

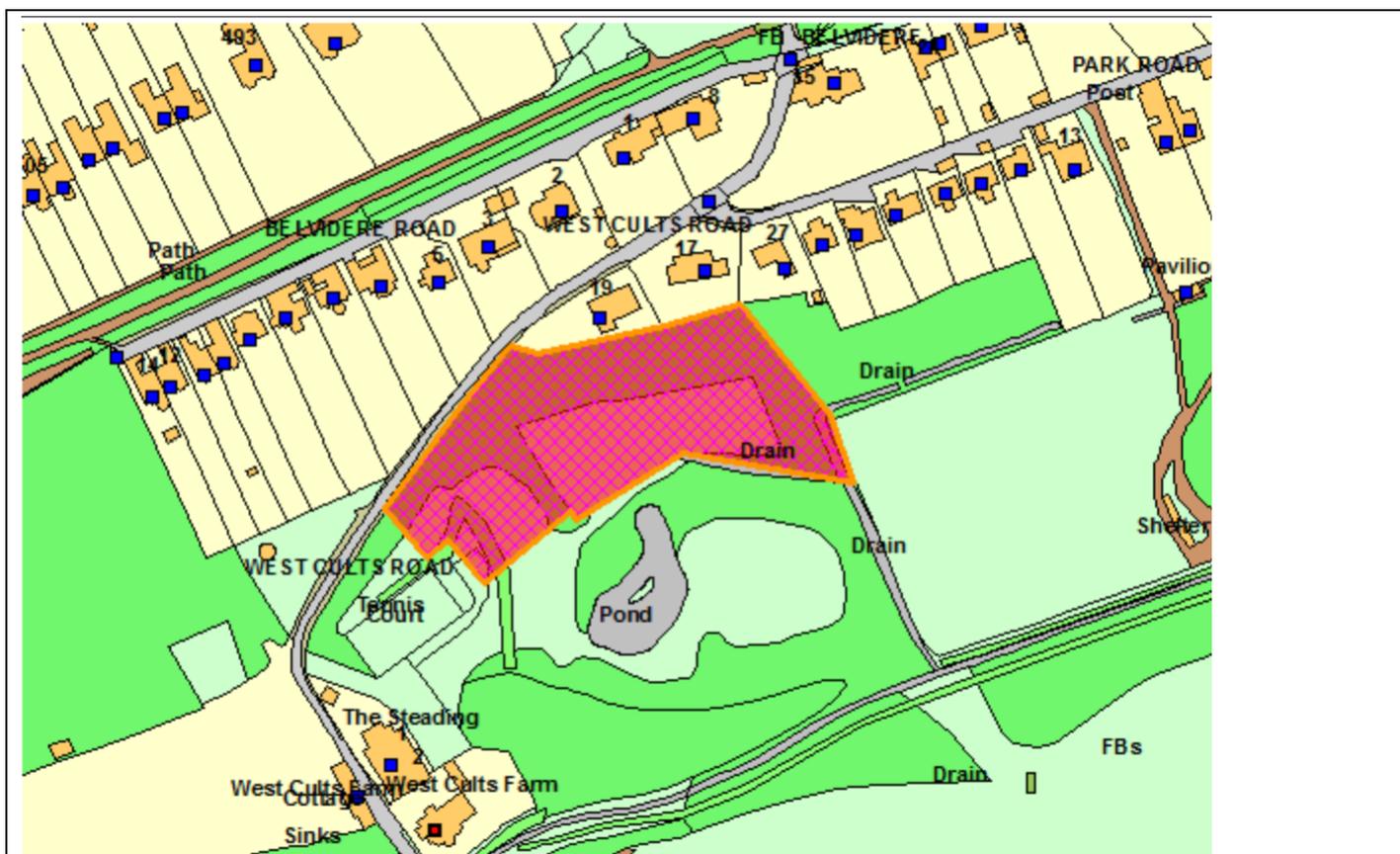


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 17 February 2022

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| Site Address: | West Cults Farm, West Cults Road, Aberdeen, AB15 9HQ |
| Application Description: | Erection of dwelling house |
| Application Ref: | 211490/PPP |
| Application Type | Planning Permission in Principle |
| Application Date: | 18 October 2021 |
| Applicant: | Mrs Gillian McLeod |
| Ward: | Lower Deeside |
| Community Council: | Cults, Bieldside and Milltimber |
| Case Officer: | Dineke Brasier |



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site comprises an irregular shaped area extending to c.0.98ha located in the Green Belt. It is positioned to the south east of West Cults Road, to the south of the residential area of Cults, and c.400m to the north west of the River Dee. Although the site boundary adjoins existing housing on West Cults Road, it sits at a lower level and is not visually connected.

Adjacent to the site, West Cults Road at this point narrows to a single track private road. There is a distinct drop in levels between this road and the application site, which itself mainly consists of a central grassed area with trees along the boundaries. An existing field drain runs directly from the site towards the River Dee Special Area of Conservation (SAC), which is c.400m to the south east.

Relevant Planning History

110284 – Residential development – Withdrawn on 17th January 2014

APPLICATION DESCRIPTION

Description of Proposal

Planning permission in principle is sought for the erection of a single detached dwelling. As the application is for planning permission in principle, only a site plan showing the indicative position of an access and location of the dwelling has been submitted. This plan shows the dwelling to be located centrally within the plot with a vehicular access taken from West Cults Road at the north west boundary and a curved driveway leading up to the dwelling. A detached garage and vehicular turning area are shown.

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=R10UWYBZH1900>

1. Supporting Statement by the agent, dated January 2022, setting out their justification for the proposed development. It also states that the applicant did not wish to submit any additional information at the PPP stage, following a request by the Planning Service..

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than six letters of objection have been received.

CONSULTATIONS

ACC - Roads Development Management Team – No objection in principle. The site is located in the outer city and does not lie within an area of controlled parking. As this is only an application for 'Planning Permission in Principle' no exact details on the number of bedrooms is available. Parking provision should be provided on-site in line with ACC Supplementary Guidance.

West Cults Road is a private road and the driveway access shall take access from this private road. There will therefore be no amendments to any adopted roads, footways and kerbing required to be carried out by ACC Road Maintenance Unit.

ACC - Environmental Health – No observations

ACC - Waste and Recycling – No objection. General comments in relation to the number of bins required and method of collection.

Archaeology Service (Aberdeenshire Council) – No comments following consideration of the nature of the development, topography of the land and the known sites within the wider landscape.

Scottish Water – No objection. General comments in relation to capacity at Invercarnie Water Treatment Works and Nigg PFI Waste Water Treatment Works.

SEPA – Objects to the application based on the information currently available.

The site is partly within the functional floodplain based on the SEPA Flood Maps. This indicates that there is a medium risk of flooding from the River Dee. SEPA has multiple records of flooding nearby. More information is therefore requested, including:

- Current and proposed development site and finished floor levels related to nearby watercourses;
- Appropriate photographs and/or any nearby historical flood levels;
- Topographic level information including cross sections across the watercourse (including the channel bed levels, and bank levels of the opposite bank), upstream, downstream and adjacent to the site.

If this information is insufficient to provide a robust assessment of the risk of flooding to the proposed development, then a detailed Flood Risk Assessment may need to be carried out by a suitably qualified professional.

If the watercourse that runs along the southern site boundary is proposed to be culverted, then additional information on that aspect of the proposed development is also required.

Cults, Bielside And Milltimber Community Council – No response received

REPRESENTATIONS

A total of 18 letters of objection have been received, raising the following matters:

1. Proposed development is not consistent with policy NE2 (Green Belt) of the 2017 Aberdeen Local Development Plan;
2. Site is liable to flooding and is located outside the flood defences for the farmhouse and steading at the bottom of West Cults Road;
3. No street lighting or pavement on this section of West Cults Road so unsafe for pedestrians;
4. West Cults Road is a single track road but used as a rat run;
5. Large area of dense vegetation and wildlife habitat which forms a wildlife corridor will be destroyed. Adverse impact on a wide diversity of species, including endangered;
6. Construction traffic will impact on amenities and access in the area. Due to the nature of West Cults Road, they would require to use Park Road, which, due to the number, size and weight of construction vehicles required would be completely destroyed;
7. Applications for developments in the lower half of a garden in Belvedere Road and the old Cults curling pond at the bottom of West Cults Road were refused;
8. Adverse impact on property values of neighbouring dwellings.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

National Planning Policy and Guidance

Scottish Planning Policy – paragraphs 49-52 setting out function of the green belt and types of development that could be appropriate in such locations.

Development Plan

Strategic Development Plan

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

Local Development Plan

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

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

The following policies are relevant –

- D1 – Quality Placemaking by Design
- T2 – Managing the Transport Impact of Development
- NE1 – Green Space Network
- NE2 – Green Belt
- NE5 – Trees and Woodland
- NE6 – Flooding, Drainage and Water Quality
- NE8 – Natural Heritage
- R6 – Waste Management Requirements for New Development
- R7 – Low and Zero Carbon Buildings, and Water Efficiency
- C11 – Digital Infrastructure

Supplementary Guidance

- Flooding, Drainage and Water Quality
- Natural Heritage
- Transport and Accessibility

Trees and Woodlands

Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

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

D1 - Quality Placemaking

D2 - Amenity

NE1 – Green Belt

NE2 – Green and Blue Infrastructure

NE3 – Our Natural Heritage

NE4 - Our Water Environment

NE5 – Trees and Woodland

T3 - Parking

R5 - Waste Management Requirements for New Development

R6 - Low and Zero Carbon Buildings, and Water Efficiency

C11 - Digital Infrastructure

EVALUATION

Principle of Development

The site is located in an area designated as Green Belt in the 2017 Aberdeen Local Development Plan and policy NE2 (Green Belt) applies. This policy sets out that *'No development will be permitted for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration; or landscape renewal.'* These types of development considered acceptable in a green belt setting are consistent with those set out in Scottish Planning Policy paragraph 52.

This proposal is for the construction of a new, additional dwelling in the Green Belt, and thus does not fall within any of the categories listed above. Policy NE2 continues with setting out various exceptions to the policy, however, none of these exceptions provide for the construction of an additional new dwelling in the green belt. As such, the principle of the proposed development would not comply with this policy, and the proposal is considered contrary to the requirements of both policy NE2 (Green Belt) and Scottish Planning Policy.

The applicant in their supporting statement sets out that they currently own the property known as Bradley Cairns (West Cults Farmhouse) at the bottom of West Cults Road and had intended to retire to that dwelling. However, the property has been flooded in recent history, making it unable to insure and as such they now wish to construct a new dwelling. This in itself is not considered sufficient justification to allow a departure from policy NE2 (Green Belt) to construct an additional dwelling in the green belt. The supporting statement also suggests that the application site can be

considered as domestic curtilage due to the existence of a summerhouse and use of the land by neighbours as extended garden areas. The Planning Service does not agree with this view and considers the site to be unused land within the Green Belt.

Impact on trees and woodlands

Policy NE5 (Trees and Woodlands) sets out that there is a presumption against all 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. This policy is supplemented by Supplementary Guidance on Trees and Woodlands (SGTW), which provides guidance and criteria on when tree surveys, arboricultural impact assessments and tree protection plans should be submitted, and what information they generally should contain. This guidance does not make any distinction between the level of information to be provided as part of a detailed planning application or application for planning permission in principle. Sufficient information is, however, required in order to assess the potential impact, or absence of any impact of development on the existing trees and woodland.

In this case, the application site is surrounded by a tree belt along all boundaries, including along the north west boundary fronting onto West Cults Road, where the proposed vehicular access into the site would be constructed, with additional clusters of trees throughout the centre of the site. It is considered that these trees contribute significantly to nature conservation, landscape character, local amenity and climate change adaptation and mitigation, in line with policy NE5 as set out above.

The Planning Service therefore requested that a tree survey, arboricultural impact assessment and tree protection plan be submitted to enable adequate assessment of the proposal against policy NE5 and SGTW. Notwithstanding its non-compliance with policy NE2 as set out above, this additional information was considered necessary to establish whether any development on the site would be compatible with the above policy. Following various requests, and as set out in their supporting statement, the applicant has not submitted this additional information. It is not acceptable to provide this information at a later stage in the process.

As there is no information demonstrating otherwise, it is considered that the proposal would pose a significant risk in terms of the loss of and impact on existing trees and woodland within and around the edges of the site. The proposal would appear to require a significant number of trees to be removed and proposes no replacement planting resulting in an overall net loss of tree cover. This would be in direct conflict with the Planning Authority's duty to ensure where possible that adequate provision is made for the preservation of existing tree stock or planting of trees. Due to the lack of arboricultural submissions, it is not possible to determine the overall level of impact on the existing tree stock, and how damage to the tree stock will be avoided throughout the construction phase. However, it appears highly likely that the development will result in the significant loss of and/or damage to trees. The proposal, based on the information currently available, and in the absence of information indicating otherwise, is therefore considered to be contrary to the requirements as set out in policy NE5 (Trees and Woodlands) and SGTW.

Impact on Green Space Network and Natural Heritage

The site is located within the green space network and part of a 'core' green space network covering a large area including the River Dee, Newton Dee Estate, Deeside Golf Course and Allan Park, and policy NE1 (Green Space Network) applies. This policy sets out 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. Green Space Network can carry various functions, including, but not limited to, formally designated natural heritage sites; a diversity of habitats and their connectivity; woodland, hedgerows and individual trees; and water bodies.

This undeveloped area, set within broadleaved woodland, represents an important habitat for

wildlife, particularly in association with the surrounding trees, including bats and potentially other protected species. Policy NE8 (Natural Heritage) therefore also applies. This policy sets out 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 measures where necessary. Therefore, and as set out in relation to trees above, even though the principle of the proposed development is considered non-compliant with policy NE2, additional information is required to establish whether any development on the site would have an adverse impact on protected species and their habitat and the core function of the green space network in this area as a wildlife corridor and habitat.

To that effect, the Planning Service requested submission of an Ecological Impact Assessment, including a preliminary bat roost assessment for any potentially affected trees. As with the tree survey and associated information, the applicant confirmed that they are not prepared to submit that information for this planning permission in principle application. As such, insufficient information is currently available to assess the impact of any development on the site against policies NE1 (Green Space Network) and NE8 (Natural Heritage). Based on the information currently available, and in the absence of information to the contrary, the proposal is therefore considered to have an adverse impact on the quality and would result in the erosion of the character of the Green Space Network, and is likely to have a detrimental impact on protected species – and would thus not comply with the policies listed above.

It should be noted that bats in particular are a species protected by law, and that the Planning Authority has a statutory duty to ensure that no development will have an adverse impact on this protected species. As no information is available in relation to the presence of bats within the application site, it is not possible to make this judgement and the Planning Authority would not meet this statutory duty if the application were approved on the basis of the information currently available.

Habitats Regulation Appraisal and the River Dee Special Area of Conservation (SAC)

Policy NE8 (Natural Heritage) sets out that in all cases, a development that is likely to have a significant effect on a Natura site, either alone or in combination with other plans or projects, will require an appropriate assessment (under the Habitats Regulation) to demonstrate that it will not adversely affect the integrity of the site.

In this case, the field drain that runs parallel to parts of the south and east site boundaries are part of a system of field drains that run directly towards the River Dee SAC, which lies only c.400m from the application site. It is therefore necessary to consider whether the proposal would have any impact on the qualifying species of the SAC through a Habitats Regulations Appraisal (HRA), either during the construction or operational phases. An initial HRA and subsequent Appropriate Assessment of the proposed development was undertaken by the Planning Service. This concluded that even though there was the potential for the proposal to have a significant effect on the SAC, this could be mitigated through the use of Matters Specified in Conditions applications requesting details in relation to the position and method of SUDS, and through submission of a Construction Environment Management Plan to avoid any adverse impact on the SAC due to siltation and pollution of the field drains during construction.

Flooding

Policy NE6 (Flooding, Drainage and Water Quality) sets out that development will not be permitted if it would increase the risk of flooding; or would be at risk from flooding. It further sets out that a Flood Risk Assessment will be required where a development is likely to result in a material increase in the number of buildings at risk of flooding.

The southern part of the site falls within the functional floodplain of the River Dee and has a low to medium risk of flooding as set out in the latest SEPA flood risk maps. There are multiple records of

flooding within the immediate area within the last 20 years. Based on the current amount of information available, SEPA object to the proposal. The Planning Service therefore requested the submission of a Flood Risk Assessment in accordance with the requirements of policy NE6 as set out above. However, the applicant confirmed that they are not prepared to submit this information as part of this current application. As such, insufficient information is available to assess the impact of the proposal in relation to flooding, and the proposal is considered not to comply with the criteria part of policy NE6 and associated Supplementary Guidance 'Flooding, Drainage and Water Quality'.

Access

The proposed development would see the creation of an additional vehicular access onto West Cults Road. West Cults Road at this point is a narrow single track lane, with sharp, poor-visibility bends leading up to its junction with North Deeside Road and no separate pavement.

Roads Development Management do not object to the principle of the proposal, however further information would need to be submitted as part of a MSC application to confirm how the proposed access into the site would be constructed (e.g. levels and visibility splays) and that it is not certain that any such MSC application could be supported. As such, given this planning permission in principle application would need to ensure that the level of development and the proposed access can be satisfactorily accommodated in some form a levels survey was requested as part of this current application to ensure no unacceptable situation would arise which could not be resolved at MSC-stage. This information has not been submitted, and as such, the Planning Service is not in a position to determine whether the vehicular access can be constructed to an acceptable standard taking account of comments from Roads Development Management, or whether any engineering works required to construct the access would have an acceptable visual impact on the character and appearance of the surrounding area given the significant change in levels between the central part of the application site and West Cults Road or result in the unacceptable loss of trees.

Given this information, requested along with the other information discussed previously, has not been submitted, it is considered that insufficient information is currently available to assess the impact of the proposed vehicular access onto West Cults Road against the criteria of both policy T2 (Managing the Transport Impact of Development) and D1 (Quality Placemaking by Design), and Supplementary Guidance on Transport and Accessibility, so the current application is contrary to these policies.

Proposed Aberdeen Local Development Plan

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

Matters raised in representations

1. Proposed development is not consistent with policy NE2 (Green Belt) of the 2017 Aberdeen Local Development Plan – *This has been addressed in the evaluation above;*
2. Site is liable to flooding and is located outside the flood defences for the farmhouse and steading at the bottom of West Cults Road – *This has been addressed in the evaluation above;*
3. No street lighting or pavement on this section of West Cults Road so unsafe for pedestrians – *This has been addressed in the evaluation above;*
4. West Cults Road is a single track road but used as a rat run – *This has been addressed in the evaluation above;*
5. Large area of dense vegetation and wildlife habitat which forms a wildlife corridor will be destroyed. Adverse impact on a wide diversity of species, including endangered – *This has been addressed in the evaluation above;*
6. Construction traffic will impact on amenities and access in the area. Due to the nature of West

Cults Road, they would require to use Park Road, which, due to the number, size and weight of construction vehicles required would be completely destroyed – *Construction traffic is not a material planning consideration*;

7. Applications for developments in the lower half of a garden in Belvedere Road and the old Cults curling pond at the bottom of West Cults Road were refused – *All applications are assessed on a case-by-case basis*;
8. Adverse impact on property values of neighbouring dwellings – *This is not a material planning consideration*.

Recommended Matters Specified in Conditions

The application is recommended for refusal. However, in the event that Members are minded to approve the application, then it is requested that the following matters are covered through subsequent Matters Specified in Conditions applications:

1. Detail on siting, layout, design and materials;
2. Detail on landscaping, including surfacing materials and boundary treatments;
3. Details on existing and proposed levels;
4. Detail on vehicular access, including detailed levels survey and visibility splays;
5. Submission of tree survey, arboricultural impact assessment and tree protection plan;
6. Submission of ecological impact assessment, including a preliminary bat roost survey for any potentially affected trees within the development site;
7. Submission of a flood risk assessment;
8. Submission of detailed information on SUDS and drainage;
9. Submission of a construction environment management plan.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

1. That the application site lies within the Green Belt, and the proposal is for a new additional dwelling. Additional dwellings are not permitted through any of the exceptions set out in Policy NE2 (Green Belt) of the 2017 Aberdeen Local Development Plan, or policy NE1 (Green Belt) of the 2020 Proposed Development Plan. The proposed development is therefore contrary in principle to Green Belt Policy. There are no other material planning considerations that would justify a departure from these policies;
2. That the application site contains a number of mature and semi-mature trees. To enable assessment of the proposal on these trees, additional information by in the form of a tree survey, tree protection plan and arboricultural impact assessment is required This information has not been provided, and there is thus insufficient information to assess the impact of the proposed development on the existing tree stock within the site. The development proposal is thus considered contrary to the requirements of policy NE5 (Trees and Woodlands) of the 2017 Aberdeen Local Development Plan; policy NE5 (Trees and Woodlands) of the 2020 Proposed Local Development Plan and Supplementary Guidance on Trees and Woodlands;
3. That the application site is located within the Green Space Network; and is considered suitable as bat habitat and has the potential to offer habitat to other protected species. To enable assessment of the impact of the proposal on the Green Space Network, European protected species (including bats), and potentially other protected species, additional information by means of an Ecological Impact Assessment including a preliminary bat roost assessment is required. This information has not been provided, and there is thus insufficient information to assess the impact of the proposed development on the Green

Space Network; European and other protected species and their habitats. The development proposal is thus considered contrary to the requirements of policies NE1 (Green Space Network) and NE8 (Natural Heritage) of the 2017 Aberdeen Local Development Plan; and policies NE2 (Green & Blue Infrastructure) and NE3 (Our Natural Heritage) of the 2020 Proposed Local Development Plan;

4. That part of the application site is located in an area liable to flooding as shown on the SEPA flood risk maps. To establish the potential of flooding of the proposed development, additional information by way of suitable supporting information and potentially a flood risk assessment is required. This information has not been provided, and there is thus insufficient information available to assess the proposed development in terms of flood risk. The development proposal is thus considered contrary to the requirements of policy NE6 (Flooding, Drainage and Water Quality) of the 2017 Aberdeen Local Development Plan and policy NE4 (Our Water Environment) of the 2020 Proposed Local Development Plan;
5. That due to the change in levels between the application site and the location of the proposed vehicular access onto West Cults Road, levels survey information is required to enable assessment of the works required to construct the driveway and its visual impact on the character and amenity of the surrounding area. This information has not been provided, and there is thus insufficient information to establish the extent of engineering works and their impact on the character and amenity of the surrounding area, contrary to the requirements of policy D1 (Quality Placemaking by Design) and T2 (Managing the Transport Impact of Development) of the 2017 Aberdeen Local Development Plan; policy D1 (Quality Placemaking) of the 2020 Proposed Local Development Plan; and Supplementary Guidance on Transport and Accessibility.