

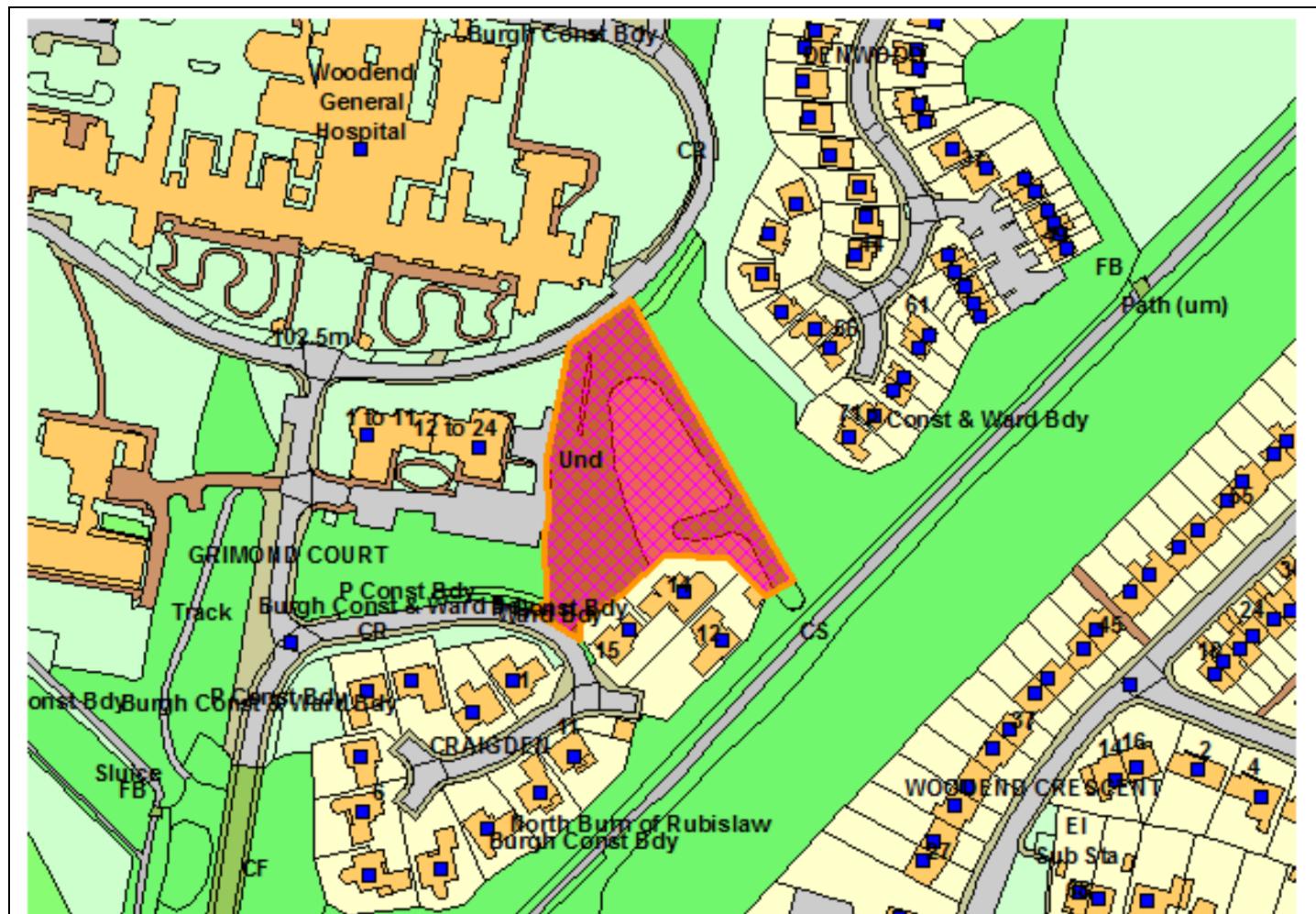


# **Planning Development Management Committee**

## Report by Development Management Manager

**Committee Date: 20 May 2021**

<b>Site Address:</b>	Land North Of 15 Craigden, Aberdeen, AB15 6YW
<b>Application Description:</b>	Formation of access, parking area and covered bike shed for allotments with associated works
<b>Application Ref:</b>	210283/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	8 March 2021
<b>Applicant:</b>	Rubislaw Estates Ltd.
<b>Ward:</b>	Kingswells/Sheddoxley/Summerhill
<b>Community Council:</b>	Woodend
<b>Case Officer:</b>	Aoife Murphy



## **RECOMMENDATION**

Refuse

## **APPLICATION BACKGROUND**

### **Site Description**

The application site extends to approximately 0.41 hectares in size and lies to the north of Queen's Road between an area of housing 'Craigden' and the Woodend Hospital site. The site accommodates an area of green open space. This is amenity space associated with the existing housing at Craigden. The topography of the site varies substantially, with the area to the west being higher than the area to the east, this is evident when looking at the residential properties that lie either side of the site, those located at Grimond Court are located higher than the detached dwellinghouses at 12, 14 and 15 Craigden, with the difference being several metres.

Mature trees surround the site. The entire site is subject to Tree Preservation Order (TPO) 251. To the south east, beyond the existing dwellings at Craigden is the North Burn of Rubislaw. In the south east corner, the land drops steeply towards the burn. Designated Core Path 27 runs alongside the burn. Within the central area of the site, the land slopes gently towards the south east and this area contains rough grass. Some garden waste has been deposited on the site and was evident at the time of the site visit.

The entrance to the site from Craigden appears to have been a former track, which is located to the south west of the site. To the north west of the entrance, and along the western boundary, the land is graded steeply up towards the flatted block at Grimond Court. The southern boundary is bound by existing garden fences, of timber construction and measuring approximately 1.8m high, which separate the site from 14 and 15 Craigden; both of which have windows at upper level on their north west elevations. The house at 14 Craigden also has a conservatory on the north east elevation, which is clearly visible in its entirety from the application site.

### **Relevant Planning History**

190815/PPP – Detailed Planning Permission for Erection of two-storey 21-bed (circa) care home with associated access, car parking and landscaping – Refused, 30 January, 2020.

98/0493 (980484) – Detailed Planning Permission for change of two house types on plots 2 and 3 approved under 97/1658 – Approved, 13 May 1998.

97/1658 (971630) – Detailed Planning Permission for construction of 94no. Residential Units, Formation of Access Road and Car Parking and Associated Works – Approved, 14 January 1998.

## **APPLICATION DESCRIPTION**

### **Description of Proposal**

Permission is sought for the formation of a vehicular access and 4 car parking spaces and bicycle storage. The proposed vehicular and cycle facilities are proposed to serve a future allotment use in the north eastern part of the site. It should be noted that the planning application site boundary extends beyond the area looking to be developed to accommodate the aforementioned facilities. Tarmac surfacing would be applied to the initial 5m section close to the junction with the adopted road, with the remainder being gravelled. The cycle shed and store would be built in timber with corrugated cement fibre roofs.

The supporting information and plans set out that the proposal is related to allotments to be formed within the site. From a recent site visit, the Planning Service can advise that the allotments have not yet been formed and the site remains open and accessible to the public. In terms of

permission for the allotments, the applicant has been advised that planning permission is not required, as the formation of allotments in this location would not constitute development. Section 26(2)(e) of the Town and Country Planning (Scotland) Act 1997 advises that the use of land for agriculture does not constitute development, therefore, planning permission is not required for this use. Additionally, Section 277 of the same Act outlines the definition of agriculture which includes horticulture and therefore includes the use of allotments. As such, the Planning Service do not require an application for the change of use from amenity ground to allotments. Through the current application therefore, only the acceptability or otherwise in planning terms of the proposed access and parking area is to be assessed.

### **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=QPGF9PBZHAG00>

Tree Survey Report, prepared by Astell Associates, March 2021.

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

The application has been referred to the Planning Development Management Committee because there have been six or more timeous letters of representation (following advertisement and/or notification) that express objection or concern about the proposal as per 1. vii of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**ACC - Roads Development Management Team** – has advised that it has no objection to this proposal.

**Woodend Community Council** – no comments received.

### **REPRESENTATIONS**

12 representations have been received (11 objections and 1 neutral). The matters raised can be summarised as follows –

- Area has been used by many as amenity ground since the first lockdown in March 2020
- Site was originally for community use and should remain as such
- Loss of designated amenity space/green space/open space
- Concerns regarding potential future development on the site
- Development required for successful allotments - sheds/paths etc. resulting in impacts on privacy
- Proposal would restrict access and reduce ability to enjoy open space
- Access to the site is unsuitable
- Increased traffic and parking at Craigden
- Lack of parking within the site
- Road network congested with parking from nearby hospital
- Road safety concerns
- Concerns raised regarding dumping within the site
- Concerns regarding environmental impact
- Loss of trees, protected by TPO (past and proposed)
- Site contains Japanese Knotweed
- Impact on wildlife and wildlife corridor linked to Maidencraig Nature Reserve

- Concerns regarding proposed deer fencing
- Concerns regarding proposed tree protection fencing
- Flood risk from proposed parking area
- Impact on the character of the amenity area
- Impact on privacy and overlooking of surrounding properties
- Lack of compliance with local policies and other guidance including Scotland's Allotment Site Design Guide 2013 and Aberdeenshire Planning Advice on Allotments
- The boundary between site and Grimond Court will need to be maintained during construction and life of the proposal and Grimond Court should not be utilised during construction for parking
- Use of allotments not requiring planning permission
- Ground conditions not suitable for allotments
- Concerns regarding commercial aspect of the proposal
- Insufficient drawing relating to Tree Survey Report

### **Legislative Requirements**

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

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

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

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

Policy T2 - Managing the Transport Impact of Development

Policy T3 - Sustainable and Active Travel

Policy H1 - Residential Areas

Policy NE1 - Green Space Network

Policy NE3 - Urban Green Space

Policy NE5 - Trees and Woodlands

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

The Proposed Aberdeen Local Development Plan was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020. The Proposed Aberdeen Local Development Plan constitutes the Council's settled view as to what the final content of the next adopted Aberdeen Local Development Plan 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 Aberdeen Local Development Plan (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 Aberdeen Local Development Plan;
- the level of representations received in relation to relevant components of the Proposed Aberdeen Local Development Plan and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. Policy NE2 - Green and Blue Infrastructure, Policy NE5 - Trees and Woodland, Policy H1 - Residential Areas, Policy T2 - Sustainable Transport and Policy T3 - Parking are relevant in this case.

## **EVALUATION**

### **Principle of Development**

The site falls within a residentially zoned area and therefore requires to be assessed against Policy H1 - Residential Areas. The entire site however is also designated as Green Space Network and functions as amenity space for the surrounding housing development, in line with the original 1998 permission. As such the proposal also requires to be assessed against Policy NE1 - Green Space Network and Policy NE3 - Urban Green Space.

With respect to Policy H1, the Local Development Plan advises that within existing residential areas, proposals for non-residential uses will be refused unless they are considered complementary to residential use or it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity. In this case the proposal would see the formation of a formal vehicular access and parking area towards the south west of the site and it is not considered that these elements would result in any conflict or nuisance on the current levels of residential amenity. The development will see a small increase in the number of people visiting the area, given what the parking area is proposed to serve but this is not considered to be so significant that it results in a conflict with Policy H1 or warrants refusal of this application. Transport and parking impacts are considered below.

Turning to Policy NE1, it aims to protect and enhance the recreational and landscape value of the Green Space Network and advises that proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted. Policy NE3 also advises that development that would see the loss of existing areas of urban green space will not be supported.

Indeed, upon reviewing this proposal at pre-application stage the applicant was advised that while the formation of the access and parking area would see the loss of some open space, the proposed use would serve the wider area of open space and encourage the use of the land by members of the public. However, since that advice was given, the Planning Service have reviewed the planning history of the site in more detail, namely planning applications 97/1658 (971630) and 98/0493 (980484) relating to the existing adjacent residential development at Craigden.

The plans relating to application 97/1658 and the later application 98/0493, show the application site designated as open space as part of the residential development. Condition 13 of 97/1658 is also relevant and reads as follows:

13. *The no development shall take place unless a scheme detailing the manner in which the open space areas, as shown on drawing nos. EWA.004 C and EWA.006.\*, is to be managed and maintained has been submitted to and approved in writing by the planning authority – in order to preserve the amenity of the area.*

The above condition was purged by the planning authority on approval of a plan showing the area with a planting scheme and a letter from the Green Belt company confirming in principle that it would adopt and maintain the open space and wooded areas. It is therefore clear that the area was approved under the above application as open space for the Craigden development. It is recognised that more recently, some types of recreational use of the area have been constrained by a lack of management. The area is also included within the Council's open space audit as part of a wider open space that includes the North Burn of Rubislaw corridor. The open space scores

16 out of 20 in the audit, which looks at a number of factors including biodiversity, sense of place, community and health, giving it a high value.

As such, it is considered that the proposed access and parking area would result in a detrimental impact on the character of the Green Space Network and would also result in the loss of an area of urban green space, which was designed to serve the surrounding residential properties.

While the proposal in itself is small scale and on its own is not considered detrimental, when coupled with the fact that it would lead to the complete loss of this area of open space from the surrounding residents, its development is considered inappropriate. While the development does not directly conflict with the criteria of Policy H1, it does conflict with the criteria of Policy NE1 and NE3, which are considered to be equally important, given the site's Green Space Network designation and function as open space associated with residential development. On balance, therefore the development cannot be supported by the Planning Service owing to the reasons highlighted above.

Notwithstanding the above, the applicant could proceed to form the proposed allotments as they do not require consent, however, this could only be done without the proposed vehicular access and associated parking area.

### **Impact on Trees**

The site contains a number of mature trees which appear to run along the site's west, north and eastern boundaries. These trees are protected by a TPO, which extends to other trees outwith the application site. There are further trees to the north east, east and south east of the site, which are not covered by a TPO. Concerns regarding the felling of trees within the site was raised by members of the public, but it is considered that no works to protected trees took place and any felling that took place was to unprotected trees outwith the site boundary.

In order to adequately assess the development impact on these trees a Tree Survey Report, Arboricultural Assessment Layout and a Tree Protection and Management Layout have been submitted. The report outlines that 37 trees were surveyed with 10 of those trees requiring to be removed for safety reasons, these are identified as trees 5, 6, 12, 20, 21, 28, 29, 29B, 30 and 36. The remaining 27 would be retained. It is also noted that trees identified as 1 and 2 on the associated drawing have already been removed.

In order to assess the proposal against Policy NE5 - Trees and Woodlands, the Planning Service need to consider the two main concerns relating to the proposed development, the first being the immediate short-term impact and the second being the longer-term impact. While only those aspects considered to be development will be assessed under this application, the Planning Service must take into account the extensive red line boundary and therefore any works to or potential impacts on trees within the TPO area also need to be considered.

It is considered that due to the sloping nature of the site it is likely that there will be an impact on trees 7 and 8 due to excavation associated with the parking area. It is likely that excavation outwith the area marked for parking/manoeuvring will be required to form a levelled parking area and to reform the banking to the west of the parking area.

In respect to other immediate impacts, these relate to the root protection areas (RPA) of the existing tree stock and specifically the work required to form the allotment sites which would require heavy cultivation. In total 80-90% of tree roots are present within the top 60cm of soil the cultivation of the allotment soil within the RPA will have the same impact as excavating the site. As such, allotment 1 would have a significant impact on the RPA of trees 18, 19, 25 and 26. Allotments 5, 6 and 7 would have a significant impact on the RPA's of trees 31-35. While trees

32-35 are currently marked for retention, as this area is designated as allotment 7 their retention is not considered compatible with the proposed use.

In light of the above, the proposed use of the site as allotments and the associated access and parking area is not considered compatible with the long-term retention of the existing tree stock. Whilst the site is south facing, it is heavily shaded for a disproportionate amount of time due to the height of the current tree stock. It is considered that the intended use of the site is unlikely to be compatible with the long-term retention of trees in their current form due to the level of shading. There are also concerns relating to future tree loss due to non-compatibility with the proposed use or unnecessary tree work to reduce canopy size which will have a negative impact on the health of the trees.

Policy NE5 sets a presumption against all activities and development that will result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. It also requires development to minimise adverse impacts on existing tree stock. The proposed layout and proposed future use will result in an adverse impact on the existing tree stock and will compromise the retention of the existing trees.

The current submission outlines several arboricultural activities within the extensive red line boundary that are not necessarily required to implement the proposed works due to their distance from the proposed access and parking area, but require to be taken into account as they fall within the application site boundary and are not deemed appropriate. If this application were to be approved, then so would these works, as such, it is considered that the proposal would not be considered compliant with Policy NE5 due to the impact on both existing and protected trees.

## **Design**

The only aspect to be considered with regards to design is the proposed bike store, overall, this are considered to be acceptable and appears to be in keeping with the character of the surrounding area.

## **Amenity**

Concerns regarding impacts on current levels of amenity have been raised through representations. However, it is expected that the impact from the proposed access or parking area would be negligible, especially considering that this area is area of open space and can be used by the public at any time during the day.

## **Access and Parking**

Access to the site would be off Craigden to the north west of number 15 and would utilise an area of ground that appears to have been a former track. Initially the proposed track was considered to be substandard, particularly as there is no footway proposed and which would not permit vehicles to pass one another, or even a pedestrian to walk around an oncoming vehicle. The Roads Development Management Team believed that an access road of at least 5m would be required, which would be suitable to be used by trailers or large vehicles that may bring in heavy goods such as soil, stones, wood, etc. Similarly, roads are required to meet at 90 degrees, however in order to avoid the embankment the access road proposed is quite meandering. In response to this, the applicant has made the road less meandering and has provided a widening at the site access to provide space for a vehicle to pull in to let an oncoming vehicle pass. It is considered that given the nature of what is proposed for this site that this is an appropriate compromise.

There was a further query regarding the level of parking proposed and the applicant's decision to have 4 parking spaces for 9 allotments. The applicant has stated that, due to a lack of explicit standards, they looked to existing allotment sites in Aberdeen, and have provided parking on this site at a ratio of 1 space for every 2 allotments. This is considered to be reasonable.

The turning head should extend 0.5m past the last parking space to facilitate ease of use and this has been provided with the submitted drawings. The southern arm of the hammerhead is less than 3m in width which seems particularly narrow. On top of this the covered bike shed is adjacent to the carriageway and there should be at least 0.5m clearance to prevent collisions. The applicant has provided details regarding this and all aspects are considered acceptable.

As a further note, the Roads Service has advised that this site would be subject to a Section 56 Roads Construction Consent application. As part of this the gradients, widths, alignment, etc. would all be reviewed and, as such, these features are not checked in detail at this stage.

In light of the above, it is considered that the proposal complies with Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel.

### **Representations**

The following concerns have been raised through representations; all concerns not already addressed above will be considered below.

- Area has been used by many as amenity ground since the first lockdown in March 2020 – *The use of the site as amenity ground is considered above.*
- Site was originally for community use and should remain as such – *The use of the site as amenity ground is considered above.*
- Loss of designated amenity space/green space/open space – *The use of the site as amenity grounds is considered above.*
- Concerns regarding potential future development on the site – *The Planning Service is only able to consider the proposal in front of them, any further development would need to be assessed on its own merits.*
- Development required for successful allotments - sheds/paths etc. resulting in impacts on privacy – *The only development proposed is the formation of the access road and car and bicycle parking, any further development required is likely to require planning permission, the assessment of which will assess impacts on amenity.*
- Proposal would restrict access and reduce ability to enjoy open space – *The use of the site is not changing but it is accepted that the proposed allotments would reduce the public's ability to use this area for recreation purposes. However, this aspect cannot be assessed as the allotments do not require planning permission.*
- Access to the site is unsuitable – *The access has been assessed by the Council's Roads Development Team and no concerns have been raised.*
- Increased traffic and parking at Craigden – *Given the size of the site, it is not anticipated that there would be a significant increase of traffic to the area and an adequate level of parking has been provided for within the site.*
- Lack of parking within the site – *This aspect has been assessed by the Council's Roads Development Team and no concerns have been raised.*
- Road network congested with parking from nearby hospital – *This was not raised as a concern by the Council's Roads Development Team. Should indiscriminate parking be an issue Police Scotland should be contacted.*
- Concerns raised regarding dumping within the site – *It is acknowledged that some waste has been deposited in the site, which appears to be garden waste, it would be for the owner of the site to have this removed and ensure that dumping does not take place on site.*
- Concerns regarding environmental impact – *Impacts on trees have been considered above. Given the scale of the development proposed, it is not considered necessary to request any surveys, overall, it is considered that any impact will not be significant.*
- Loss of trees protected by TPO – *This aspect has been addressed above.*

- Site contains Japanese Knotweed – *The applicant has provided information advising that there is no Japanese Knotweed on site and should any be found, it would be for the applicant to dispose of this in the correct manner and in consultation with SEPA.*
- Impact on wildlife and wildlife corridor linked to Maidencraig Nature Reserve – *It is not considered that the development proposed will impact on any wildlife corridors.*
- Concerns regarding proposed deer fencing – *It is noted that the submitted Tree Survey refers to a deer mesh fence to be erected, however, no details regarding this aspect has been submitted with this application. Therefore, this aspect cannot be considered by the Planning Service, should a fence be proposed then details of this would be required and it is likely that planning permission would be needed.*
- Concerns regarding proposed tree protection fencing – *When works are proposed in the vicinity of trees be they protected or otherwise, tree protection fencing would be required, however, this is only for the period of construction or works and should be removed from the site thereafter.*
- Flood risk from proposed parking area – *The access road and parking would require to be internally drained so as not to increase the risk of flooding to other areas.*
- Impact on the character of the amenity area – *This has been addressed above.*
- Impact on privacy and overlooking of surrounding properties – *This has been addressed above.*
- Lack of compliance with local policies and other guidance including Scotland's Allotment Site Design Guide 2013 and Aberdeenshire Council's Planning Advice on Allotments – *As noted above the formation of allotments does not require planning permission as such this is not a material consideration, however, the applicant should bear in mind the details within the 2013 Design Guide, but as this is not legislation there is no requirement to do so. With regards to Aberdeenshire Council's Planning Advice on Allotments, the Planning Service cannot comment on this as it is guidance relating to another planning authority and not a material consideration in the assessment of this application.*
- The boundary between the site and Grimond Court will need to be maintained during construction and life of the proposal and Grimond Court should not be utilised during construction for parking – *The proposal does not contain any works to the between the site and Grimond Court. With regards to parking within Grimond Court, this will for the construction team to ensure there is no impact.*
- Use of allotments not requiring planning permission – *This has been addressed above.*
- Ground conditions not suitable for allotments – *This is for the applicant to consider and not a material consideration.*
- Concerns regarding commercial aspect of the proposal – *This is for the applicant to consider and not a material consideration.*
- Insufficient drawing relating to Tree Survey Report – *The submitted information is considered to be sufficient to assess the potential impact on the trees, which has been outlined above.*

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

In relation to this application, the policies in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan and the proposal is recommended for refusal in terms of both Plans for the reasons previously given.

### **Conclusion**

While the proposed development would not directly conflict with the criteria of Policy H1 - Residential Areas, it is considered that the development would have an unacceptable impact on the character of the Green Space Network and result in the loss of an area of designated open space with the amenity value, which is not compliant with Policy NE1 - Green Space Network or Policy NE3 - Urban Green Space. The works and activities required to be undertaken to protected trees are not considered appropriate when assessed against the criteria of Policy NE5 - Trees and Woodlands. While the proposal is compliant with Policy T2 - Managing the Transport Impact of

Development and Policy T3 - Sustainable and Active Travel, it is considered that overall the proposed development is unacceptable and there are material considerations that warrant the refusal of this application.

## **RECOMMENDATION**

Refuse

## **REASON FOR RECOMMENDATION**

1. The proposed works are contrary to Policy NE1 - Green Space Network and Policy NE3 - Urban Green Space of the Aberdeen Local Development Plan 2017, in that the proposal would erode the character of the Green Space Network and would result in the loss of an established area of urban green space, which directly serves the surrounding residential properties.
2. It is considered that the proposed works and activities within the application site would result in an adverse impact on the existing tree stock and would compromise the retention of the existing trees to the detriment of nature conservation, local character and amenity and climate change mitigation and the information submitted is not considered to be sufficient to negate any concerns. As such the development is not considered to be compliant with Policy NE5 - Trees and Woodlands of the Aberdeen Local Development Plan 2017.