

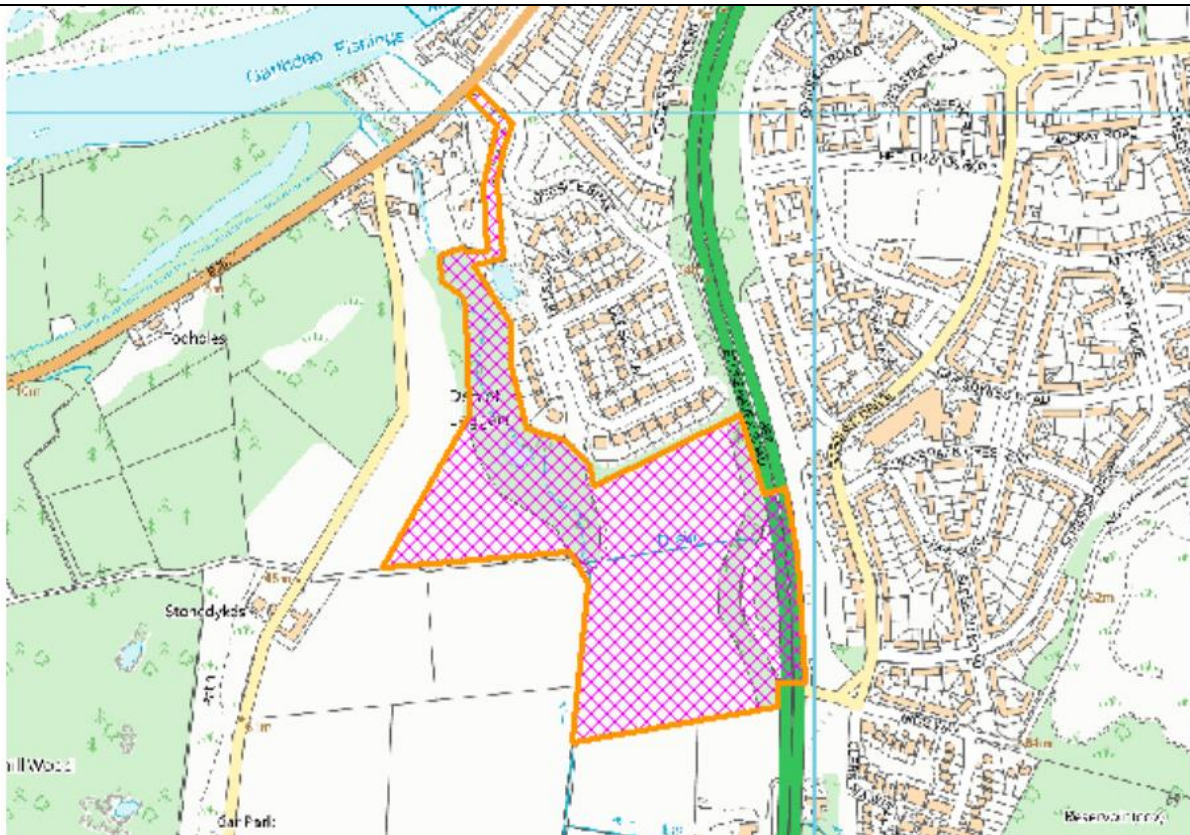


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 18 March 2021

Site Address:	Land to South and South-west of Deeside Brae, Aberdeen.
Application Description:	Residential development (133 units) with associated landscaping and parking and supporting ancillary infrastructure
Application Ref:	201558/DPP
Application Type	Detailed Planning Permission
Application Date:	18 December 2020
Applicant:	Manfield Limited (A Comer Company)
Ward:	Kincorth/Nigg/Cove
Community Council:	Kincorth and Leggart
Case Officer:	Alex Ferguson



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1. PURPOSE OF REPORT

This report considers whether planning application 201558/DPP, which triggers the statutory criteria requiring that a Pre-Determination Hearing be held, should be determined by the Planning Development Management Committee or if it would be advisable for the Pre-Determination Hearing and determination to be carried out by Full Council.

2. RECOMMENDATION(S)

That the Committee:

- 2.1 Note the contents of the report; and
- 2.2 Agree that the application be subject of a statutory pre-determination hearing by a special meeting of the Planning Development Management Committee (PDMC) and that the application is then determined at a subsequent scheduled PDMC meeting.

3. BACKGROUND

- 3.1 A report to the 30th April 2020 meeting of the Planning Development Management Committee (report no. GOV/20/087) set out the process to be followed for reporting to this Committee and referral to Full Council where the relevant criteria for Pre-Determination Hearings are triggered. The recommendations of that report were agreed by the Committee.

4. APPLICATION BACKGROUND

4.1 Site Description

The application site predominantly comprises an area of greenfield land to the south and west of the Deeside Brae housing development and is locally known as Leggart Brae. The Den of Leggart runs on a north-south axis through the central and northern section of the site which also includes an existing layby immediately to the west of the A92 dual carriageway, as well as a section of the A92 itself. To the north of the Den of Leggart, the site incorporates a winding strip of land that incorporates an informal (grassed) pedestrian path between the Den and Leggart Terrace, running adjacent to the vehicular carriageway that forms the entrance to Deeside Brae.

The site is bound to the east by the A92 with Kincorth beyond, to the north by the Deeside Brae housing development and Leggart Terrace, to the west by the 'Causey Mounth' minor road and to the south by open, arable fields. The site straddles the Aberdeen City Council (ACC) administrative boundary with Aberdeenshire Council (AC), which follows the Leggart Burn until it enters the Den of Leggart. The boundary then extends c. 200m westward before returning to the Den and again following the route of the Leggart Burn until it enters the River Dee approximately 200m to the north.

The area of land within the ACC boundary is approximately 9.6 Hectares in size and aside from the Den of Leggart Local Nature Conservation Site (LNCS), it mostly comprises open, arable agricultural fields, with an established tree belt forming the eastern edge of the site with the A92. An access track runs along the boundary of the site from the Causey Mounth, over the Leggart Burn and connects up into the Deeside Brae development to the north.

The entirety of the site is zoned in the adopted Aberdeen Local Development Plan 2017 (ALDP) as Green Belt land, with the exception of the informal winding path adjacent to Deeside Brae in the northern part of the site, which lies within Residential Land. The eastern portion of the site and the Den of Leggart are also zoned as Green Space Network.

The southern and western parts of the site have been zoned as Residential land and allocated as an Opportunity Site (OP46) for 150 homes in the Proposed Aberdeen Local Development Plan 2020 (PALDP). The PALDP content was agreed by Full Council on 2 March 2020. The PALDP was subject to public consultation from 20 May to 31 August 2020 and responses to the Plan are currently being reviewed.

The proposed development site extends beyond the Aberdeen City Council boundary and into Aberdeenshire to the west.

4.2 Relevant Planning History

The majority of the site that lies within the Aberdeen City Council administrative boundary is allocated as an opportunity site (OP46) for 150 houses in the Proposed Aberdeen Local Development Plan (PALDP).

A Proposal of Application Notice (PoAN) was submitted for this development proposal under planning reference 200638/PAN on 8 June 2020, with an online public consultation event by the applicants taking place on 8 August 2020.

An Environmental Impact Assessment (EIA) Screening Opinion request for the proposed development was submitted to the Council on 19 June 2020. The Planning Service considered that EIA is not required but requested that various supporting information documents and surveys will be required to support a formal planning application.

The applicants presented their pre-application proposals for the site to the ACC Planning Development Management Committee (PDMC) Pre-Application Forum on 20 August 2020.

At the time of writing, a concurrent planning application (APP/2020/2492) for works to the west of the application site is pending determination by Aberdeenshire Council. The application seeks detailed planning permission for upgrades to (widening of) the Causey Mounth road, the formation of a new access road, cycle & footpaths and associated landscaping. All of the works are proposed in conjunction with the current application to Aberdeen City Council.

4.3 Description of Proposal

This application seeks Detailed Planning Permission (DPP) for the development of 133 homes (86 dwellings and 47 flats), the formation of a new signalised junction on the A92, formation of foot & cycle paths and associated infrastructure and landscaping.

The housing development would be split into two distinct parts:

- East of the Leggart Burn

100 homes are proposed to be built in the c. 4 Ha field that lies to the east of the Leggart Burn, comprising 78 dwellings and 22 flats. The eastern part of the site would see four residential streets set to the north and south of a main access road, also lined with some dwellings, that would provide access to the site via a new signalised junction on the A92 to the east. This part of the site would contain a mix of

house types and sizes, including large detached dwellings, semi-detached dwellings and terraced flats. A Sustainable Drainage System (SUDS) basin would be sited adjacent to the Den of Leggart in the north-western corner, adjacent to an access path linking into Deeside Brae to the north.

- West of the Leggart Burn

The remaining 33 units would be sited on the land to the west of the Leggart Burn and the Den of Leggart, comprising 9 detached dwellings and 24 flats within the Aberdeen City Council area. The 24 flats would be spread between two 3-storey blocks adjacent to the western edge of the Den of Leggart, forming the western edge of the development. The western and eastern parts of the site would be separated by the Den of Leggart and connected only by a non-motorised pedestrian and cycle path crossing. The western part of the development is proposed to be accessed by vehicles from the Causey Mounth to the west within Aberdeenshire, the upgrades and access road for which are subject of the separate application to Aberdeenshire Council. A further SUDS basin would be sited immediately to the north of the two blocks of flats.

The dwellings would all be 2 / 2½ storeys in height with a mix of designs and sizes (detached, semi-detached and terraced). The prevailing architectural style would be contemporary, taking design cues from local precedents. A total of 33 affordable units are proposed across the site.

Aside from a buffer strip adjacent to the Leggart Burn in the eastern portion of the site, all open space would be sited outwith the application site, in a strip of land within Aberdeenshire that runs from the Den of Leggart in the north to the Tollochill Woods car park in the south.

There would be a footpath link connecting into the Deeside Brae development to the north and a footpath running around the eastern side of the blocks of flats in the western part of the site. A crossing (presumed to be a bridge, although further detail is required) is also proposed to be installed across the northern edge of the Den of Leggart. This would provide a pedestrian and cycle link between the western portion of the development and Leggart Terrace to the north, via the strip of land in Aberdeenshire.

4.4 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=QL4ENUBZMYE00>

- Pre-Application Consultation (PAC) Report
- Planning Statement
- Design & Access Statement
- Transport Assessment
- Noise Impact Assessment
- Air Quality Impact Assessment
- Flood Risk Assessment
- Drainage Impact Assessment

- Tree Survey and Arboricultural Impact Assessment
- Road Safety Report
- Landscape and Visual Appraisal
- Design Access Audit Report
- Cycle Audit Report
- Convenience Retail Needs Analysis
- Accommodation Schedule
- Affordable Housing appendix
- Ecological Impact Assessment
- Archaeological and Cultural Heritage Desk Study Assessment
- Landscape and Biodiversity Management Plan

4.5 Pre-Application Consultation

This application is accompanied by a Pre-Application Consultation Report, as required for all planning applications for major developments.

Due to the Covid-19 pandemic restrictions in place at the time, it was not possible for the applicants to undertake an in-person public consultation event. As such, the applicants held a statutory pre-application consultation event online (at www.leggartbrae.com), on 6th August 2020, between 4pm and 8pm. Advertisements were placed in the Press & Journal and the Evening Express on 30th July, giving advance notice of the consultation event. Notices were also sent to the local Ward Councillors (including to those in neighbouring wards in both the City and Shire), to the local MSP and MP's. Copies were also sent to the local and neighbouring Community Councils. Notices advertising the event were also sent to 1356 local properties in the area surrounding the application site.

A selection of indicative site layouts and other information including a list of Frequently Asked Questions were presented on the dedicated pre-application website in advance of the online consultation event. The online consultation event then included a 'live-chat' function, during which members of the project team were available to answer questions. Online questionnaire forms were also made available for completion by website visitors. A total of 314 people visited the website between the 30th of July and the 28th of August, with approximately 80 people visiting the website on the 6th of August when the live event was held. In total 13 questionnaire/feedback forms were returned and 7 'live-chat' conversations were held during the live event. The responses are summarised in the PAC report, along with the applicants' commentary on whether/how the proposal has taken them into account.

On 20th August 2020, the applicants gave a presentation to the Council's Pre-Application Forum. The main themes raised related to:

- Whether the affordable housing would be provided on-site or via a financial contribution;
- Ensuring the design of any on-site affordable housing is tenure-blind;
- Provision of Fibre-to-the-Premises (FTTP) broadband;
- The site is at risk of flooding on SEPA flood maps;
- What impact the development would have on school capacity;
- Whether there has been any consideration for providing a local retail use within the development;
- Proximity, access and impact on local healthcare facilities;
- Proximity to leisure facilities;
- Whether the development could provide, or contribute toward, a new pedestrian link

- across the River Dee; and
- Whether the properties would be freehold or leasehold.

4.6 Requirement for a Pre-Determination Hearing

The proposed development is classed a 'major development' in terms of The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The proposal is considered to be a Significant Departure from the Development Plan by virtue of it being a major residential development located on a site zoned as Green Belt, where Policy NE2 of the Aberdeen Local Development Plan 2017 (ALDP) applies. A large part of the site is also zoned as Green Space Network, thus Policy NE1 of the ALDP is also applicable.

Policy NE2 does not allow for residential development (other than house extensions and one-for-one replacement dwellings), therefore the proposal for a major residential development of 133 homes is significantly contrary to Policy NE2. The proposed development may also erode the character and function of an area of Green Space Network, contrary to Policy NE1, thus the proposals represent a significant departure from the adopted Development Plan.

Under Regulation 27 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 there is a requirement to hold a Pre-Determination Hearing before such applications may be determined.

A previous requirement for such applications to be determined by Full Council has been removed by the recently revised legislation under the Planning (Scotland) Act 2019, and in March 2020 the Council delegated authority for these statutory hearings and determinations to PDMC as part of the Scheme of Governance review. It is therefore for Members to decide whether the hearing and subsequent determination of this application are conducted in front of PDMC, or whether there are any particular issues that would warrant referral to Full Council in this instance.

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

4.7 CONSULTATIONS

Aberdeenshire Council – Object for the following reasons:

- The site was identified in Aberdeen City Council's Main Issues Report 2019 (MIR) as being "undesirable", in response to a development bid for 235 homes (ref: B13/08 – Royal Devenick Park);
- Bid 13/08/OP46 is part of a larger development proposal in Aberdeenshire, identified in Aberdeenshire's MIR as bid sites KN069-072, Banchory-Devenick for up to 1310 homes, commercial and employment land, and a primary school. These bids, KN069 to KN072, were also not identified as preferred sites due to issues relating to landscape setting, loss of green belt, impact on natural heritage, distance from facilities, and accessibility and infrastructure concerns. These issues were also identified in the City's MIR for site B13/08 (OP46).

- Development of the application site will result in the unnecessary loss of green belt land and could have long-term negative implications on the green belt;
- The application site is not well related to any settlement and is in essence a standalone site which shoehorns into one of the last remaining landscape buffers at the edge of Aberdeen City and Aberdeenshire. The development of the site would result in suburbanisation in a highly sensitive and visible landscape.
- The site is in an environmentally sensitive area, which provides important habitat and green corridor between River Dee and Tullo Hill. It is also located within the Green Space Network, includes the Den of Leggart Local Nature Conservation Site, and the proposal could result in the loss of trees, including ancient woodland.
- The proposed development could also have a cumulative negative impact on the River Dee, a Special Area of Conservation, from surface water runoff.
- ACC's Main Issues Report stated that the site is "not well-related to any settlement; it is poorly located to public transport and community facilities, and therefore would be car dependent." As such, the site is contrary to the Strategic Development Plan which seeks to reduce travel distances and make walking, cycling and public transport more attractive to people.
- There are concerns in respect of infrastructure, road network capacity and deliverability. Aberdeenshire Council's Transportation Service has advised that works, including the widening of the Causey Mounth would be necessary, junction visibility improvements, two points of road access would be required to accord with Aberdeenshire Council's standards for access, and there are pinch points to the north of the Causey Mounth with Leggart Terrace (the B9077), which would appear to be outwith the site proposer's control.
- Aberdeenshire Council believe that the site can be removed from the ACC Proposed Aberdeen Local Development Plan (PALDP) without creating a deficit in the housing allowance. Thus there is no strategic need or requirement to release the site for housing and its development would be premature at this time.
- Due to the foregoing concerns the proposal would not constitute the right development in the right place and the application is therefore contrary to Scottish Planning Policy (SPP).

Archaeology Service – No objection. There are references within records to the presence of historic Aberdeen City boundary stones within the site that require to be identified and retained in their existing location. Conditions are required in respect of providing protective fencing around the stones during construction works and for the implementation of a programme of archaeological works prior to the commencement of development.

ACC - City Growth – No response.

ACC - Contaminated Land Team – No objection and no comments.

Dee District Salmon Fishery Board – No response.

Aberdeen International Airport – No objection. The proposed development would not conflict with aerodrome safeguarding criteria. Request that the applicant is made aware of the requirement to comply with the British Standard Code of Practice for the safe use of cranes.

ACC - Developer Obligations – The following developer obligations are required, to be secured via legal agreement:

- Core Path Network - £45,905
- Healthcare Facilities - £71,202
- Community Facilities - £225,637

The Core Path contribution is required toward the delivery of Aspirational Core Path 9 and/or the enhancement of Core Path 79.

The Healthcare contribution is required towards the internal reconfiguration of the Cove and Kincorth Medical Practice, or other such healthcare facilities serving the development.

The Community Facilities contribution would go towards the creation of additional capacity at the Kincorth Community Centre.

No Education contribution is required as the schools to which the development would be zoned (Abbotswell Primary and Lochside Academy) both have sufficient capacity to accommodate the expected number of additional pupils.

No Open Space contribution is sought as the open space requirements for the development would be met on-site.

ACC - Education – No objection. The site is zoned to Abbotswell Primary School and Lochside Academy. Latest forecasts indicate there is sufficient capacity at both schools to accommodate the number of pupils expected to be generated by this development.

ACC - Environmental Health – Further information is required in respect of the applicant's Air Quality Impact Assessment, with regard to the impact of the new signalised junction onto the A92 on traffic flows and local pollutant levels. A Dust Management Plan is required to ensure adequate construction-phase dust control measures (this can be conditioned).

The findings of the applicant's Noise Impact Assessment (NIA) are accepted, subject to the implementation of the recommended mitigation measures which include: The installation of an acoustic barrier adjacent to the A92, the provision of specified glazing with acoustic properties throughout the development and the provision of acoustic trickle vents in certain properties.

Environmental Health also recommend an advisory note in respect of construction hours, in order to protect the amenity of neighbouring residential properties.

ACC - Structures, Flooding and Coastal Engineering – Require further information to be submitted before finalising comments on flooding and drainage.

ACC - Housing Strategy – The applicant's proposed affordable housing tenure (mid-market rent) is not acceptable to the Council as it does not meet the city's housing need and demand. The affordable housing provision should be reviewed, with the Council's preference being for social rented accommodation. The developer should enter into early

discussions with a Registered Social Landlord (RSL) regarding the purchase of the affordable homes. The mix of affordable units also requires to be reviewed as there is very little requirement for 2-bed flats in the city. Furthermore, a minimum of 15% of all new affordable housing is required to be fully wheelchair accessible.

ACC - Estates Team – The land comprising the layby to the west of the A92 appears to be in Council ownership. This requires to be confirmed by the Council's Legal Team however and if the land is indeed owned by ACC then the applicant shall require to enter into separate discussions with the Council, as Corporate Landlord, regarding the possible acquisition of the land required. No roads infrastructure shall take place on the land in question until such time as appropriate paperwork is in place.

Police Scotland – No objection.

ACC - Roads Development Management Team (RDM) – Object to the application on the basis that the new signalised junction onto the A92 would have a detrimental impact on traffic flows into and out of the city on a major arterial route. RDM also have concerns that the junction would result in the loss of an existing layby which is well-used by HGV drivers as a stopping place on entry to the city, and that the development could preclude the potential future delivery of a new link road connecting the A92 with South Deeside Road – one of several options that have been highlighted as a possible solution to deal with traffic congestion issues in the Bridge of Dee area in a Bridge of Dee Scottish Transport Appraisal Guidance (STAG) study.

RDM have reviewed the Drainage Impact Assessment and consider it to be acceptable with regard to SUDS provision.

RDM have also request amendments and the submission of additional information before finalising their comments, including the following:

- A Residential Travel Pack (including details of Safe Routes to School)
- Details of compliance with emergency vehicle access (for developments of more than 50 units, two accesses are required)
- Details of surfacing for all footpaths;
- Details of the footway proposed to cross the Den of Leggart and the incorporation of rest platforms where the gradient is excessive; and
- Additional detailed comments have been on the internal roads layout in respect of parking, junctions, road safety and refuse vehicle access.

RDM also note that the following upgrades to localised infrastructure would be required:

- Upgrade of the existing footway on the western side of the A92, providing pedestrian and cycle access to the Bridge of Dee roundabout to the north and the Charleston flyover to the south;
- The upgrade and relocation of existing bus stops on the A92 to encourage the use of public transport and to minimise the risk to road safety (one bus stop would be too close to the new junction)

Scottish Environment Protection Agency (SEPA) – No response due to SEPA having been the victim of a significant cyber-attack in late 2020 which has resulted in the loss of systems. As a result, SEPA are not providing responses to planning application consultations at the time of writing. It is anticipated that SEPA will be in a position to provide comments on the application prior to the Pre-Determination Hearing in due course.

Scottish Water – No objection. There is sufficient capacity in the Nigg PFI Waste Water Treatment works to accommodate the proposed development. Scottish Water are unable to confirm capacity in the Invercarnie Water Treatment works at this time however and request that the applicant engages with Scottish Water to allow a full appraisal of the proposals with regard to water capacity.

ACC - Waste and Recycling – No objection at this stage. Request further information (swept path analyses) from the applicant in order to demonstrate that refuse vehicles could adequately turn within the site.

Aberdeen City & Shire Strategic Development Planning Authority – No response.

Kincorth and Leggart Community Council – No response.

5. REPRESENTATIONS

One hundred and twenty-one (121) representations have been received in relation to this application, including from the Cults, Bielside and Milltimber Community Council, the North Kincardine Rural Community Council (in Aberdeenshire) and The Woodland Trust. The representations all state objection or raise concern in relation to the proposed development. The issues raised in the representations can be summarised as follows:

National Planning Policy

- The development is contrary to Scottish Planning Policy

Aberdeen City and Shire Strategic Development Plan

- The development is inconsistent with the Aberdeen City & Shire Strategic Development Plan - specifically the following policies:
 - Shaping Development in the Countryside (Chapter 5)
 - Natural Heritage and Landscape (Chapter 8, Policies E1 and E2)
 - The Historic Environment (Chapter 9, Policies HE1 and HE2); and
 - Protecting Resources (Chapter 10)

Principle

- The site is zoned as Green Belt in the adopted Aberdeen Local Development Plan 2017 (ALDP) and the proposal is contrary to Policy NE2 (Green Belt) of the ALDP;
- The site is not allocated for housing in the ALDP;
- The site is zoned as Green Space Network and the development would be contrary to Policy NE1 (Green Space Network) of the ALDP.

Allocation in the Proposed Aberdeen Local Development Plan (PALDP)

- The site was noted as being 'undesirable' in the 2019 Main Issues Report;
- The site was allocated as an Opportunity Site (OP46) for 150 homes by Members as a late addition, contrary to the recommendation of the ACC Planning Service;
- There were numerous objections to the allocation of the site in the PALDP submitted in the public consultation period, which are yet to be addressed;
- The application is premature and undemocratic as the PALDP is not adopted and has not yet undergone Examination;
- The site was allocated by Councillors without any rationale and at a stage of the PALDP which avoided full scope for public feedback;

- The applicants are presuming that there are no representations to the PALDP that oppose the allocation of the site for housing;
- Aberdeen City Council have chosen to ignore their own policies on Green Belt, Natural Heritage and Landscape in allocating the site in the PALDP.

Housing Supply & Demand

- The site could be removed from the PALDP without resulting in a deficit in housing land supply;
- The development of the greenfield site is unnecessary. Greenfield sites should be protected unless absolutely necessary, with ample brownfield sites in the city that should be developed first;
- A nearby site at Loirston has already been identified for a new community. It should be built out before allocating land west of the A92;
- The city's housing market is saturated and no further housing is required.

Cumulative Impacts

- The development would contribute toward the cumulative, incremental erosion of the green belt;
- The recent expansion of Portlethen to the west of the A92 and of Badentoy Industrial Park means there is no scope for the southern extension of the green belt outwards to compensate for the loss of green belt within the city.

Transport & Accessibility

- The development of the site for housing would be unsustainable as it would be almost entirely accessed by car, contrary to the Council's 'Green' policies;
- The site is poorly served by public transport;
- The proposed walking and cycling provision would be used for recreation but would not be suitable for practical daily use, particularly by users with mobility issues, due to the steep gradients involved;
- The pedestrian and cycle access would be inadequate until such time as the Bridge of Dee and associated roundabouts have been upgraded as they are currently cycle and pedestrian unfriendly;
- Developer contributions should be required in order to enable upgrades to local infrastructure is active travel is to be promoted;
- The existing path from Deeside Brae to Tollohill Woods is well-used by the public and access to it should be maintained during construction works;
- The development would be spilt into two parts, with no vehicular access between the two;
- The new signalised junction onto the A92 would have a detrimental impact on traffic flows on a key arterial route into and out of the city, exacerbating existing congestion issues in the Bridge of Dee area;
- Although mitigation measures at the Bridge of Dee roundabout are recommended in the Transport Assessment, they are not noted in the applicant's plans;
- The suggested mitigation measure of widening the road widths at the Bridge of Dee roundabout would impact detrimentally on pavement widths in the area;
- The width of Leggart Terrace was reduced on entry to the Bridge of Dee roundabout a few years ago yet the applicant's Transport Assessment does not include this change in its simulations;
- The amount of additional traffic generated by the development would be significant;
- Access should only be taken from the A92, with no access from the Causey Mounth;
- There would be insufficient parking within the site, which would lead to overspill parking on the access road and verges;

- Each property should have access to cycle storage or a garage;

Road Safety

- The proposals would lead to increased usage of the Causey Mounth road (in both north and south directions), to the detriment of road safety (including cyclists);
- The applicant's Transport Assessment quotes crashmap.co.uk as a source of registered road accidents in the area, but that website only includes accidents reported to the police and not more minor accidents.

Access to facilities and amenities

- The site has no nearby facilities and/or amenities such as schools, retail, health, hospitality and leisure.

Landscape

- The development (and the two blocks of flats in the western portion in particular) would eradicate the classic view of Aberdeen from the Causey Mounth/Tollohill Woods, with the Bridge of Dee and the application site in the foreground;
- The site forms an important landscaped edge to the city at present;
- The City Council previously took a decision not to extend the Deeside Brae development further south, in order to avoid it being visible from Tollohill Woods. Why is this now deemed desirable?;
- The development would have a significant detrimental impact on the landscape character of the area and on key views;
- No visualisations have been provided from receptors in the Pittfodels and East Cults areas, despite lying in the Zone of Theoretical Visibility as outlined in the applicant's Landscape and Visual Appraisal.

Procedural Matters

- The planning application was lodged in late December 2020 during the coronavirus lockdown and the festive period, at a time when the Council Planning department is closed for nearly 2 weeks. The timing of the application appears to be an attempt to avoid proper consultation with the public;
- As all residents in the Deeside Brae development would be affected by the proposals, all properties in Deeside Brae should have been notified on the application;
- Why was the application due to be considered at the Planning Committee in January / February 2021, prior to the Full Council meeting in March to discuss public consultation responses to the PALDP?;
- There was no pre-application consultation except for an insufficient online consultation held in August 2020 which lacked sufficient detail of the proposal;
- There are possible irregularities in the planning system which need to be scrutinised.

Aberdeenshire Council

- Aberdeenshire Council have formally objected to the allocation of the site in the PALDP;
- The proposal is contrary to the Aberdeenshire Local Development Plan;
- Aberdeenshire Council adhered to their Planning Officers' recommendation that the developer bid by the applicant for housing in the Shire was undesirable;
- The development would create a precedent for further housing development in the Shire;

- As Aberdeenshire Council object to the proposals and consider that an access to the site from the Causey Mounth would be inappropriate due to road safety concerns, the provision of the access is not guaranteed;
- The widening of the Causey Mounth is not desirable, nor feasible due to the narrow nature of the junction with South Deeside Road.

Environment / Natural Heritage

- The site hosts wildlife and natural habitats. The development would have a significant detrimental impact on the habitats of numerous species of animal that use the site at present;
- The development would eradicate a significant portion of Green Space Network area no. 73;
- The Den of Leggart LNCS would be compromised by the development, including from a resultant increase in human recreational activity;
- No amount of mitigation could resolve the impact the development would have on habitat connectivity;
- The development could have an adverse impact on the qualifying features of the River Dee Special Area of Conservation;
- Construction phase works could harm the Den of Leggart.

Trees

- The Den of Leggart is designated as ancient woodland and the development would cause damage to, and the deterioration of, the woodland;
- There should be a 30m buffer zone between existing trees in the Den and any new development, in order to avoid root damage and to minimise the risk of pollution to the tree roots;
- The non-motorised path across the Den would result in the loss of trees.

Design / Layout

- The development layout is not optimised and is an artefact of the irregular City/Shire boundary;
- Three storey housing would be totally out of character within the context of the surrounding area;
- The two blocks of 12m high flats, clad in white brick and zinc, would be incongruous and sited in the most prominent location within the site;
- Little attention has been paid to using suitable building materials for the new buildings, with yellow/brown buff brick not appropriate for the context of the surrounding area which generally sees mostly granite or white rendered buildings.

Air Quality

- The resultant impact on traffic flows from the new junction on the A92 would lead to an increase in localised air pollution;
- Increased air pollution could adversely affect localised edible flora.

Amenity

- The pedestrian/cycle bridge through the Den of Leggart would allow for residential properties to the north to be overlooked, to the detriment of their privacy;
- Noise emissions from increased vehicular traffic as a result of the development would have a detrimental impact on neighbouring residential properties;
- The proposal would result in the loss of the existing earth bund that lines the southern edge of the Deeside Brae development and gives protection to residents from noise from the A92;

- A row of three-storey houses adjacent to Deeside Brae would overlook existing properties and result in a reduction of natural daylight receipt;
- The increased usage of the path link into Deeside Brae would harm amenity;

Flooding and Drainage

- The large SUDS basin next to Deeside Brae would increase the risk of flooding to Deeside Brae and the Den of Leggart;
- ACC Officers flagged the Leggart Burn as being prone to a high risk of flooding in their Development Options Assessment of the development bid for the site;
- There are existing flooding issues that have affected Mill Cottage and there is concern that the development would exacerbate those existing issues.

Developer Obligations

- The developer has made no contribution toward the construction of a separate pedestrian crossing over the River Dee.

Affordable Housing

- The proposals for affordable housing would not create a sustainable integrated community, nor meet residents' current and changing needs.

Safe Routes to School

- The nearest schools are situated on the opposite side of the A92 and access for schoolchildren would be unsuitable.

Informal recreation & Health and Wellbeing

- The development would result in the loss of green space that is well-used by members of the public for informal recreation and contributes toward mental health and wellbeing;
- The development would harm the existing

Economic Benefit

- The development would be of no economic benefit to the city.

Wider Development

- The developer has the ambition to build a much larger housing development in the Banchory Devenick area, mostly within Aberdeenshire. The developer is intending on using Aberdeen City Council to secure the first phase of development, that would then set a precedent for further development in the area.

Low & Zero Carbon Technology

- The proposals do not include any environmental provisions such as solar panels, EV charge points, heat pumps etc.

Climate Change

- The proposals do not adequately address elements of the Council's Local Outcome Improvement Plan (LOIP) – principally the aim to reduce carbon emissions due to the climate change emergency;
- Any decision on the application should be delayed until after the Scottish Climate Change Assembly's recommendations with respect to fair and effective changes to Homes and Communities have been made to the Scottish Government.

Non-material considerations

- The development would have a negative impact on existing house prices;

- The proposed path between the Den of Leggart and Leggart Terrace runs over land not owned/controlled by the applicant, with no attempts having been made to gain rights over the land;
- The developer proposes to remove an existing earth bund which is not in their ownership;
- The money spent on the development would be better spent on building a better bridge over the River Dee;
- The timing of the application and the willingness of the developer to play Aberdeen City Council off against Aberdeenshire Council suggests an unethical developer who is only interested in profit with no responsibility for the greater good of the city.

Positive aspects

In addition to the above concerns and issues raised, one respondent did note that the intention to provide a dedicated pedestrian and cycle link between Tollochill Woods and Leggart Terrace is laudable.

6. MATERIAL CONSIDERATIONS

6.1 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.

6.2 National Planning Policy and Guidance

- National Planning Framework 3 (NPF3) 2014
- Scottish Planning Policy (SPP) 2020
- Creating Places (architecture and place policy statement)
- Designing Streets (2010)

6.3 Aberdeen City and Shire Strategic Development Plan 2020 (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 sustainable economic growth, the need to use resources more efficiently whilst protecting our assets and taking on the urgent challenges of climate change. To achieve those objectives, the SDP aims to:

- make sure the area has enough homes and job opportunities to support the level of services and facilities needed to maintain and improve quality of life;
- protect and, where appropriate, enhance our valued assets and resources, including biodiversity, the historic and natural environment and our cultural heritage;
- help create and support sustainable mixed communities, and the provision of associated infrastructure, which will meet the highest standards of placemaking, urban and rural design, and cater for the needs of the whole population;
- encourage opportunities for greater digital connectivity across the City Region; and,

- make the most efficient use of the transport network, reducing the need for people to travel and making sure that walking, cycling and public transport are available and attractive choices.

6.4 Aberdeen Local Development Plan 2017 (ALDP)

- B4: Aberdeen Airport
- C11: Digital Infrastructure
- D1: Quality Placemaking by Design
- D2: Landscape
- D4: Historic Environment
- H3: Density
- H4: Housing Mix
- H5: Affordable Housing
- I1: Infrastructure Delivery & Planning Obligations
- NE1: Green Space Network
- NE2: Green Belt
- 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
- T2: Managing the Transport Impact of Development
- T3: Sustainable and Active Travel
- T4: Air Quality
- T5: Noise

6.5 Supplementary Guidance and Technical Advice Notes

- Aberdeen Masterplanning Process TAN
- Affordable Housing
- Air Quality
- Flooding, Drainage and Water Quality
- Green Space Network and Open Space
- Landscape
- Materials TAN
- Natural Heritage
- Noise
- Planning Obligations
- Resources for New Development
- Transport and Accessibility
- Trees and Woodlands

6.6 Proposed Aberdeen Local Development Plan (PALDP)

The Proposed Aberdeen Local Development Plan (PALDP) was approved at the Council meeting of 2 March 2020. The PALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

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

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

The area of the site on which housing is proposed to be built is zoned as 'residential' in the Proposed Aberdeen Local Development Plan 2020 (PALDP). In the PALDP the site is also allocated as Opportunity Site (OP46), described as follows:

'Housing opportunity for 150 houses. Flood Risk Assessment required. A Habitats Regulations Appraisal is required to accompany development proposals in order to avoid adverse effects on the qualifying interests of the River Dee SAC. As part of this process it is likely a Construction Environmental Management Plan will also be required.'

The PLDP therefore supports the principle of residential development on the site.

The allocation of the site was not proposed by Officers through the Main Issues Report (MIR), therefore there were no representations received regarding the site as part of the MIR.

The allocation of the site in the PALDP at the Full Council meeting on 2 March 2020 attracted a significant number of third-party objections (189) during the public consultation period on the PALDP between May and August 2020, including a formal objection from Aberdeenshire Council.

The following policies of the PALDP are relevant to the assessment of the application:

- B3 (Airport and Perwinnes Radar)
- CI1 (Digital Infrastructure)
- D1 (Quality Placemaking)
- D2 (Amenity)
- D4 (Landscape)
- D5 (Landscape Design)
- D6 (Historic Environment)
- H1 (Residential Areas)
- H3 (Density)
- H3 (Density)
- H4 (Housing Mix and Need)
- H5 (Affordable Housing)
- I1 (Infrastructure Delivery & Planning Obligations)
- LR1 (Land Release)
- NE2 (Green and Blue Infrastructure)

- NE3 (Natural Heritage)
- NE4 (Water Infrastructure)
- NE5 (Trees and Woodland)
- R2 (Degraded and Contaminated Land)
- R5 (Waste Management Requirements in New Development)
- R6 (Low + Zero Carbon & Water Efficiency)
- R8 (Heat Networks)
- T2 (Sustainable Transport)
- T3 (Parking)
- WB1 (Health Developments)
- WB2 (Air Quality)
- WB3 (Noise)

6.7 Other Material Considerations

Den of Leggart LNCS

The Den of Leggart is designated as a Local Nature Conservation Site (LNCS).

Housing Land Audit 2020 – Aberdeen City & Aberdeenshire Councils, December 2020

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

Local Transport Strategy (2016-2021)

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

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

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

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

Access from the South – [Bridge of Dee Study – STAG Part 2 Appraisal](#)

The Access from the South study looks at various options for an alternative crossing to the existing Bridge of Dee. One option indicates a new link road from the A92 to the B9077 at Leggart Terrace, through the application site.

7. DISCUSSION

- 7.1 As described above, following legislative change there is no longer a statutory requirement for applications concerning a significant departure from the Development Plan to be subject to determination by Full Council. The Planning Development Management Committee may therefore opt to determine an application itself, or to refer the matter to Full Council. The agreed procedures require this report to make a recommendation, and it is suggested that relevant factors for consideration in reaching that include: the level of representation attracted by an application; the scale of development proposed; the nature and extent of the resultant departure from the Development Plan.
- 7.2 The scale of the proposal, at 133 units, is such that it represents a 'major development' in terms of the relevant hierarchy of developments. It is however notable that other recent applications of a similar scale and level of objection were considered by the Planning Development Management Committee, rather than being referred to Full Council.
- 7.3 As regards the nature of the departure from the Development Plan, this principally relates to the zoning of the site as Green Belt and the relevant policy NE2 not providing for residential development of this scale in this location. Whilst this clearly does represent a significant departure from the Development Plan, the site is rezoned as residential land and allocated as an opportunity Site (OP46) for 150 homes in the Proposed Aberdeen Local Development Plan (PALDP). Although the PALDP is yet to undergo Examination and thus remains unadopted at this stage, its content is a material consideration.
- 7.4 Taking account of the scale of the proposal, the level of public representation and the Proposed Local Development Plan, it is considered that the Planning Development Management Committee is equipped to provide the necessary public scrutiny via a statutory Pre-Determination Hearing and determination of the application thereafter, and that referral to Full Council would not be necessary in this instance.

8. NEXT STEPS

A hearing will be arranged in accordance with the Committee's instructions, subject to there being interest in attending from those who have made representation in relation to the application.

Following any hearing, a report will be prepared by officers for Full Council or PDMC (as per Committee's instruction). This will include an assessment of the proposed development and make a Recommendation to Members as regards determination of the application.