is covered by broadleaved semi-natural woodland (protected by Tree Preservation Order No.134), which continues outwith the site around the entire north west, west and south west edges of the quarry. It is fenced off with no public access due to the proximity to the quarry edge. A hedgerow runs along the length of the site boundary shared with the office park.

There is no public access to any part of the quarry site and public views into the site are very limited. The quarry edge on the north side largely comprises a rocky cliff face with areas of vegetation and the whole quarry site is designated as a Local Nature Conservation Site.

To the immediate north is the Hill of Rubislaw office park, featuring large offices buildings between three and five storeys high, set within car parks and surrounded by areas of woodland. Chevron House, Rubislaw House face the site with H1 (including Pure Gym) and Marathon House beyond. To the east is Royfold House, beyond which are homes situated on Royfold Crescent. Situated on the south east edge of the quarry are homes on Queen's Road, Queen's Avenue and Queen's Avenue North. Woodland covers the south west and northwest edges of the quarry.

### **Relevant Planning History**

- Outline planning permission (97/1300) for a six-storey office (three levels of office space and three of parking) with 326 parking spaces was approved in July 1998. The consent was not implemented and expired in July 2001.
- Outline planning permission (98/1814) for offices and 86 flats and 226 parking spaces was approved in March 2001. The building was predominately five storeys with a tower reaching seven storeys. The consent was not implemented and expired in March 2004.
- Details of reserved matters (A1/0439) relating to 98/1814 were approved in July 2001. The number of flats increased to 107, the office space was reduced, and 162 parking spaces were now proposed. The consent was not implemented and expired in July 2004.
- The outline planning permission granted in March 2001 was 'renewed' in September 2005 (A5/0742). The consent was not implemented in expired in March 2009.
- Detailed planning permission (A6/0478) for 116 flats, food and drink use and 207 parking spaces was approved in August 2006. The building was predominately five storeys, with a nine-storey tower. This consent was partially implemented and is still live and capable of being completed.
- Detailed planning permission (P121692) for a five-storey office building was approved in July 2014. The consent was not implemented and expired in July 2017.
- Detailed planning permission (P140788) for a Granite Heritage Centre was granted in December 2015. The centre was proposed on a separate site located on the south side of the quarry. It was to include a heritage museum, restaurant/bar and conference suites, with views over the quarry. The consent was not implemented and expired in December 2018.
- Detailed planning permission (180368/DPP) for a residential development (across ten storeys and three basement levels) consisting of 299 private flats, gym, function room, public heritage

bistro, promenade, car parking and amenity space was refused by the Planning Development Management Committee in June 2018.

- The reasons for refusal were that due to the adverse visual impact the proposal would have based on its scale and massing which is contrary to Policy D3 - Big Buildings of Aberdeen Local Development Plan. There is insufficient onsite parking provided which would lead to overspill parking on residential streets. There is a lack of suitable capacity to accommodate the educational needs of the development. There would be an adverse impact on the wildlife on the site. The quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan.

The refusal of the application was subject of an appeal to Scottish Ministers, where the decision of the PDMC was upheld by the reporter. The reasons for the reporter’s decision are discussed in the ‘Considerations’ section of this report.

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

Detailed planning permission is sought for the erection of a mixed use residential led development of circa 250 flats, associated car parking, amenity space and public promenade around the edge of the quarry. The development would include a publicly accessible bistro and function room.

The scheme is a reduced scale version of the proposal previously considered by the Planning Development Management Committee in 2018.

## **MATERIAL CONSIDERATIONS**

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### **Legislative Requirements**

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

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

- Scottish Planning Policy (June 2014)
- Planning Delivery Advice: Build to Rent (September 2017)

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

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

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of

development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

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

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

- D1: Quality Placemaking by Design
- D2: Landscape
- D3: Big Buildings
- I1: Infra Delivery & Planning Obligation
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- T4: Air Quality
- T5: Noise
- H1: Residential Areas
- H3: Density
- H4: Housing Mix
- H5: Affordable Housing
- B1: Business and Industrial Land
- NE1: Green Space Network
- NE3: Urban Green Space
- NE4: Open Space Provision in New Development
- NE5: Trees and Woodland
- NE6: Flooding, Drainage & Water Quality
- NE8: Natural Heritage
- NE9: Access and Informal Recreation
- R2: Degraded & Contaminated Land
- R6: Waste Management Requirements for New Development
- R7: Low & Zero Carbon Build & Water Efficiency
- C11: Digital Infrastructure

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

- Affordable Housing
- Air Quality
- Big Buildings
- Harmony of Uses
- Landscape
- Natural Heritage
- Noise
- Planning Obligations
- Resources for New Development
- Transport and Accessibility

### **Other Material Considerations**

- Appeal decision PPA-100-2092 (appeal against decision to refuse 180368/DPP)

## **CONSIDERATIONS**

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## Principle of Development

The principle of developing this site is long-established and dates back to 1998 when a large-scale office building was approved. In the intervening period, further consents have been approved and have expired, except for a consent (A6/0478) for residential and office use approved in August 2006. A limited amount of work on that proposal was started but not continued. These works were sufficient to constitute a commencement of development and as a result, the planning permission remains valid indefinitely. This, along with the previously approved applications, establishes the principle of development and is a material consideration in the determination of this application.

The site is within an area zoned for residential use under Policy H1 (Residential Areas). The policy states that proposals for new development and householder development will be approved in principle if it –

- (i) does not constitute over development;
  - (ii) does not have an unacceptable impact on the character and amenity of the surrounding area;
  - (iii) does not result in the loss of valuable and valued areas of open space; and
  - (iv) complies with Supplementary Guidance.
- In terms of overdevelopment, it is necessary to consider the building's scale, massing and form. As well as considering this against the context of the site, this needs to be considered against the consented scheme approved in 2006 as it could still be fully implemented.

The maximum height of the 2006 scheme is 29.94m from street level, representing the tower part of the development, whereas the remainder is predominantly 17.70m high.

With any large new development within an urban area there is the potential for the character and existing residential amenity to be changed. This could be visual impact or in terms of the way the development interacts with current uses in relation to disturbance or availability of daylight, overshadowing and privacy.

The landscape and visual impact on the proposal both in the immediate vicinity and more distant views throughout the city should be considered.

## Previous Decision and Appeal

The reasons for refusal of the 2018 application were that *“due to the adverse visual impact the proposal would have based on its scale and massing which is contrary to Policy D3 - Big Buildings of Aberdeen Local Development Plan. There is insufficient onsite parking provided which would lead to overspill parking on residential streets. There is a lack of suitable capacity to accommodate the educational needs of the development. There would be an adverse impact on the wildlife on the site. The quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan.”*

The application was subsequently appealed to Scottish Ministers. The appointed reporter found that there were aspects of the development which would attract considerable support from national policy and advice. The proposal would have delivered a form of residential accommodation promoted and endorsed by the Scottish Government. It would have delivered a development which would have been accessible by a range of transport modes and would not depend solely on access by the private car. While there would have been a loss of open space, it would have provided enhanced public access to the quarry edge and had the potential to attract additional visitors to the quarry area. Any necessary servicing and infrastructure requirements could have been met or financial contributions provided such that impacts could have been mitigated. The application was refused on the grounds that the building would have dominated and overshadowed the adjacent commercial buildings and would have an adverse impact on the visual amenity of nearby residential properties.

This is discussed further below. The reporter's response to the other matter which the committee refused the application are also outlined.

## **Layout and Design**

There is a requirement to ensure that the proposed building adheres to other good design principles, in terms of the building's appearance, the amenity available for future residents and how it interacts with its immediate surroundings.

Policy D1 (Quality Placemaking by Design), Policy D2 (Landscape) and Policy D3 (Big Buildings) and their associated supplementary guidance notes would all be relevant.

Previously the 2018 application was refused as "the quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan."

In considering the subsequent appeal the reporter found that the modular form of the building and variation in elevation was considered to provide an interesting silhouette. Visually, this would have given the building local distinctiveness. The reporter was not opposed to the use of modern building materials or the contemporary design, given the character of the surrounding office development at Hill of Rubislaw. It was noted that by wrapping the building around the edge of the quarry, there was an attempt to avoid creating a long physical barrier. However, at a total length of around 240 metres and at points around 30 metres high, the reporter was not convinced that this would be successfully achieved. The extensive profile and form of the building would be obvious with the three flattened peaks at 32.8, 29.6 and 26.4 metres appearing in succession; the only interruption to this would have been noticeable at ground floor level, with the three open pends. In the reporter's view, the overall length of the proposed building and its linear form would, in visual terms, dilute its vertical emphasis, contrary to the aims of Policy D3.

The reporter considered that although the proposed site is enclosed, the scale and height of the proposed development would have revealed it in more distant views. Nevertheless, this was not necessarily seen as adverse, with increased visual awareness of the location of the quarry could help to promote it to a wider audience and to learn its historical significance. As Aberdeen already has a variety of tall buildings which punctuate the city's skyline, the reporter did not find that the proposal would detract from the city's important wider views.

However, in concluding on the matter, while accepting that the proposal, as a big building, could make a positive contribution to the city's skyline consistent with the aims of Policies D2 and D3, its more immediate impacts were of concern. It was concluded that the building would have dominated and overshadowed the adjacent commercial buildings and would have an adverse impact on the visual amenity of nearby residential properties at the north western end of Royfold Crescent., contrary to Policies H1 and D1. For this reason, the appeal was rejected.

## **Transport and Accessibility**

Parking is proposed and therefore the traffic impact of the development would need to be considered. Policy T2 (Managing the Transport Impact of Development) and Policy T3 (Sustainable and Active Travel) are relevant in this regard. Any areas of new public realm should be seen as part of the wider Green area, rather than in isolation. Vehicular access arrangements will have to be carefully examined in order to ensure that this does not compromise the overall space.

The committee considered that the 2018 application had "*insufficient onsite parking provided which would lead to overspill parking on residential streets.*" The appeal reporter found that there was considerable uncertainty over the availability and demands for future parking in the surrounding area and found it difficult to take account of it on the information available. It was noted that the Council's

guidance allows for low car developments to come forward in particular situations. Given the location and also the type of development proposed, where the occupation of the flats and associated car parking would have been managed centrally by the developer, she considered this to be one such example. Overall, it was found reasonable to expect that the proposed car parking provision and mitigation measures would meet the aims of Policies T2: Managing the Transport Impact of Development and T3: Sustainable and Active Travel. Overall, the reporter found the proposed development would have an acceptable traffic impact and be accessible by a range of transport modes.

## Technical Matters

The layout and design of the development should have regard for the provisions of policies NE6 (Flooding, Drainage and Water Quality), R6 (Waste Management Requirements for New Development), R7 (Low and Zero Carbon Buildings, and Water Efficiency) and C11 (Digital Infrastructure).

Policy T4 (Air Quality) states that development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed. The proposed development is adjacent to the Anderson Drive Air Quality Management Area (AQMA).

## Natural Heritage

Policy NE8 (Natural Heritage) and the associated SG requires that development should seek to avoid any detrimental impact on protected species through the carrying out of surveys and submission of protection plans describing appropriate mitigation where necessary. As part of the 2018 application a habitat survey determined that a badger was present in the area. Updated surveys would be required to determine the current situation in terms of species.

The site forms part of the Hill of Rubislaw Local Nature Conservation Site and is designated as Green Space Network. The quarry and its surroundings function as an isolated green space which although not directly linked to other green spaces, provides benefits in term of biodiversity and landscape value within an urban area. The site comprises dense scrub, a species poor hedgerow, bare earth and an area of semi-natural broadleaved woodland. Throughout the period since it closed, there has been no public access or readily accessible views into the site.

Policy NE5 (Tree and Woodland) presumes against loss or damage to trees and woodlands which contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. Tree Preservation Order No.134, covers a small area of the site and the wider area of woodland on the north west, west and southern edges of the quarry. The loss of any trees would need to be considered in terms of Policy NE5.

In considering the 2018 application the committee considered that *“there would be an adverse impact on the wildlife on the site.”* At appeal stage the reporter determined that taking into account the proposed mitigation measures, it was considered that the proposal would not have an adverse impact on the nature conservation of the site and would therefore be consistent with Policy NE8 with regard to designated sites.

## Other Matters

- Policy H5 (Affordable Housing) requires that no less than 25% of housing units shall be affordable, normally with the expectation that these will be delivered onsite. In the 2018 application however, due to the expected high maintenance costs and difficulty in sub-dividing the building to allow an Registered Social Landlord to take control of part of it, it was determined

that rather than onsite provision, a commuted sum would be the most appropriate option. Further discussion would be required to determine if this option was still appropriate.

- A significant number of representations to the 2018 application expressed a preference for the Granite Heritage Centre over the proposed residential development. The approval of the 2018 residential application would not have prejudiced the heritage centre proceeding. Being on different sites and on opposite sides of the quarry, with approximately 120m between them, both developments could in theory have been built. For this reason and now that consent for the heritage centre has now expired, there is no reason to consider the heritage centre as part of the assessment of any application.
- The final reason for refusal of the 2018 application was that there would be *“a lack of suitable capacity to accommodate the educational needs of the development.”* The reporter commented that in terms of meeting the requirements of Policy I1: Infrastructure Delivery and Planning Obligations, the council has agreed that financial contributions can be made in order to increase capacity at Hazelhead Primary School and Hazelhead Academy. The level of contribution excludes any factoring of pupil numbers generated by the proposed one-bedroom units which is the standard position of the council.

## **PRE-APPLICATION CONSULTATION**

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Public consultation was undertaken by the applicant at a drop-in event at the Tree Tops Hotel, Springfield Road, on Wednesday 20<sup>th</sup> November 2019 between 12pm and 7pm.

## **NECESSARY INFORMATION TO SUPPORT ANY FUTURE APPLICATION**

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As part of any application, the applicant has been advised that the following information would need to accompany the formal submission –

- Badger Survey
- Drainage and Flooding Assessment
- Design and Access Statement
- Habitat Survey
- Ground Investigation Report
- Landscape Design Framework
- Landscaping and Visual Impact Assessment
- Planning Statement
- Pre-application Consultation Report
- Sustainability Statement
- Transport Statement
- Tree Survey

## **RECOMMENDATION**

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It is recommended that the Forum –

- a) note the key issues identified;
- b) if necessary seek clarification on any particular matters; and
- c) identify relevant issues which they would like the applicants to consider and address in any future application.