

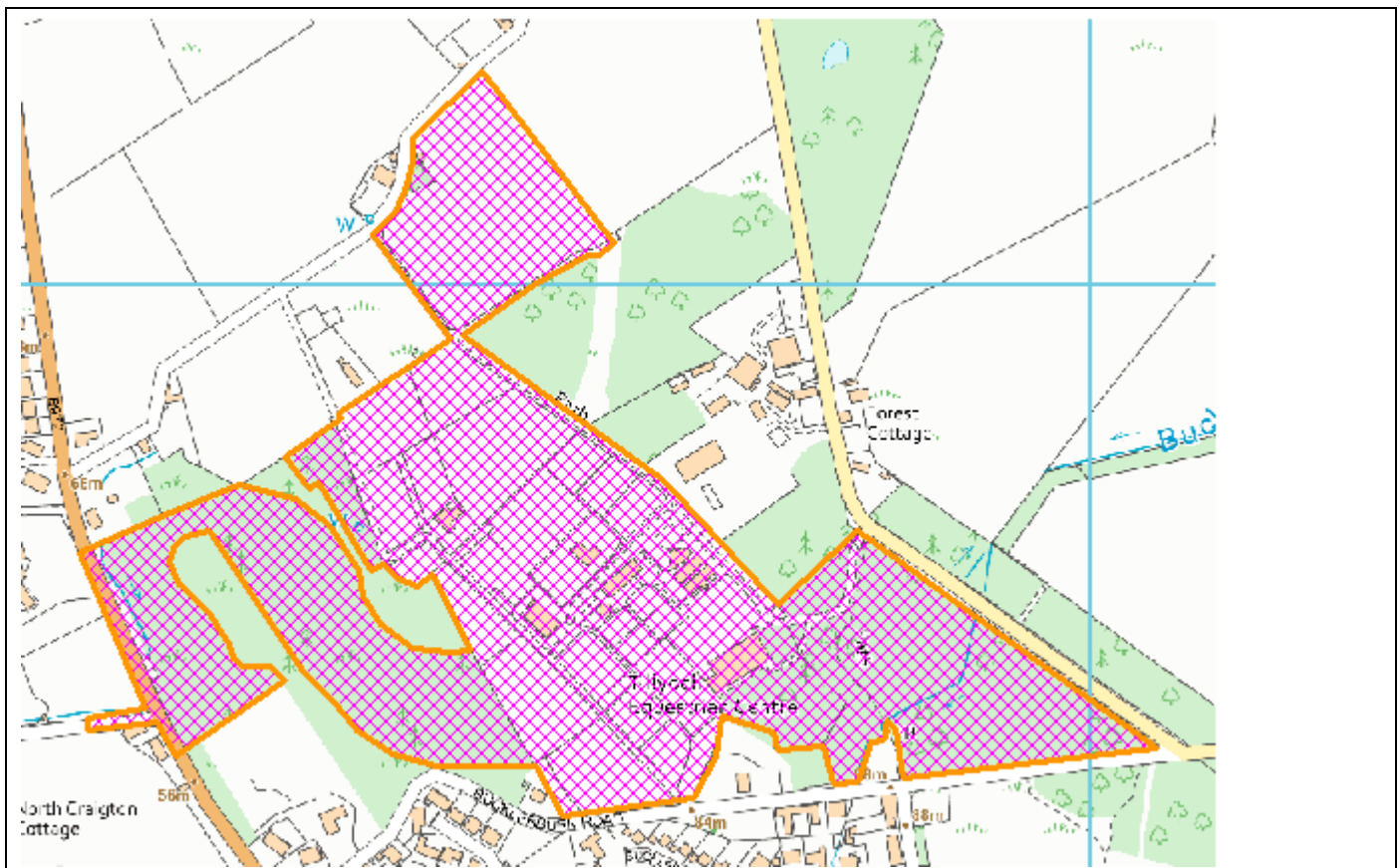


## Planning Development Management Committee

Report by Development Management Manager

**Committee Date: 25 August 2022**

Site Address:	Land at Tillyoch, Culter House Road, Peterculter, Aberdeen, AB14 0NS
Application Description:	Residential development (circa 250 units) with associated infrastructure, open space, landscaping and community facilities
Application Ref:	211699/PPP
Application Type	Planning Permission in Principle
Application Date:	1 December 2021
Applicant:	First Endeavour (Tillyoch) LLP
Ward:	Lower Deeside
Community Council:	Culter
Case Officer:	Aoife Murphy



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## **1. RECOMMENDATION**

1.1 Refuse

## **2. APPLICATION BACKGROUND**

### **2.1 Site Description**

2.1.1 The site is located to the west of Aberdeen City, to the north of Peterculter and falls within the city's designated Green Belt. The site extends to an area of approximately 19.96Ha and encompasses a large area of agricultural land, Ancient Woodland and woodland currently protected by various Tree Preservation Orders (TPO's) and the Tillyoch Equestrian Centre, comprising fields, paddocks and associated buildings. The site is also designated as Green Space Network (GSN) and the south eastern corner of the site falls within the defined Peterculter Local Nature Conservation Site (LNCS). The site comprises two parts, the Tillyoch Equestrian Centre occupying a relatively flat, elevated site with wooded backdrop, and the sloping western part of the site, that drops down from the Equestrian Centre to the B979 Malcolm Road.

2.1.2 The site is bound by agricultural land, woodland and public roads, including Malcolm Road (B979) to the west, Culter House Road to the east, Bucklerburn Road to the south and a minor road to the north. A number of residential properties are located in close proximity to the site, including Parkhill Cottage. The northern edge of the built-up area of Peterculter lies opposite the site to the south of Bucklerburn Road. Two Local Development Plan 2017 opportunity sites can be found directly to the east and south west of the site, OP109 - Woodend for 19 homes and OP52 - Malcolm Road for 8 homes, respectively.

2.1.3 While the site is not allocated within the current Aberdeen Local Development Plan (ALDP) 2017, part of it has been identified within the Proposed Aberdeen Local Development Plan (Proposed ALDP) 2020, as an Opportunity Site, OP53, a development opportunity for 250 houses. The Proposed Plan was agreed by Full Council on 2 March 2020 and is currently undergoing Examination by Scottish Ministers. While most of the site and the area in which housing development would sit is within the boundary of OP53, the proposed access road from Malcolm Road falls outwith the boundary and is therefore, located in the Green Belt and on GSN as defined within the Proposed ALDP.

### **2.2 Relevant Planning History**

2.2.1 200009/PAN – Proposal of Application Notice for a mixed-use development of affordable, council, elderly and accessible housing, home for heroes, care home and relevant community facilities – Agreed subject to additional public notification, 10 February 2020.

2.2.2 210936/PAN – Proposal of Application Notice for a major residential development (approximately 250 units) of affordable and private housing with associated infrastructure, open space, landscaping, community facilities and energy centre – Agreed subject to additional public notification, 13 July 2021. Presentation to Pre-Application Forum 30 September 2021.

2.2.3 211342/ESC – Request for EIA Screening Opinion in relation to proposed major residential development (approximately 250 units) of affordable and private housing with associated infrastructure, open space, landscaping, community facilities and energy centre – Confirmed EIA Required, 11 October 2021.

2.2.4 211513/ESP – Request for EIA Scoping Opinion in relation to proposed major residential development (approximately 250 units) of affordable and private housing with associated

infrastructure, open space, landscaping, community facilities and energy centre – Response provided 17 November 2021.

### **3. APPLICATION DESCRIPTION**

#### **3.1 Description of Proposal**

3.1.1 Planning permission in principle (PPP) is sought for a residential development of 250 units, associated infrastructure, open space, landscaping and community facilities. As the application is for PPP, finalised details of the proposed buildings, such as elevations and floor plans have not been submitted. However, a site plan has been submitted showing an indicative layout of the site and housing mix and setting out the anticipated development format and density to be considered through the current application. The site can be divided into four sections as follows:

- The northern portion of the site would accommodate 40-50 detached and semi-detached properties as well as community gardens and open space.
- The main section of the site would accommodate most of the housing including detached and semi-detached properties, terraces and some four-in-a-block flats, a community building as well as open space and play area. A bus terminus would also be proposed in this area. This section of the site would also accommodate affordable housing provision, (equating to approximately 62 units) and a SUDS area to the south of the site. Wildlife corridors and buffer planting are proposed around this part of the site.
- The south eastern area incorporates part of the existing Peterculter LNCS. No residential development is proposed in this location although a 3m wide emergency access road along with footpath and wildlife corridor connections is proposed here.
- The proposed access road would be located to the west of the residential site. A single junction would be formed on the B979 Malcom Road, with a road extending north before splitting to provide two access roads into and out of the proposed housing site which would lie to the east at a higher level. A SUDS area would also be located south east of the proposed junction with the public road.

#### **3.2 Amendments**

3.2.1 The indicative layout has been amended to increase landscape buffers and the number of wildlife corridors around the proposal.

#### **3.3 Supporting Documents**

3.3.1 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=R36PQJBZICW00>

- Planning Statement
- Pre-Application Consultation Report
- Design Statement
- Environmental Impact Assessment Report
- Environmental Impact Assessment: Non-Technical Summary
- Transport Assessment
- Tree Survey Report & Arboricultural Assessment
- Environmental Survey Report

### 3.3.2 Revisions and Further Submissions:

- Design Statement / Masterplan
- Drainage Assessment & Flood Risk Statement
- Tree Survey
- Response to Public Comments (x2)
- Roads Options Overview
- Response to Planning Service Comments (x2)
- Addendum to Ecological Impact Assessment
- Response to Environmental Policy Comments

### 3.4 Reason for Referral to Committee

3.4.1 The application has been referred to the Planning Development Management Committee (PDMC) because it is a major development in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, is considered to be a significant departure from the Development Plan, is the subject of an objection from Culter Community Council and has been the subject of more than five objections from third parties. The application therefore falls outwith the Council's Scheme of Delegation.

### 3.5 Pre-Application Consultation

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

3.5.2 The applicants held a statutory pre-application consultation event virtually due to the COVID pandemic. Consultation material was available on a dedicated website from 11 August to 1 September 2021 with feedback accepted until 8 September 2021. The online interactive event was held on 18 August 2021 from 2 to 8pm with an additional event held on 25 August 2021. The events were advertised in the local press at least 7 days prior to the event. Posters were also delivered and posted to local business and community facilities and notifications were sent to all properties in close proximity to the site as required by the Planning Service. Formal notification of the consultation was also sent to Culter Community Council and Local Ward Members.

3.5.3 Material was displayed on the website along with details of the site and the proposed development. Consultation boards were also put on display in local community facilities prior to the online event.

3.5.4 The applicant also presented to the Council's Pre-Application Forum on 30 September 2021, during which the following details were discussed:

- Housing layout;
- Tree survey;
- What community facilities would be appropriate;
- Issues in relation to traffic issues in the local area;
- Discussions with bus operators for a link into the site and to look at ways to accommodate buses in the development; and
- Replanting on the road as part of the design process.

### 3.6 Pre-Determination Hearing

3.6.1 The proposed development is classed as a 'major development' and a significant departure from the Development Plan. Under Regulation 27 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 the planning authority was therefore required to give those who made representations an opportunity to appear before and be heard by a committee of the authority at a Pre-Determination Hearing.

3.6.2 A Pre-Determination Hearing was held by PDMC on 1 June 2022. The hearing saw Members addressed by the following:

- Officers from Aberdeen City Council on the planning and roads considerations pertinent to determining the planning application;
- The applicant and the applicant's representatives;
- A representative of Culter Community Council; and
- Five, 3<sup>rd</sup> party objectors.

3.6.3 The following points were covered by the applicant's presentation:

- Need for new housing in the area, with the proposal having 25% affordable provision;
- 20-minute neighbourhoods and the development being in a sustainable location;
- Consideration to the site being brownfield due to existing development;
- Overall design approach with consideration given to existing context;
- Access road has been designed to minimise impacts on trees;
- Addition of wildlife corridors;
- Connectivity to existing links and encouragement of active travel;
- Details of the access road;
- Compliance with principle Policies NE1, NE2 and NE5; and
- Paragraph 33 of Scottish Planning Policy.

3.6.4 Questions were asked in relation to the matters of transportation, including public transport and accessibility, parking provision, electric vehicle charging points, existing boundary features, type and tenure of residential development and broadband provision.

### 3.7 **Environmental Impact Assessment**

3.7.1 The proposal was subject to an Environmental Impact Assessment (EIA) Screening Opinion issued by Aberdeen City Council. This confirmed that the project falls within Schedule 2 Class 10(b) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and required an EIA Report. A further Scoping Opinion was carried out to establish the scope of the EIA Report. An EIA Report was accordingly submitted with the planning application.

3.7.2 The EIA Report advises on the findings of an EIA carried out on the proposed development. EIA is the process of compiling, evaluating and presenting all the significant environmental impacts of the proposed development, leading to the identification and incorporation of appropriate mitigation measures. The range of potential impacts considered in the EIA Report fall under the following chapter headings: Introduction covering the proposed development; the site and need for the development and alternative sites; Ecological Impact Assessment; Arboricultural Impact Assessment; Landscape and Visual Impact Assessment; Green Belt and Green Space Network Statement; Construction Environmental Management Plan; and Transportation. Having set out the impacts of the development in each of these areas, the EIA Report seeks to outline appropriate mitigation and residual effects.

3.7.3 The EIA Report, dated December 2021, was supplemented by additional information requested in February 2022 which seeks to provide clarification to the planning authority on some aspects of the EIA Report. In May 2022 further information was requested under Regulation 26 of the aforementioned regulations in order to properly assess the ecological impact of the development proposal. This further information included a detailed description of the west woodland parcel and associated species list; a woodland National Vegetation Classification survey on the Peterculter LNCS; a Woodland Site Assessment for invertebrates; a Breeding Birds Survey; and Bat Surveys. The information was submitted in

June 2022 and resulted in further advertisements and neighbour notifications being undertaken.

#### **4. CONSULTATIONS**

**ACC - Contaminated Land Team** – notes that there is unlikely to be significant land contamination, with the greatest potential associated with the existing equestrian centre. The team notes that care should be taken to demolish these buildings to ensure land is not contaminated as a result. The Service recommends an informative that in the event of any contamination found the Planning Service are notified immediately, with the extent of the contamination investigated.

**ACC - Developer Obligations** – notes that contributions will be required and details the following:

- Core Path Network - £93,000
- Healthcare Facilities - £144,250
- Affordable Housing - 62.5 units (62 units on site and 0.5 units by a commuted sum).

**ACC - Environmental Health** – has provided comments in relation to a Construction Environmental Management Plan, dust management, air quality and noise from construction. Such information would require to be assessed by the Service at the time of a subsequent planning application or Matters Specified in Conditions (MSC) application. The Service therefore has no objection to the development at this time as these matters can be controlled by condition.

**ACC - Environmental Policy** – has significant concerns regarding the overall impact of the development on the existing Ancient Woodland and trees in the western part of the site and the resultant impact on the natural heritage of the site and the inadequate mitigation proposed. Further concerns are expressed regarding the indirect impacts on the natural heritage of the Peterculter LNCS and the GSN. Consider that the development's impact on natural heritage has been understated. Overall, the development is not considered to be compliant with the relevant policies of the current ALDP or the associated Supplementary Guidance.

**ACC - Housing** – advises that social rented accommodation is in greatest need; therefore, the affordable housing provision should be 62 units on-site as social rent. The remaining 0.5 unit contribution should be provided as a commuted sum.

The Service notes that the developer should enter early discussions with a RSL regarding the purchase of these units as social rent, noting that the exact size and type will be agreed through further discussions with the Planning Service in consultation with Housing. The proposed affordable housing should proportionally reflect the development, in that if the open market units are predominately houses then the affordable units should be the same.

**ACC - Roads Development Management Team** – has reviewed the submitted Transport Assessment as well as all subsequent information submitted in relation to accessibility and impact on local roads network and has advised that overall, it has no objection to the application subject to several conditions to be reviewed at a future MSC or subsequent application stage.

**ACC - Schools Estates Team** – the site falls within the catchment areas for Culter Primary School and Culter Academy. There is sufficient capacity at Culter Primary School to accommodate the number of pupils expected to be generated by the proposed development.

The team has also advised that no contributions would be required from the developer for Cults Academy as there is sufficient capacity.

**ACC - Structures, Flooding and Coastal Engineering** – accept the findings of the Drainage Impact Assessment and associated drawings, noting that this is a conceptual design. While the Service has no objection, a detailed assessment and drawing would be required at a MSC or subsequent planning application stage.

**ACC - Waste and Recycling** – notes the required facilities for each unit as;

- 1 x 180 litre wheeled bin for general waste 1050mmH x 546mmW x 645mmD.
- 1 x 240 litre co-mingled recycling bin for recycling 1066mmH x 575mmW x 583mmD.
- 1 x 240litre wheeled bin for food and garden waste 1066mmH x 575mmW x583mmD.
- 1x kitchen caddy and caddy liners.

The Service notes specifics in relation to the proposal which would need to be considered at the time of a subsequent MSC application:

Site plans shows cul de sac roads proposed however safety policy requires collection vehicles to be in a forward gear at all times;

- Swept path analysis would be required for plots 125-131;
- Plots 125-131 will require a hardstanding area for bins to be positioned on collection day. Bins are not to be left on the road;
- All bins to be presented at front of properties unless agreed;
- All properties facing onto car parking spaces or with a pavement at front of property will all require a hardstanding area for bins to be positioned on collection day; and
- Further 2 properties north of the development to hardstanding area at end of driveways for bins to be positioned on collection day.

**Aberdeen City and Shire Strategic Development Planning Authority** – no response received.

**Aberdeen International Airport** – advises that from an aerodrome safeguarding perspective, the proposed development could conflict with safeguarding criteria. As such the Airport has advised attaching a condition regarding further details of any development that exceeds 45m above ground level. An informative regarding the use of cranes would also be required.

**Archaeology Service (Aberdeenshire Council)** – the proposed development impacts on one site of surviving medieval/post-medieval rig & furrow (HER Ref No NJ80SW0131) and the site of a 2009 evaluation (NJ80SW0373). Given that the 2009 survey of the rig & furrow remains didn't locate any significant finds, it is unlikely that either site places any form of constraint on the proposed development.

Considering the wider landscape evidence however, due to the Bronze Age activity to the east at Beanshill and the closer medieval activity documented around Tillyoch, it is recommended that a “programme of archaeological works” condition is attached to any approval.

**Health and Safety Executive (HSE)** – the proposed development does not lie within the consultation distance of a major hazard site or major accident hazard pipeline, as such HSE does not need to be consulted on any developments within the site.

**Historic Environment Scotland (HES)** – has no comments to make on this proposal.

**NatureScot** – no comment to make on the proposal and agrees with the Planning Service’s stance on the Habitats Regulation Assessment.

**Police Scotland** – no objection but encourages the applicant to obtain the ‘Secure by Design’ award and recommends that the development achieved the Police SBD accreditation.

**Scottish Environment Protection Agency (SEPA)** – notes that the Buckler Burn flows through a forested area to the east of the site and may cause flooding. Currently this area is not proposed for development and should this remain the case, SEPA has no objection to the development. A condition is requested to ensure that no development takes place in this area. It is also noted that a watercourse adjacent to Malcolm Road should be kept free of development with an appropriate buffer zone. Further consideration could be given to green / blue infrastructure, rainwater harvesting and SUDs with biodiversity and amenity value through detailed design.

**Scottish Forestry** – state that it is unable to comment on this application due to the trees being protected by a TPO.

**Scottish Water** – has no objection, but at the time of writing cannot advise if there is sufficient capacity at the Invercarnie Water Treatment Works for a public water supply to serve the development. In relation to foul waste, there is sufficient capacity at the Nigg PFI Waste Water Treatment Works. The applicant will be required to submit a formal application to Scottish Water to obtain connection.

**Culter Community Council** – do not support the proposal due to the following:

- Capacity of medical centre;
- Capacity of schools, particularly Cults Academy;
- Destruction of Ancient Woodland;
- Impact on wildlife;
- Drainage considering the longstanding issues that the existing properties experience; and
- Roads concerns, in particular the junction with Malcolm Road and additional traffic on Culter House Road.

The Community Council also notes a number of aspects they would like conditioned or funded by developer obligations should the application be approved, related to:

- Appropriate drainage scheme;
- Appropriate junction with Malcolm Road via a roundabout or traffic lights;
- Compensatory woodland planting;
- Improved educational and medical facilities;
- Provision of buffer zones around woodland; and
- Road Safety Risk Assessment on Culter House Road.

## 5. **REPRESENTATIONS**

- 5.1 Three hundred and one (301) representations were received upon the first round of neighbour notifications and advertisements of the application from December 2021 to January 2022, of which two hundred and ninety-five (295) objected to the development, four (4) were in support and two (2) provided neutral comments. Following the submission of further information, the Planning Service re-notified neighbours and re-advertised the application during June-August 2022. This period of public consultation resulted in a further eight (8) representations, all of which objected to the proposal.



- 5.2 A total of three hundred and nine (309) representations have therefore been received in which three hundred and three (303) object, four (4) are in support and two (2) have provided neutral comments. The issues raised in all representations are summarised below:

## **Objections**

### Woodland

- Damage to protected woodland;
- Development destroys Ancient Woodland and its soil, which is already under threat;
- Loss of Ancient Woodland noted as 40%;
- Loss of and damage to trees and their roots;
- Existing Tree Preservation Orders in place;
- Woodland is an important feature and would be fragmented as a result of development;
- Woodland should be retained for people to enjoy – local amenity;
- Woodland provides greater benefit than housing;
- Previous illegal felling of woodland to make way for development;
- While felling took place, the soil is still intact – which underpins woodland;
- No appropriate mitigation proposed;
- Relocation of Ancient Woodland soil not justified;
- Replanting unacceptable;
- Replanting would take years to establish;
- Inaccurate redline boundary shown in Arboricultural Assessment;
- Application would set precedent for destroying Ancient Woodland;
- Concerns regarding intensification of recreational activity within and near the existing woodland;
- Distance of road and excavation from neighbouring property and damage to existing trees outwith site;
- Relocation of Ancient Woodland soil is not outlined as a risk in the EIA.

### Green Belt / Green Space Network / Open Space

- Damage to Green Belt;
- Existing Green Space Network designation;
- Loss of valued and used Green Belt;
- Green Belt should be protected;
- Scale of development and its location would undermine character of the Green Belt;
- Loss of valued and fracturing of green space;
- Loss of open space;
- Loss of agricultural land;
- Existing areas used by many as amenity area/for recreation (walking).

### Principle of Development

- Inappropriate location;
- Inappropriate density;
- Overwhelming scale;
- Overdevelopment of the site;
- Issue with the term “affordable housing” and how it is applied;
- Site not suitable for affordable housing;
- Insufficient provision of affordable housing;
- Low percentage of low cost housing;
- Not in line with 20 minute neighbourhood principle outlined in draft NFP4;
- Smaller development would lead to more land being left undeveloped;

- Height of development will lead to visibility due to topography;
- Existing topography of the site an issue;
- Not in keeping with landscape character;
- Impact on the character of the area;
- Little open space or landscaping proposed;
- Use of unnatural material;
- No essential need for development;
- Development dissects site and existing links;
- Development of site encourages urban sprawl, Core Path 52 is a clear boundary to north of village;
- Development will be visible in the landscape and will result in a visual impact and severe impact on landscape;
- No mention of screening to hide the development;
- Development does not meet the needs of the whole community;
- Poor quality of houses;
- This development will lead to further development into OP-52, 54 and 109.

#### Local Facilities/Amenities

- Insufficient infrastructure in Peterculter – primary school/academy, medical practice and dentist all at capacity;
- Lack of local amenities;
- Increased stress and pressure on limited local amenities, including shops and community facilities;
- No sufficient provision of infrastructure, e.g. public transport and leisure/sport facilities etc., to facilitate development;
- Poor infrastructure that cannot support proposed development.

#### Local and Natural Heritage

- Natural habitat needs to be preserved;
- Access road impacts wildlife;
- Destruction of habitats;
- Loss of and impact on habitats including protected species;
- Displacement of wildlife;
- Site within Local Nature Conservation Site;
- Potential irreparable damage to Local Nature Conservation Site;
- Biodiversity at risk;
- Development would be a barrier for wildlife;
- No appropriate mitigation proposed;
- Existing impact on local wildlife due to AWPR;
- EIA does not represent full value of wildlife/ecology – question validity of authors assessment;
- Surveys not adequate, sufficient nor do they meet guideline requirements;
- Recent EIA addendums do not address concerns regarding wildlife and ancient soil connectivity;
- Bracken is not necessarily an indicator of poor-quality habitat - species beneath;
- More detailed surveys should be requested;
- Equestrian fields are not surveyed appropriately.

#### Environment

- Environment should be protected;
- Existing capacity an issue for surface and foul water infrastructure;

- Potential flooding issues due to drainage conditions and surface water run off;
- Not a net zero development;
- Conflict and impact on climate change priorities/net zero targets, green areas should be retained and more trees needed;
- Carbon emissions and impact from development;
- Not sustainable development;
- Conflict with decision made at COP26;
- Destruction of carbon sink;
- Impact on air and water quality;
- Noise and light pollution;
- Safety concerns over SUDs provision;
- Impact on existing watercourses;  
EIA underplays environmental impact from development;
- No proper environmental assessment undertaken;
- Contamination of underground water systems;
- Mitigation not sufficient and ineffective;
- Loss of public right of way through site;
- Recent EIA addendums do not address concerns regarding wildlife and ancient soil connectivity.

#### Transport/Access

- Access road inappropriate, inadequate, poorly sited, of poor quality and will have a detrimental impact on area;
- Increased traffic and congestion;
- Limited/bad visibility and existing junction on Malcolm Road;
- Existing traffic and parking issues in Peterculter even with AWPR in place;
- Increase in commuter traffic;
- Road safety concerns due to rise in traffic;
- Reliance on vehicles;
- Existing roads/infrastructure insufficient for development and require upgrades;
- Insufficient existing/narrow footpaths and poor lighting;
- Inappropriate transport links;
- No public transport connections;
- Proposed connections do not consider topography of the site;
- Malcolm Road not suitable for pedestrian traffic;
- Intensification of pedestrians through existing housing developments;
- Topography makes access difficult - access would require significant regrading;
- Misleading cycle routes;
- Conflicts with active travel priorities;
- Development residents will use existing shorter routes, e.g. Culter House Road would be used as a rat run;
- Development would result in increase of traffic on Culter House Road;
- Design Statement does not fully consider the impact of proposed access;
- Culter House Road not included in the Transport Assessment;
- Good route out of site onto Culter House Road;
- Excessive HGV use during construction.

#### National and Local Policies

- Proposed Aberdeen Local Development Plan with Reporter – previous assessment of site undesirable and was not an allocation – site added late in the process with area to the west (access road proposal) not part of the allocation;

- Proposal does not comply with local policies;
- Proposal is contrary to national policies within Scottish Planning Policy;
- Development does not align with draft NPF4.

### General

- Not an efficient use of the site;
- Existing undeveloped brownfield sites and allocated opportunity sites elsewhere in the city;
- High number of unoccupied dwellings – 2,500 units vacant;
- Unoccupied/oversupply of properties across the city;
- Inadequate brownfield capacity study;
- City centre regeneration required;
- No need for another housing development;
- Housing projections outdated;
- Current market conditions – Countesswells Development Limited in administration as an example;
- Loss of existing equestrian facility;
- Development increases Peterculter population by 10% - demand on facilities and infrastructure;
- Proposal does not enhance existing village or area;
- Negative impact on physical and mental health and wellbeing;
- Increase in population;
- Development would create an isolated community;
- No benefit for residents or future of village;
- No employment provisions/employment sites/industrial sites nearby which encourages car usage;
- Impact on rural area;
- Too far removed from village;
- Encroachment on established homes;
- Historic surroundings;
- Site is used to graze animals;
- Neighbours not notified;
- View will be destroyed;
- Not needed due to Oil and Gas industry downturn;
- Public consultation unsatisfactory with unanswered questions;
- Decisions must be consistent e.g. Milltimber South application sets precedent and recent Leggart Brae decision;
- Existing over allocation of housing at Milltimber.

### **Support**

- Mix of housing needed;
- Good for community if development modified;
- Disappointed that it is no longer 100% affordable housing provision – 25% is good;
- Altered bus route would benefit retirement park.

## **6. MATERIAL CONSIDERATIONS**

### **6.1 Legislative Requirements**

- 6.1.1 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, unless material considerations indicate otherwise.
- 6.1.2 Section 3 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 advises that the planning authority must not grant planning permission for EIA development unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the planning authority must take the environmental information into account.

### **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 Development Plan**

#### Aberdeen City and Shire Strategic Development Plan 2020

- 6.3.1 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.
- 6.3.2 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 entire 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.

#### Aberdeen Local Development Plan 2017

- 6.3.3 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 LDP 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 LDP has been beyond this 5-year period. The Proposed ALDP 2020 has been submitted to the Planning and Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed ALDP 2020 has commenced with Reporters appointed. Material consideration will be given to the Proposed

LDP 2020, in the context of the progress of its Examination, in the assessment of planning applications.

6.3.4 Given the extant LDP is beyond its five-year review period consideration, where relevant, weight should be given to paragraph 33 of the SPP (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”.

6.3.5 The following policies are relevant –

- Policy NE1 - Green Space Network
- Policy NE2 - Green Belt
- Policy D1 - Quality Placemaking by Design
- Policy H3 - Density
- Policy H4 - Housing Mix
- Policy D2 - Landscape
- Policy I1 - Infrastructure Delivery and Planning Obligations
- Policy H5 - Affordable Housing
- Policy T2 - Managing the Transport Impact of Development
- Policy T3 - Sustainable and Active Travel
- Policy T4 - Air Quality
- Policy T5 - Noise
- Policy B4 - Aberdeen Airport
- Policy B6 - Pipelines, Major Hazards and Explosives Storage Sites
- Policy CF2 - New Community Facilities
- Policy NE4 - Open Space Provision in New Development
- Policy NE5 - Trees and Woodlands
- Policy NE6 - Flooding, Drainage and Water Quality
- Policy NE8 - Natural Heritage
- Policy NE9 - Access and Informal Recreation
- Policy R2 - Degraded and Contaminated Land
- Policy R6 - Waste Management Requirements for New Development
- Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency
- Policy CI1 - Digital Infrastructure

#### 6.4 **Supplementary Guidance (SG) and Technical Advice Notes (TAN)**

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

## 6.5 Proposed Aberdeen Local Development Plan 2020

6.5.1 The 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.

6.5.2 Within the Proposed Plan, the majority of the application site is allocated as OP53 and zoned as Residential and partially as Green Space Network. OP53 Tillyoch, Peterculter, extends to 15.25Ha and is allocated as a housing opportunity for 250 houses. The Proposed Plan also notes the following: *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.*

6.5.3 The allocation of the site was not proposed by officers through the LDP Main Issues Report (MIR), therefore there were no representations received regarding the site as part of the consultation process in respect of the MIR.

6.5.4 The site was however added as an allocation within the Proposed ALDP at the Full Council meeting on 2 March 2020 for the following reasons:

*“The final site at 1f we would like to see accommodated in the proposed plan is OP53 Tillyoch. The site received planning approval in January 2009 to develop the Tillyoch Pet Resort and Equestrian Centre. On the site presently there are 8 large buildings with a variety of uses, a large dwelling house and a cattery for 140 cats, the outdoor riding school covers around 12 acres, there is hard standing parking for 200 cars and parking for 80 horse boxes/lorries. The current zoning is greenbelt, I would kindly suggest this site is more brownfield than greenbelt. The site sits adjacent to Bucklerburn Road which goes onto School Road, access exists for pedestrians and cyclists, current approved and functioning vehicular access for the site is onto Culter House Road. The site sits between further two sites which were allocated in the 2017 LDP, OP109 for 19 houses and OP52 for 8 houses. Currently there is capacity at the Primary school, Culter Academy capacity would require to be addressed. We have given heavy weighting to the Community Council's Local Place Plan where they identified a critical need for new homes for growing families and to their response to the pre-main issues report, quoting from their response they have said “our community will wither if our vibrant young families keep having to move”. We recognise a balance needs to be achieved in protecting the natural environment and providing housing hence our intention to retain the Green Space Network on the woodland in the south east of the site. Sensitive development is required ensuring consideration is given to existing neighbours and the natural environment, this will then provide we believe, an area that will contribute to the wider community's enjoyment.”*

- 6.5.5 The allocation of the site in the Proposed LDP attracted a significant number of third-party representations (82 in total, 80 in objection and 2 in support) during the public consultation period between May and August 2020. These representations are currently unresolved until the outcome of the Proposed ALDP Examination is known, through the publication of the Report of Examination by the Scottish Government Planning and Environmental Appeals Division, expected in late 2022.
- 6.5.6 The Proposed ALDP therefore supports the principle of residential development on part of the application site. It should be noted that the area between Malcolm Road and the proposed housing, where the access road infrastructure is proposed, remains zoned as Green Belt and GSN in the Proposed ALDP.
- 6.5.7 The following policies are relevant to this proposal:
- Policy WB1 - Healthy Developments
  - Policy WB2 - Air Quality
  - Policy WB3 - Noise
  - Policy NE1 - Greenbelt
  - Policy NE2 - Green and Blue Infrastructure
  - Policy NE3 - Our Natural Heritage
  - Policy NE4 - Our Water Environment
  - Policy NE5 - Trees and Woodland
  - Policy D1 - Quality Placemaking
  - Policy D2 - Amenity
  - Policy D4 - Landscape
  - Policy D5 - Landscape Design
  - Policy R2 - Degraded and Contaminated Land
  - Policy R5 - Waste Management Requirements from New Developments
  - Policy R6 - Low and Zero Carbon Buildings and Water Efficiency
  - Policy H1 - Residential Areas
  - Policy H3 - Density
  - Policy H4 - Housing Mix and Need
  - Policy H5 - Affordable Housing
  - Policy CF2 - New Community Facilities
  - Policy I1 - Infrastructure Delivery and Planning Obligations
  - Policy T2 - Sustainable Transport
  - Policy T3 - Parking
  - Policy CI1 - Digital Infrastructure
  - Policy B3 - Aberdeen International Airport and Perwinnes Radar
  - Policy B6 - Pipelines, Major Hazards and Explosives Storage Sites

## 6.6 Other Material Considerations

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

- 6.6.1 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.

The Scottish Government's policy on the Control of Woodland Removal  
Planning Advice Note 75 - Planning for Transport (PAN 75)  
Draft National Planning Framework 4 (NPF 4) 2020



## **7. EVALUATION**

- 7.1 The application requires to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan presently comprises the Aberdeen and Aberdeenshire Strategic Development Plan 2020 (SDP) and the ALDP 2017. The emerging policy context, as set out in the Proposed ALDP 2020, approved by Council on 2 March 2020, representing the 'settled view' of the Council and currently undergoing Examination by Scottish Ministers, is also a relevant material consideration.
- 7.2 Having regard to the provisions of the Development Plan the key issues in considering the principle of development are:
- the zoning of the site as Green Belt and GSN in the current ALDP 2017, with part of the site remaining within this zoning in the Proposed ALDP 2020;
  - the zoning of part of the site in the Proposed ALDP as an Opportunity Site for 250 homes (OP53) and the relevance of Policy H1 (Residential Areas);
  - the adequacy of the housing land supply;
  - whether the development would provide a quality residential environment that is suitably connected to existing facilities in Peterculter;
  - whether the development would contribute to sustainable development;
  - the presence of Ancient Woodland and three TPO's to the east and west of the proposed residential development and over the proposed access road; and
  - the impact of the proposed development on natural heritage.
- 7.3 The site is not allocated within the ALDP 2017, however part of it has been identified within the Proposed ALDP as OP53, a housing opportunity for 250 houses. While the proposed housing development falls within the boundary of OP53, as previously noted the proposed access road from Malcolm Road falls outwith the boundary and would, therefore, remain designated as Green Belt and GSN within the Proposed ALDP.
- 7.4 In order to address each of the issues highlighted above, the principle of development will be considered below, with the following sections looking first at the proposed residential development, followed by an assessment of the proposed access road, then other aspects of the principle of development will be assessed against the relevant policies of the current ALDP and SDP. The proposal will then be assessed against the Proposed ALDP as well as any other material considerations that may be relevant.

### **Principle of Development**

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

##### **Residential Development**

- 7.5.1 The site on which the proposed residential development would be located is zoned as Green Belt and GSN within the current ALDP. As such, Policy NE2 - Green Belt and Policy NE1 - Green Space Network are relevant to the assessment of the principle of development.
- 7.5.2 The aim of the Green Belt is to maintain the distinct identity of Aberdeen by defining its physical boundaries clearly. Safeguarding the Green Belt helps to avoid coalescence of settlements and sprawling development on the edge of the city, maintaining Aberdeen's landscape setting and providing access to open space. All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials.

- 7.5.3 With the foregoing in mind Policy NE2 is explicit in stating that: *'no development will be permitted in the Green Belt 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.'*
- 7.5.4 Although there are various exceptions to the above statement, these principally apply to small-scale development associated to existing activities or essential infrastructure. There is no provision in Green Belt policy for the formation of new housing development other than replacement dwellings or the small-scale conversion of former agricultural buildings. The residential development at the scale proposed is therefore contrary to Policy NE2.
- 7.5.5 The applicant has made reference to the site being brownfield within their supporting information and it is noted that some of the site has been developed relative to the existing use as an equestrian centre and cattery, in that sheds, stables and a dwelling have been erected and areas of hardstanding formed. The term 'brownfield' is outlined in the ALDP Glossary and that of SPP, which states that *"brownfield land is defined as land which has previously been developed. The term may include vacant or derelict land; land occupied by redundant or unused buildings [...]"*. For the avoidance of doubt, areas of hardstanding are generally excluded from the definition of brownfield land with such land typically having been occupied by a building or structure of some sort. In this case the buildings are very much still in use and the site is not vacant or derelict, therefore the site does not meet the definition of brownfield. Additionally, owing to the extent of the application boundary, the site incorporates areas of woodland and fields used for grazing. As such, while the applicant is claiming the site is brownfield, overall, the Planning Service would deem the site to be greenfield, comprising land zoned as Green Belt in the ALDP.
- 7.5.6 In relation to GSN, Policy NE1 states that: *'The Council will protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the Green Space Network, which is identified on the Proposals Map. Proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted.'*
- 7.5.7 Large parts of the site to be developed are currently in use as an equestrian centre with most of the fields used as grazing and with this in mind it can be accepted that there is limited biodiversity value within this area. Importantly, however, this area functions as part of the wider GSN corridor that runs from west to east (or vice versa), linking the existing and re-emerging Ancient Woodland, to the west of the proposed residential development site, to the Ancient Woodland and Peterculter LNCS located to the east and with other woodland and habitats beyond in close proximity.
- 7.5.8 The proposed development would see housing and associated infrastructure, including roads, built on the GSN and around the northern and western edges of the LNCS and within close proximity to the existing areas of Ancient Woodland, which are also protected by TPO's. While this application is for PPP, an indicative site layout plan has been submitted showing the location of wildlife corridors and green space. It is considered that the location of these within a proposed relatively urban residential setting would not allow for the unhindered movement of species between these areas. Further assessment of this adverse impact will be outlined below, suffice to say at this point that it is considered that the development would detrimentally impact upon the function and wildlife value of the land zoned as GSN, particularly the areas around the LNCS and the existing woodland and thus would erode the character and function of the GSN contrary to Policy NE1.
- 7.5.9 The site is located in an area of Green Belt and GSN which due to its topography is clearly visible from the surrounding road network and also from further afield. It, therefore, provides

a distinct and natural green edge to Peterculter immediately to the south. It is considered that the development would significantly and permanently change the character and landscape value of this section of the GSN and Green Belt, resulting in the suburbanisation of open land, which is lightly developed and has a clear rural character and appearance. Taking the foregoing into account it is considered that the development of the site for housing would have a significant adverse impact on the Green Belt, GSN and landscape setting of Aberdeen. The reasoning behind the conclusions regarding landscape impact are detailed in paragraphs 7.20 -7.26 of this report.

- 7.5.10 In light of the above, the proposal for the formation of a major housing development on this site is considered contrary, in principle, to Policies NE1 and NE2 and its approval would represent a significant departure from the current ALDP. In circumstances such as this, where a development is considered to be contrary to the provisions of the Development Plan, Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the Planning Service to consider whether there are any material planning considerations that would allow a departure from policy. This is addressed later in this report.

#### Access Road Infrastructure

- 7.5.11 The land on which the access road would be built is zoned within the current ALDP as Green Belt and GSN, as such Policy NE2 - Green Belt and Policy NE1 - Green Space Network are relevant. The site is noted as being woodland within the Open Space Audit, is designated as Ancient Woodland and is covered in its entirety by TPO 256. As such, Policy NE5 - Trees and Woodlands is also pertinent to this aspect of the proposal.
- 7.5.12 The aims and objectives of Policies NE1 and NE2 have been outlined above and in terms of Policy NE5 it states that *“there is 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”*.
- 7.5.13 As noted above, Policy NE2 - Green Belt only allows development for essential purposes relating to specific uses. As a larger scale residential development this proposal is not one of these identified specific uses. In terms of the exceptions allowed under this policy, they principally apply to small-scale development associated to existing activities, noting that the policy does allow for essential infrastructure where it cannot be accommodated anywhere other than the Green Belt. The applicant considers that the access road is essential infrastructure. However, Policy NE2 specifically identifies essential infrastructure as developments such as electronic communications infrastructure, electricity grid connections, transport proposals identified in the LDP or roads planned through the masterplanning of opportunity sites. Although this list is not exhaustive, the Planning Service does not consider that the access meets the policy requirements in relation to essential infrastructure or small-scale development related to existing activities. Furthermore, it has not been ‘planned through the masterplanning of opportunity sites’ as the site is not yet confirmed as an opportunity site and the road has not been part of a masterplanning exercise. As such this aspect of the proposal is contrary to Policy NE2.
- 7.5.14 In terms of the GSN the development would result in the loss of trees and the destruction of natural heritage, which is of high biodiversity value. As such, it is considered that this development would conflict with Policy NE1, in that it would erode the character and/or function of the GSN. The site is also designated as Ancient Woodland and protected by a TPO. While the full assessment against Policy NE5 will be undertaken at paragraph 7.45 below, it is considered that in terms of the principle of development, the unwarranted loss of and damage to trees, which contribute to nature conservation, landscape character, local amenity and climate change adaptation and mitigation is contrary to Policy NE5.

7.5.15 The proposed formation of an access from the B979 Malcolm Road to the west of the proposed housing development is considered contrary, in principle, to Policies NE1 and NE2 and its approval would represent a significant departure from the current and adopted ALDP. Furthermore, the proposal is considered contrary to Policy NE5 of the same plan for the reasons outlined above. As with the residential development, where a development is considered to be contrary to the provisions of the development plan, Section 25 of the Planning (Scotland) Act 1997 (as amended) requires the Planning Service to consider whether there are any material planning considerations that would allow a departure from policy and this is assessed below.

## 7.6 **Aberdeen City and Shire Strategic Development Plan 2020 (SDP)**

7.6.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 states that the application requires to be determined in accordance with the Development Plan, while Section 24 states that, in a SDP area such as Aberdeen, the Development Plan comprises both the SDP and adopted ALDP, together with any supplementary guidance issued in connection with these plans.

7.6.2 There is no primacy given in the legislation to either of these plans in the decision-making process, as such relevant policies in both the SDP and the ALDP should be afforded equal consideration. However, it is accepted that as of January 2022, the ALDP is now beyond this 5-year period. As such, where relevant, weight should be given to paragraph 33 of the SPP 2020 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".

7.6.3 In this case, while the extant LDP is beyond its 5-year period, the SDP which forms the other key element of the adopted Development Plan is up to date, having been published in August 2020. While it does not identify specific development sites or allocations, as these are set out in the LDP, it does contain several key objectives and targets which it seeks to ensure are incorporated at a local level into LDP's and thus taken into consideration in the determination of applications. Some of the key objectives and targets of the SDP relevant to this application are as follows:

- For LDP's to maintain a 5-year supply of effective land for housing at all times;
- To make sure that development safeguards and, where appropriate, enhances, the City Region's historic and natural environment and that development will not lead to its loss or damage.
- The Spatial Strategy will direct development to areas that can be accessed by a greater choice of more environmentally friendly forms of transport.
- LDP policies will ensure the design and layout of new developments are easily accessed and promote movement within, and links outwith, for walking, cycling and public transport. Each of these objectives is considered in more detail below.

### Housing Land Supply

7.6.4 The SDP, formally approved in August 2020, includes a housing land allowance of 5,107 homes in the Aberdeen City area between 2020 and 2032. It is considered that this allowance can be met in the Proposed ALDP even without the allocation of OP53, as there is a sufficient number of allocations identified elsewhere in the Plan. The SDP allowances are designed to ensure that there is a continuing 5-year effective housing land supply, as required the Scottish Planning Policy. The Aberdeen City and Aberdeenshire Housing Land Audit for 2021 shows that this requirement is being met in the Aberdeen Housing Market Area - there is currently a 6.5-year effective housing land supply when measured against the SDP Housing Supply

Targets for 2021-25. When measured against the SDP Housing Land Requirement for 2021-25 (which includes a 20% generosity allowance) there remains a 5.4-year effective housing land supply.

#### Safeguarding the Natural Environment

- 7.6.5 The SDP notes the importance of protecting the green belt, stating that, *‘The green belt around Aberdeen will continue to protect the character and landscape setting of the city and make sure that development is directed to appropriate locations. It will do so whilst protecting the most important undeveloped areas that contribute to the environment and provide the city with its setting. The green belt is an area that should be positively planned for and involve integration of approach across Council boundaries.’*
- 7.6.6 As noted above, the proposal would see a significant housing development and access road built on Green Belt land, contrary to Policy NE2 of the adopted ALDP and also contrary to the aims of the SDP.

#### Sustainable and Active Travel

- 7.6.7 For the reasons noted in the section below in the evaluation on Transport Impacts, Sustainability and Access Road Infrastructure discussed at 7.34 - 7.43 below, the application site is not considered to be suitably located so as to sufficiently encourage the use of sustainable and active travel by future residents and does not therefore contribute to ‘sustainable development’. As such, the proposals are also considered to be contrary to the aims of the SDP in respect of transport and accessibility and therefore does not contribute to sustainable development as outlined in paragraph 33 of SPP.

#### Summary

- 7.6.8 The Proposed ALDP includes part of the application site as an allocated site, namely OP53, for the development of 250 homes. The application must however be considered in the context of its current Green Belt zoning within the ALDP 2017, which still stands as the adopted Development Plan policy for the site and is afforded more weight in the decision-making process than the Proposed ALDP, given that the Report of Examination has not been published and there remain outstanding objections on the allocation of site OP53. The fact that the OP53 allocation cannot be delivered in terms of the current proposal without requiring land from the Green Belt compounds this situation and reduces the weight that can be afforded to the Proposed ALDP. Further consideration is provided below on the status and weight to be given to the Proposed ALDP 2020, but for the aforementioned reasons, the proposed development is considered to be contrary to the Development Plan, comprising the SDP as and ALDP and does not contribute to “sustainable development” in terms of paragraph 33 of SPP.
- 7.7 Proposed Aberdeen Local Development Plan (Proposed ALDP)**
- 7.7.1 The Proposed ALDP 2020 represents the ‘settled view’ of the Council and is currently undergoing Examination by Scottish Ministers, as such it is a relevant material consideration. Therefore, consideration will be given to the relevant policies in order to assess the principle of development. These policies are Policy NE1 - Greenbelt, Policy NE2 - Green and Blue Infrastructure, Policy NE5 - Trees and Woodland and Policy H1 - Residential Areas.
- 7.7.2 At the meeting of the Full Council in March 2020 it was agreed to allocate land at Tillyoch as an Opportunity Site for 250 homes, OP53 – Tillyoch, and to rezone some of the current application site as a residential area, to be assessed under Policy H1 - Residential Areas, thereby removing some of the Green Belt and GSN zonings of the current ALDP. As a result, although overall contrary to the adopted ALDP for the reasons given in the foregoing evaluation, the principle of developing some of the site for housing is supported by the Proposed ALDP. The proposed road access to the site is however outwith the allocation in

the Proposed ALDP and would remain as Green Belt and GSN, as well as being designated as woodland in the Open Space Audit and accommodating Ancient Woodland and subject to a TPO.

- 7.7.3 The materiality and weight to be afforded to the Proposed ALDP is an important factor in the consideration of the current application. The Proposed Plan is described as the 'settled view', following the agreement on its content by Full Council and agreement prior to Examination which began in June 2021. It is a material consideration, however the current ALDP is given more weight in determination of planning applications.
- 7.7.4 The extant LDP takes primacy in considering planning applications unless material considerations indicate otherwise. The Proposed ALDP is a material consideration and weight can be applied to it in respect of the current application. Whilst it is with the Scottish Government for Examination, the Report of Examination is not expected until later this year, therefore adoption of the plan is unlikely to be until Winter 2022 at the earliest. As such, there is a possibility that the content of the Proposed ALDP may be altered prior to adoption, in that site allocations and policies could be amended by the Scottish Government Reporter(s) as part of the Examination process, indeed the site could also be removed as an allocation in the Proposed Plan. Therefore, it would be premature to recommend approval of this application at this time on the basis of this draft allocation.
- 7.7.5 The allocation of the site was not proposed by officers through the MIR, therefore no representations were received regarding the site during this part of the LDP process. Following the allocation of the site for housing in the Proposed ALDP by Full Council, a further period of public consultation took place over the Summer of 2020. A total of 82 representations (80 in objection) were received in response to the allocation of the site for housing in the Proposed ALDP. These representations remain unresolved and are being considered by Reporters as part of the Examination process. This, combined with the level of representation opposed to the planning application, is a significant material consideration.
- 7.7.6 Considering that the extant ALDP takes primacy and the status of the Proposed ALDP is potentially subject to change, the Planning Service must determine planning applications within the context of a Plan-led process in order to provide certainty. Given the uncertainty of the content of the Proposed ALDP in respect of the OP53 allocation at this stage, it is not possible to afford material weight to it that would outweigh conflict with Policy NE1 - Green Space Network, NE2 - Green Belt and Policy NE5 - Trees and Woodland at this time. The Proposed ALDP is not considered to be of sufficient weight to merit overriding the extant and adopted ALDP. The Planning Service is therefore giving more weight to the site's current Green Belt and GSN status, as well as the designation of part of the site as Ancient Woodland and the unaltered nature of the area where the road access is proposed in the Proposed LDP. The Planning Service therefore considers that this application is premature in terms of the LDP process, with parts of the proposal, such as the access road, conflicting with relevant principal adopted planning policies of both plans.
- 7.7.7 In terms of paragraph 33 of SPP, decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a Development Plan is more than five years old. Having given careful consideration of the proposal against the requirements of paragraph 33, leads to the conclusion that the proposal does not contribute to sustainable development due to the resultant adverse impacts on Ancient Woodland and the landscape, and the lack of access by sustainable means of transport or active travel as detailed within this report. Notwithstanding the foregoing, it is especially pertinent that the site simply cannot be developed without forming an environmentally damaging access road across land that remains zoned as Green Belt and

GSN in both the adopted and the Proposed ALDP's. The proposal remains contrary to the relevant policies outlined within both LDP's meaning that support for development offered by paragraph 33 of SPP is not considered applicable in this instance.

## 7.8 **Environmental Impact Assessment**

7.8.1 As part of the EIA Screening/Scoping process, it was considered necessary to ascertain the likely environmental impact on the Green Belt and GSN. This has been covered within a section of the applicant's EIA Report, with the report advising that due to the proposed allocation of the site within the Proposed ALDP, that that impact whilst permanent, will only result in a slight negative residual effect on the Green Belt. The EIA report also concludes that the residual effect on the GSN will be a slight positive due to the provision of mitigation in the form of green space provision, wildlife corridors, woodland preservation and proposed compensatory planting. The foregoing sections of this report have concluded that the status of the Proposed ALDP is insufficient justification for the loss of Green Belt or GSN, and that in any case, part of the site would remain unallocated under the Proposed Plan. In light of the above and for additional reasons set out further within this report, it is considered that the impact and residual effect of the development on the Green Belt and GSN would be significant and adverse.

## 7.9 **Summary**

7.9.1 In terms of the principle of development, due regard has been had to all material considerations, including the current ALDP, the SDP and the Proposed ALDP and it is considered that the proposals cannot be supported in the context of the Development Plan Strategy. The proposal clearly conflicts with the relevant policies of the current ALDP, there is no justification or need for this housing allocation at this time in terms of housing land supply and the application is premature given the status of the Proposed ALDP. The proposed access road area remains as Green Belt / GSN in the Proposed LDP. The development is not considered to be a sustainable development given its location and as such does not encourage the use of sustainable and active travel by future residents. It is not therefore considered to contribute to 'sustainable development' as referred to in paragraph 33 of SPP that allows for a suitable sustainable development to be progressed within the context of out-of-date development plan policies. The development is considered to result in a significant impact on the Green Belt, GSN, Ancient Woodland and TPO, and does not comply with the SDP or SPP.

## **Masterplan Process**

7.10 The Aberdeen Masterplanning Process TAN, indicates that masterplans will be developed for residential sites with an area over 2 hectares or 50 houses or more. Whilst the allocation in the Proposed ALDP does not identify the need for a masterplan, it was considered necessary to obtain some masterplan information from the applicant, even at this PPP stage, to understand how the proposed layout, albeit indicative, was formulated. A Design Statement Masterplan document was prepared and submitted with this application for assessment. It is considered that the updated version of this document is sufficient in being a supporting document and meeting the criteria of the TAN, however, does not allay some concerns relating to layout etc. identified below.

## **Layout, Siting and Design**

7.11 In terms of layout siting and design, Policy D1 - Quality Placemaking by Design advises that all development must ensure high standards of design and have a strong and distinctive sense of place which is a result of a detailed context appraisal, which gives due diligence to well considered landscaping and transportation opportunities to ensure connectivity. Policy H3 - Density is also important as it sets out the most appropriate density for residential sites,

whether they be allocated or windfall sites. The policy sets out a number of criteria that must be given consideration, these are as follows. The site must:

- *meet a minimum density of 30 dwellings per hectare (net). Net dwelling density includes those areas which will be developed for housing and directly associated uses, including access roads within the site, garden ground and incidental open space;*
- *have consideration of the site's characteristics and those of the surrounding area; and*
- *create an attractive residential environment and safeguard living conditions within the development.*

- 7.12 The developable area of the site is approximately 11Ha in size, across which there would be 250 residential units sited, equating to a density of approximately 22 dwellings per hectare. This figure is lower than the minimum density outlined by Policy H3. However, Policy H3 does also note that new development must have consideration of the site's characteristics and those of the surrounding area.
- 7.13 Existing developments to the south of the site, within the established Peterculter residential area, have an average density of 13 units per hectare. The areas to the west, north and east of the application site are largely greenfield land with a sporadic development pattern which consists of a mix of an occasional detached, rural dwelling and clusters of dwellings which all result in an extremely low density.
- 7.14 However, while the development may have a lower density than is required by Policy H3 and can generally be considered acceptable, there are concerns with regards to full compliance with Policy D1 - Quality Placemaking by Design and the overall layout of the development site in terms of the site's characteristics and those of the surrounding area. Whilst the application boundary largely reflects that in the Proposed ALDP, that does not mean that the whole site is necessarily appropriate for development. Cognisance needs to be taken of the six essential qualities as outlined by Policy D1, specifically that the development should be welcoming, safe and pleasant and easy to move around when arriving at a proposed layout and while this application is only for PPP the Planning Service does have some concerns at this early stage.
- 7.15 With regards to the housing area to the north, its layout does not take cognisance to its rural context, proposing a rather high density development given it is surrounded on all sides by agricultural land with appropriate buffers or landscaping not proposed, apart from a partial buffer located along the western and northern boundaries. Overall, due to the irregular shape of the site on which the residential development sits, it is considered that the parcel to land to the north would be detached and segregated from the remainder of the site and would not sit comfortably within its context. Its remote location would mean that it is removed from proposed community facilities within the site as well as being very remote from the existing facilities and amenities in Peterculter, leading to issues with sustainability, which will be considered in further detail at paragraph 7.40 below.
- 7.16 In respect to the main body of the development, again there appears to be a lack of recognition given to the surrounding rural context and there is a lack of appropriate or meaningful landscaping to enhance the setting of the new development.
- 7.17 The site currently forms part of the Green Belt and is rural in its location. In terms of the layout and siting of this development, it is considered that the proposal leads to the urban creep of Peterculter into the Green Belt, taking insufficient consideration of the existing context and characteristics particularly the northern housing area. Overall, there are



concerns at this stage regarding potential compliance with Policy D1 - Quality Placemaking by Design.

- 7.18 Policy H4 - Housing Mix requires housing developments of larger than 50 units to achieve an appropriate mix of dwelling types and sizes, including smaller one and two-bedroom units. It notes that the mix should be achieved for both the open market (mainstream) and affordable housing contributions. In this case, given the development is for PPP, no details of the finalised mix have been proposed, therefore at this time a full assessment against Policy H4 cannot be undertaken. However, should the application be approved, conditions would be required to ensure such information is submitted.
- 7.19 Policy NE4 - Open Space Provision in New Development advises that the Council will require the provision of at least 2.8ha per 1,000 people of meaningful and useful open space in new residential development. There are concerns regarding the adequacy of the proposed 3.21Ha of open space proposed owing to its location, the incorporation of the SUDs and its usability, but as this is a PPP application, a full assessment would need to be considered under a subsequent application. Overall, the proposed figure of 3.21Ha appears sufficient to meet the requirements of Policy NE4, with a full assessment being undertaken at a later date should the application be approved.

### **Landscape Character and Landscape Visual Impact Assessment**

- 7.20 Given the prominent location of the development it was considered important to request the submission of a Landscape Visual Impact Assessment (LVIA) as part of the EIA Report, to assess the potential impact of the development on the existing landscape character. As per NatureScot guidance, the landscape in this case is characterised as 'Wooded Estates – Aberdeen' the key characteristics of which are; well-wooded with large areas of broadleaf woodland, mixed plantations and policy plantings; some areas of pasture are present with these often used as horse paddocks closer to the urban area; views tend to be short range being strongly contained by woodland; and nearby urban areas are often well-screened by woodland and this can give a sense of detachment from the city.
- 7.21 In terms of the LVIA, given that the application is for PPP, there are limitations to preparing the submitted photo montages, of which there are seven, located around the development site. The submitted LVIA advises that there are no significant constraints beyond the site's designation as Green Belt and GSN, stating that there is scope to protect key aspects of these designations by maintaining woodland and tree cover to the east and south.
- 7.22 In terms of the Zone of Theoretical Visibility, the modelling prepared shows that the development will be visible for at least 5km in certain directions. To the north and east this would be restricted to approximately 1.5km to 2km due to the rising topography of the land and existing wooded features. To the south, it is likely that the site would be visible from a southern portion of Peterculter and beyond, with visibility decreasing after that due to the rising landscape. The development would be most visible from the west and north west with views across the Culter and Gormack Burn Valleys and the A93 gateway road, which is a result of the site's elevated position.
- 7.23 Seven viewpoints have been considered, these are where the potential impact on the landscape will be most significant. While there will be some visibility of the site from the south, these will not be short range views and are not considered sufficiently adverse to raise any significant concerns. From the east, views will mainly be restricted due to the existing landscape topography. However, upon reviewing the photo montages, it is considered that the areas where the development would cause the most concern in terms of visual impact are from the north (Viewpoint 1 and 2) and from the west (Viewpoint 3, 3a, 4 and 4a). From

the north, the residential development would be visible due to the topography of the site and characteristics of the surrounding area. While from the west, again owing to the elevated topography of the site, both the residential development and the proposed access road, would be clearly visible within the existing landscape. The applicant has advised that mitigation for such visibility would be buffer landscaping and planting, however, there is concern that extensive planting would be required. The planting necessary to ensure this landscape buffer, particularly around the access road is potentially unfeasible and unlikely to be able to establish itself for some time, due to the steeply sloping topography of the site, specifically when considering the necessity for step embankments and cut and fill needed for the access road and the difficulty of planting on such terrain. Additionally, the level of planting required would intake a significant area of the open space provision with the application site, which would result in issues with that aspect of the proposal.

7.24 As it stands the cumulative impact of the development on the landscape is concerning. In reaching a balanced assessment of the proposal, it is considered that there would be an adverse landscape impact should the development be approved as the landscape character would be permanently and detrimentally affected by the development with insufficient mitigation proposed.

7.25 Policy D2 - Landscape advises that developments will have a strong landscape framework which improves and enhances the setting and visual impact of the development, creates local identity and promotes biodiversity. In this case, it is considered that the development would not enhance the setting and visual impact of the area, in that extensive mitigation would be required to reduce any adverse effects, mitigation that is not deemed to be sufficient, particularly in terms of the impact of the access road. As such, the proposal is considered contrary to Policy D2 - Landscape.

## 7.26 **Environmental Impact Assessment**

7.26.1 In terms of the impact on landscape character the EIA Report looks at several categories of sensitivity to change, including visibility, building development, transportation, extraction/landfill, agricultural and forestry and recreation. The results of that assessment note that there will be no impact from transportation or extraction and landfill, a low / low (slight) impact on visibility, agricultural and forestry and recreation and a medium (moderate) impact as a result of built development. The assessment goes on to say that the site is already developed to a degree through the current land use and as long as woodland areas are protected and enhanced landscape character can be protected. Mitigation is proposed through the maintenance of tree cover on the boundaries, as well as enhancement of this element through the development proposal. The residual effects within the EIA Report state that any effect will be slight (negative/positive) – moderate (negative) depending on what aspect you are reviewing, although it notes that the change to the landscape will be permanent.

7.26.2 Overall, there is some ambiguity as to how these conclusions were reached, as noted above, the proposed development would be clearly visible within the landscape, especially from a number of viewpoints as shown in the LVIA and overall will result in the loss of approximately 20Ha of Green Belt and GSN, ultimately changing the character of the area forever. The mitigation proposed, which largely proposes compensatory planting and landscaping buffers, would take years to establish itself within the landscape and which is potentially unfeasible due to the topography of the site, with the construction of the proposed development, specifically the access road, resulting in the loss of a significant area of woodland and tree cover. As such, the Planning Service do not agree with the findings of the EIA Report in relation to this aspect and it is considered that the development would result in significant adverse effect on the landscape character of the Green Belt, in terms of the site and surrounding area and is therefore contrary to Policy D2 Landscape.

## **Developer Obligations**

- 7.27 In instances where a development would either individually or cumulatively place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, Policy I1 - Infrastructure Delivery and Planning Obligations requires the developer to meet, or contribute towards, the cost of providing or improving such infrastructure or facilities.
- 7.28 The Council's Developer Obligations team were consulted on the application and advise that the following developer obligations would be payable:
- Core Path Network - £93,000
  - Healthcare Facilities - £144,250
  - 0.5 affordable housing unit by a commuted sum
- 7.29 The Core Path contribution is required toward the enhancement of Core Paths 51, 52 and/or 86, which are located in close proximity to the application site. The Healthcare contribution is required towards the internal reconfiguration works to increase capacity at Peterculter Medical Practice or other such healthcare facilities serving the development, as existing facilities in the vicinity of the development are currently operating at or over capacity.
- 7.30 Policy H5 - Affordable Housing requires a minimum of 25% of all units in new residential developments of 5 or more dwellings to be affordable. The applicant has confirmed that 62 of the 250 units would be affordable with the remaining 0.5 units being secured by a commuted sum. The indicative site plan has shown the location of these units within the proposed site, but no details of the type of affordable housing or tenure are known.
- 7.31 Housing Strategy notes that the developer should enter into early discussions with a RSL regarding the purchase of these units as social rent, noting that the exact size and type will be agreed through further discussions with the Planning Service in consultation with Housing and at a subsequent application stage should permission be granted. However, the proposed affordable housing should proportionally reflect the development, in that if the open market units are predominately houses, the affordable units should be the same.
- 7.32 It is noted that one of the reasons this site was included in the Proposed ALDP was in order to provide family housing within Peterculter. The Council's Housing Strategy for this area does not however identify such a specific need. The requirement for affordable housing is city wide and there is no identified or urgent need for it to be located in Peterculter. The proposals meet the requirements of Policy H5 in terms of affordable housing provision, but does not offer anything over and above this.
- 7.33 In order to ensure compliance with Policy H5 and to satisfy Housing Strategy, further details of the provision would be subject to a condition at a subsequent application stage. Additionally, in order to secure the provision of affordable housing on this site, a Section 75 Legal Agreement would be required. Subject to this, it is considered that the proposals meet the requirements of Policy H5.

## **Transport Impacts, Sustainability and Access Road Infrastructure**

- 7.34 In order to assess the transport impacts, a Transport Assessment has been carried out and submitted in support of this application and a transportation chapter has also been included in the EIA Report. The Roads Development Management Team has reviewed this information and has provided a response in respect to walking and cycling, public transport,

parking, development access, internal roads layout, construction consent, local roads network, residential travel plan and safe routes to school. It is also noted that Policy T2 - Managing the Transport Impact of Development requires new developments to demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel. While Policy T3 - Sustainable and Active Travel states that: *“new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport, and the internal layout of developments must prioritise walking, cycling and public transport penetration. Links between residential, employment, recreation and other facilities must be protected or improved for non-motorised transport users, making it quick, convenient and safe for people to travel by walking and cycling”*.

7.35 In order to cover all aspects relating to transport impacts, sustainability and the access road infrastructure, the Planning Service will look at the following:

- Parking;
- EV Charging;
- Internal Road Layout;
- Impact on Local Road Network;
- Sustainability and connectivity;
- Proposed Access Points; and
- EIA.

### 7.36 **Parking**

7.36.1 With regards to both vehicular and cycle parking within the site, no details regarding bedroom numbers have been provided, as this application is for PPP. This is expected with these types of application, but should the application be approved, the applicant would need to take into account the parking standards contained within the Transport and Accessibility SG. For a site located within the outer city these are as follows:

- Mainstream residential – 2 spaces per dwelling (up to 3-bedrooms) and 3 spaces per dwelling (4-bedrooms or more).
- Residential flats – 1.5 spaces per flat/unit.
- Affordable Accommodation – 0.8 spaces per unit.

7.36.2 Furthermore, should flats be proposed, the applicant will be required to provide necessary disabled parking provision within communal parking courts.

7.36.3 In terms of cycle parking, with dwellings it is accepted that bicycles can be safely stored within each residential curtilage. However, should flats form part of any future proposal, cycle parking would also be required to be provided per unit and such provision would need secure and covered. Such detail would be requested by conditions.

### 7.37 **EV Charging**

7.37.1 Due to the Scottish Government initiative for almost complete decarbonization of road transport by 2050, new residential developments are required to provide electric vehicle provision, further information on this can be found within Transport and Accessibility SG. However, again given the PPP nature of this application, further details of the provision would be required within any subsequent applications. Such detail would be requested by conditions.

### 7.38 **Internal Road Layout**

- 7.38.1 As this application is PPP, the proposed internal roads layout shown on the submitted plans is indicative and is therefore subject to change. Upon initial review of the layout, it would appear that the internal road layout provides the appropriate road/footpath widths, visibility splays and radii. However, some form of traffic calming measures would be required. Additionally, a full assessment of the access to the northern parcel of land would be required as it is currently proposed to utilise a priority junction, such an assessment would be undertaken at a subsequent application stage with details requested by conditions.

### 7.39 **Impact on Local Road Network**

- 7.39.1 Based on the standard TRICS assessment contained within the Transport Assessment, there is an indication that the proposed residential led development would generate approximately 151 and 141 two-way vehicular trips during the typical AM and PM peak period hours respectively. This would result in an increased volume of traffic on Malcolm Road (B979) connecting with arterial routes, i.e. North Deeside Road (A93) to the south then the AWPR to the east. As advised by the Roads Development Management Team, it is noted and accepted that traffic volumes on Malcolm Road (B979), in particular, and North Deeside Road (A93) (inc. those traveling through the junction connecting these roads) have reduced significantly since the opening of the AWPR. This is because the AWPR route provides more direct and suitable links between existing main arterial and 'A-class' routes in and around Aberdeen and Aberdeenshire. As such and based on the information submitted, the Roads Development Management Team have no concerns regarding any impact on the surrounding road network, nor have they highlighted that there would be any requirements to upgrade the existing junction to the southwest of the site where Malcolm Road meets North Deeside Road.

### 7.40 **Sustainability and Connectivity**

- 7.40.1 Both the ALDP and SPP seek to ensure that all proposed development allows for sustainable and active travel and for positive connections between proposed and existing development. Policy T2 of the ALDP states that *"new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel"* whilst Policy T3 indicates that *"new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport"*.
- 7.40.2 The indicative site plan shows a number of internal paths and connections to existing development to the south and Peterculter beyond, mainly via the existing Core Path network. While developer contributions are being sought to enhance these paths, the Planning Service must examine whether this site is sufficiently sustainable and provides appropriate connections outwith the site.
- 7.40.3 At the time of the Pre-Determination Hearing, the applicant's agent provided information in terms of distances to and from the site. This information is also contained within the Design Statement Masterplan. The agent has advised that the isochrones used to calculate the distances from the site are based on the walking times from Google Maps and the general SPP and PAN 75 guidance that 400m equates to a 5-minute walk. Based on this calculation 1600m would be a 20-minute walk and is referenced as 'an acceptable walking distance / time' within SPP and PAN75. Furthermore, the agent advises that the Transport Assessment Guidance, prepared by Transport Scotland, also refers to between 20 and 30-minutes as acceptable walking time, which is equivalent to around 2400m. Additionally, with the ongoing reform of the planning system in Scotland, there is now more of a drive to create 20-minute neighbourhoods, with draft National Planning Framework 4 advising that such neighbourhoods have the potential to reduce emissions and improve our health and wellbeing. It is important to recognise that the reference to a 20-minute walk is an 'out and

back' round trip rather than a single trip.

- 7.40.4 A proper and full assessment of the accessibility of the site by sustainable transportation requires more than a simple calculation of whether the proposal falls within the maximum walking distances from local facilities. It is also necessary to make a qualitative assessment of the ease of use and attractiveness of those walking (and cycling) routes, in order to estimate how likely it is that future residents would utilise sustainable and active travel to access existing facilities and amenities in Peterculter.
- 7.40.5 In this case, theoretically the existing amenities, including the primary school and facilities in Peterculter, lie within 20 minutes of the site. However, the applicant's calculations start from the southern boundary of the site, not from centre of the residential development and certainly not from the proposed units in the northern portion of the site. Additionally, these calculations do not consider the topography of Peterculter. The centre of Peterculter is located at a lower elevation than the site (averaging about 50 vertical metres) and has a steep incline as you walk from the designated town centre uphill towards the site. The applicant's distance based calculations do not consider the time it would take to walk along the proposed access road linking the site to Malcolm Road and into Peterculter, which the applicant is proposing as part of the pedestrian access. The distance from the approximate centre of the site to the local shop within the designated town centre is approximately 1.5km equating to approximately 20 to 25 minutes one way. However, this calculation does not take into account the uphill trajectory from the existing residential area, which could increase travelling time by approximately 10-15 minutes. Additionally, when specifically looking at the route along pavements up and down Malcolm Road, these would connect via an uncontrolled pedestrian crossing, to an existing pavement on the west side of public road. This pavement currently serves existing properties on Malcolm Road, however it terminates opposite Bucklerburn Road. The pavements are staggered and would require pedestrians to cross Malcolm Road and the access to Bucklerburn Road before regaining the pavement to continue along Malcolm Road. The Planning Service has concerns regarding the increase in footfall along this public footpath and potential safety risks arising from the public crossing the road at a diagonal where there is no pedestrian crossing. Furthermore, there are concerns that the existing pavement layout would act as a deterrent to using sustainable transport modes, such as walking and cycling.
- 7.40.6 Therefore, although new active travel infrastructure and connections into existing infrastructure would be provided, theoretically enabling residents to access local facilities and amenities via active travel i.e., walking or cycling, the Planning Service considers that the quality of the pedestrian environments along the available routes to be poor – whether this be via the proposed core path connections or via Malcolm Road which is relatively heavily trafficked. This is mainly due to the topography and level changes between the site and the nearest facilities, which in the opinion of the Planning Service, would act as disincentives and barriers to the use of active travel by residents. This in turn would result in a car dependent development which is not considered to be sustainable as required by the aforementioned policies.
- 7.40.7 In terms of public transport, as noted a bus terminus would also be proposed. A memo from the applicant, First Endeavour LLP, has been provided stating that a meeting with First Bus took place in 2020 noting that the bus company confirmed their interest in extending the existing No 19 service into the proposed Tillyoch development with vehicle access from Malcolm Road and a terminus located within the development. Subsequently, in January 2022, First Bus confirmed their continuing interest in extending the current service into the proposed development, given that the access roads and estate roads have been designed to accommodate bus service with a terminus within the proposed development. Neither the Planning Service nor the Roads Development Management Team has received confirmation

or communication from any bus operators, with both Services only being aware of the potential service extension due to the submitted memo. While public transport access is possible and the applicant has contacted the bus operators, there is no commitment or guarantee at this stage that the development would be served by public transport.

- 7.40.8 In light of the above, specifically the lack of safe and appropriate accessibility by walking and cycling, the proposal is considered to be contrary to Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel, which require developments to maximise opportunities for sustainable and active travel. Furthermore, it is also considered that this aspect of the proposal fails to comply with Policy D1 - Quality Placemaking by Design, which requires a proposal to give consideration to transportation opportunities to ensure connectivity, with one of the six qualities being 'easy to move around'. In this case, it is considered that the development does not provide appropriate connectivity outwith the site and is therefore lacking in terms of acceptability.

#### 7.41 **Proposed Access Points**

- 7.41.1 In terms of the access to and from the site, there is a requirement that for residential developments of over 100 units have two access points and an emergency access. This is an Aberdeen City Council specific requirement and not a nationally applied standard. However, in this case, during scoping and pre-application discussions between the applicant and the Roads Development Management Team, it was apparent that achieving two separate points of access to the site would not be possible due to the nature of the surrounding roads network. As such, it was agreed between the Roads Development Management Team and the applicant that an acceptable alternative proposal in terms of technical roads requirements would be for one vehicular access to be provided onto Malcolm Road, that would then split into two roads before extending into the residential development. The applicant was requested to submit a summary of the background to the current access and road alignment with details of other options that were considered. This information outlines that other options, such as the upgrading of the existing access from Culter House Road would not satisfy current roads standards, with the proposed access being the only viable option. However, despite this being the case, this access is still not considered to be appropriate. While the road appears to work from an engineering point of view, the Planning Service has serious concerns over this part of the proposal. The main areas of concern relate to the extensive cut and fill that would be required due to the level changes, the fact that the site would result in the loss of a large area of Ancient Woodland, trees protected by TPO 250 and the overall landscape impact. For these reasons the proposed access is considered inappropriate.

- 7.41.2 In terms of the emergency access, this would be via the existing access from Culter House Road. No alterations are proposed and as this route is existing, it should have no impact on the Ancient Woodland or LNCS in the southeast corner of the site.

#### 7.42 **Environmental Impact Assessment**

- 7.42.1 The EIA Report advises that the proposed development in terms of transport impacts would have a slight and negligible impact on the environment, as such no mitigation is required. However, it is considered that due to the level of development proposed, which is currently on an unallocated site, that the overall transport impact would be significant and would result in a permanent change to the character of the existing environment. As mentioned above, the development is likely to result in an increase in car trips to and from the site and the proposed access road would result in the permanent loss of a significant area of Ancient Woodland and TPO trees, which is also designated as Green Belt and GSN.

### 7.43 Summary

- 7.43.1 To summarise, the proposed development is proposing to incorporate connections into the existing pedestrian network, providing measures to minimise traffic generated and to maximise opportunities for the use of sustainable and active travel. However, it is considered that the distance to the nearest employment, recreation, retail and other facilities within Peterculter, would not *'make it quick, convenient and safe for people to travel by walking and cycling'* as required by Policy T3 - Sustainable and Active Travel, due to the poor-quality pedestrian and cycle environment and topography between the site and those facilities. Therefore, it is considered that the development would in all likelihood be accessed predominantly via private vehicles and it would not be suitably accessible by sustainable means of transport.
- 7.43.2 The Planning Service also have significant concerns regarding the overall impact on the existing character of the land on which the access road would be located, given that this would result in the permanent loss of Ancient Woodland, TPO trees, Green Belt and GSN, which is considered to result in a significant effect on the environment, as well as failing to comply with Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel.

### Natural Environment

- 7.44 Given the location and character of the site and the level of development proposed, this section covers all relevant aspects of natural environment, regarding trees, woodland and ecology.
- 7.45 **Trees and Woodland**
- 7.45.1 The ALDP states that *"the protection of tree and woodland cover contributes to the aims of sustainable development and will enhance the services provided by woodland ecosystems"*. Groups of trees, hedgerows and woodlands throughout Aberdeen all provide important benefits, in that they improve air quality, help us mitigate and adapt to climate change, create a healthier and more desirable living environment and provide habitat for urban wildlife. Furthermore, Policy NE5 - Trees and Woodland states that *"there is 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"*. Buildings and services should be sited to minimise adverse impacts on existing and future trees and appropriate measures should be taken for the protection and long-term management of existing trees and new planting both during and after construction. Where trees may be impacted by a proposed development, a Tree Protection and Mitigation Plan will need to be submitted and agreed with the Council before any development activity commences on site. Additionally, details of tree and hedgerow planting should be submitted as part of the proposal's landscape strategy.
- 7.45.2 An Arboricultural Impact Assessment has been submitted in support of this application and a chapter has also been included within the submitted EIA Report, which considered the environmental impact of the development.

### Site Status

- 7.45.3 Turning first to the status of the trees, specifically the trees within the western and south eastern portions of the site; both these areas are designated as Ancient Woodland, which are long established and of plantation origin. The trees within these areas are also protected by TPO's specifically TPO 256 to the west and TPO 210 to the south east. The area to the west was illegally felled some time ago and the section below provides some background on that and the current status of the woodland.



History and Context – Woodland to the West

- 7.45.4 To provide context in respect to the area to the west, on which the access road is proposed, a felling licence was granted to fell existing Scots Pine trees between 1990 and 1995. The felling was carried out by the landowner at that time. A subsequent Felling Licence application was refused by Forestry Commission Scotland (now Scottish Forestry) in February 2009. At that time the woodland consisted of naturally regenerated native broadleaves that had become established following the felling of Scots Pine in the 1990's. The woodland was deemed to be of good quality for its natural beauty, conservation, amenity and landscape value and such felling of the woodland at that time was not considered to be in the interests of good forestry, the amenities of the district or of conserving or enhancing the flora, fauna, natural beauty and amenity of the land. An application for the restocking of the woodland had been approved but not implemented by the previous owner, who chose not to meet the restocking obligation associated with the felling of the Scots Pine by replanting the site and instead allowed the site to naturally regenerate. This regeneration was subsequently accepted as a substitute for the replanting of the woodland, given that the land use was and is considered to be forestry/woodland.
- 7.45.5 Thereafter, the naturally regenerated woodland on the western part of the application site, which is still designated as Ancient Woodland despite the previous Scots Pine felling, was illegally felled during December 2016/January 2017 resulting in the previous owner being convicted of the offence following a trial held at Aberdeen Sheriff Court in 2018/19. At that time, no restocking obligation or order was imposed by Scottish Forestry on the site as the trees were protected by a TPO issued by Aberdeen City Council. As such, it is not legally possible to issue a restocking direction. It is considered that at present the woodland is made up of natural regeneration that is becoming established following the illegal felling and as noted above this area remains designated as Ancient Woodland.

Proposal and Potential Impact

- 7.45.6 In terms of assessing the potential impact, consideration must be given to SPP, with paragraph 216 stating that "*Ancient semi-natural woodland is an irreplaceable resource*" and as such should be protected from adverse impacts resulting from development.
- 7.45.7 Paragraph 218 of SPP goes on to state that "*The Scottish Government's Control of Woodland Removal Policy includes a presumption in favour of protecting woodland. Removal should only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The criteria for determining the acceptability of woodland removal and further information on the implementation of the policy is explained in the Control of Woodland Removal Policy, and this should be taken into account when preparing development plans and determining planning applications*".
- 7.45.8 The Control of Woodland Removal Policy states: "*There will be a strong presumption against removing the following types of woodland: ancient semi-natural woodland; woodlands listed as 'Plantations on Ancient Woodland Sites' (PAWS). There will also be a strong presumption against woodland removal where it would lead to fragmentation or disconnection of important forest habitat networks.*"
- 7.45.9 It is proposed to construct the access road through this western portion of woodland. Due to the level changes of this area and the nature of the access road, which splits into two, it meanders through the woodland, by necessity resulting in the requirement of extensive cut and fill.
- 7.45.10 With regards to the submitted Arboricultural Impact Assessment, it advises that 47 individual trees will be removed to facilitate development. Whilst 29 of these trees are noted as being

removed on health and safety grounds it is considered that this is a requirement mainly due to the proposed change of use and the health and safety relating to the proposed development.

- 7.45.11 From a review of the report, both the Planning Service and Environmental Policy have concerns that the supporting assessment significantly underplays the number of individual trees that are likely to require to be removed to facilitate the development, which is likely to be significantly higher given the level of impact on certain trees that are currently marked for retention. While the supporting tree survey advises that approximately 47 individual trees are proposed to be felled. The same report advises that an area of Ancient Woodland, approximately 2.3Ha in size, will be lost to the proposed access road, but that this area consists of mainly bracken and scrub vegetation, with some young and semi-mature trees, which have not been surveyed.
- 7.45.12 Due to the topography of the site and the cut and fill operations required for the access road, it is considered that a much larger area of woodland will be lost. Consideration must also be given to the number of young and semi mature trees that were not surveyed, but represent significant regeneration of the woodland following the felling on site. Furthermore, the redline boundary tightly bounds the proposed access road, giving the applicant no leeway for the construction of the road. It is expected that the ground outwith the site, which has been confirmed to be within the applicant's control, will need to be used in order to undertake the construction of the proposed road. For example, machinery will need to be located outwith the redline boundary so that the extensive cut and fill required for this part of the proposal can take place. The use of this land by such machinery will result in the loss and damage of many more trees that have not been taken into account within the submitted assessment and on land that is not the subject of the current planning application.
- 7.45.13 The EIA advises that 40% of the Ancient Woodland would be lost due to the construction of the proposed access road. However, as outlined above this loss will be significantly higher due to the level of construction works involved.
- 7.45.14 In terms of justification, the applicant advises that, due to the previous felling of this woodland back in 2016 and 2017, a large majority of the woodland has been lost and that the resultant growth of bracken, has further threatened the quality of this area and contends that the construction of the access road will aid the regeneration of the remaining woodland. As noted above the survey has only taken into account the more mature trees on site, however, a site visit has revealed that, irrespective of the presence of bracken, there are many more smaller trees on the site that are not accounted for in the tree survey including significant and strong regeneration of native Birch, Rowan, and Willow, as well as small amounts of Sycamore. It is considered that the area is dominated by young trees and the EIA conclusion that the roadway would be located in areas of scattered trees and dense bracken is incorrect in that regard. Taking this into account it is considered that the area has been significantly undervalued in terms of its value as Ancient Woodland. Furthermore, while the applicant states the proposed access road will aid the regeneration of the remaining woodland by removing the bracken, it is considered that the proper management of the woodland by the owner would be a far better way to aid this area of naturally regenerating woodland rather than the construction of a new road and loss of a significant number of trees.
- 7.45.15 With regards to mitigation, it is noted that compensatory planting is proposed within the site and is noted in both the EIA Report and tree survey, with the contoured road banking replanted to the extent of approximately 0.8ha. Furthermore, it is proposed that an area of 2.3ha outwith the site boundary will be found to carry out compensatory planting. This site would not be registered in the National Forest Inventory or Ancient Woodland Inventory. Trees and shrubs planted as part of the compensatory planting will be indigenous species.

Additionally, some of the Ancient Woodland soil obtained from excavations for the proposed access road will be spread over this new area as this soil already has an established soil seed bank and fungal community that will colonize the new area of woodland. Similarly, stumps from the felled trees will also be relocated to this compensatory area.

- 7.45.16 The Planning Service has asked for information in relation to the proposed location of the 2.3ha of compensatory planting, given that it would require to be the subject of a planning condition that was enforceable, to ensure that it would be delivered and that any non-compliance could be enforced. No such information was submitted in response to this request and accordingly the Planning Service cannot advise whether any suitable location is being considered that would allow for the delivery of compensatory planting. Furthermore, in terms of the compensatory planting along the access road embankments, due to the gradient, the Planning Service has concerns that they will not be suitable and would lead to hazards along the proposed access road. As such, while it is part of the proposal, there are significant concerns regarding the feasibility of compensatory planting on the site itself. In terms of the reuse of the Ancient Woodland soil, there are also concerns that this is not possible nor would it be successful owing to the sensitive nature of the soil. No evidence has been provided to the contrary.
- 7.45.17 Overall, it is considered that the proposals for mitigation in the forms proposed are not acceptable and are lacking in detail. As it stands the proposed access road would result in the significant loss of trees and woodland, especially Ancient Woodland and trees that are protected by a TPO. Neither the submitted assessments nor the proposed works justify the loss of such an area, which has important value for the character of the surrounding area, improves air quality, help us mitigate and adapt to climate change, creates a healthier and more desirable living environment and provides habitat for wildlife. The impact on wildlife habitat will be discussed in more detail in the section below. Furthermore, under section 159(a) of the Town and Country Planning (Scotland) Act 1997 the planning authority has a duty to ensure that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees. Given the lack of information as noted above, such a condition would not be possible.
- 7.45.18 In summary the access road proposal results in the removal of a significant number of trees and does not propose sufficient or appropriate compensatory planting. This would result in an overall net loss of tree cover within the city and is in direct conflict to our duty to ensure where possible that adequate provision is made for the preservation of existing tree stock or planting of trees. There is no overriding justification to go against the existing TPO in order to adequately access a potential development allocation that is not yet confirmed in the next ALDP. In terms of the content of SPP, it is not clear what the public benefit of the removal of tree and Ancient Woodland would be and as it stands the proposed removal of Ancient Woodland contravenes the Scottish Government's Control of Woodland Removal Policy and therefore SPP. The proposal is also considered contrary to Policy NE5 - Trees and Woodlands, as it results in the fragmentation and disconnection of important forest networks.

#### Woodland to the South East

- 7.45.19 This area of woodland is protected by TPO 210. No significant works are proposed to this area as part of the proposal. However, the erection of 250 units in this location will see an increase in the use of this area by members of the public through recreational uses. This raises questions of the maintenance of this area and therefore the overall future of the woodland. Further information would be required in this regard.
- 7.45.20 In conclusion, the significant concerns regarding the impact on Ancient Woodland area to the west and the overall loss of trees as a result of the access road, results in the development being unacceptable and contrary to Policy NE5 - Trees and Woodlands.

## 7.46 Environmental Impact Assessment – Trees and Woodland

- 7.46.1 The EIA Report acknowledges that the site contains Ancient Woodland and the fact that a TPO covers the full extent of these trees, stating that there is a presumption against felling trees, but that any Ancient Woodland lost needs to be compensated elsewhere. The report also notes that much of TPO 256, namely the area of woodland to the west of the site has already been felled. In respect to the area to the west, the report advises that approximately 3Ha of Ancient Woodland (40%) will be lost to the proposed access road. It is noted that this is contradictory to the information contained within the supporting tree survey, which advises that 2.3Ha would be lost. As such, the Planning Service considers there to be some ambiguity between these reports as to the actual extent of tree loss.
- 7.46.2 In terms of impact, the report states that the loss of trees and Ancient Woodland would be permanent, resulting in a major negative impact without mitigation, reduced to a slight negative impact with mitigation in place, which would take the form of additional planting. In terms of the Ancient Woodland to the south east of the site, the EIA Report advises that there will be no impact. In respect to the area of Ancient Woodland to the west, in assessing these findings of the EIA Report, it is considered that with regards to the reduction in size of the area by approximately 40%, would result in a major potential impact.
- 7.46.3 In terms of the proposed mitigation, the applicant advises that “*although dense areas of trees are avoided*”, as outlined in the above section, replanting is proposed to take place along the contoured road banking to the extent of approximately 0.8ha. Further to this, compensatory planting is proposed outwith the site boundary on a 2.3Ha piece of land, with some Ancient Woodland soil obtained from excavations to be spread over this new area. Additionally, it is proposed that tree protection fencing will be utilised to protect trees that will remain on site.
- 7.46.4 In response to these findings, it is considered by the Planning Service and Environmental Policy that the roadway will not avoid the dense area of natural regeneration of native Birch, Rowan and Willow on the Ancient Woodland, reference to which is neglected throughout the EIA Report. Furthermore, it is not considered that the proposed planting detailed above is satisfactory compensation, as set out above.
- 7.46.5 The section on residual effects advises that in terms of trees to be felled, a number of these need to be removed for health and safety reasons, with others needing to be removed as they are within the Zone of Influence of the proposed development. Overall, a relatively small portion of tree loss is proposed for the housing development as such this will have little impact and is acceptable. In terms of Ancient Woodland loss, mitigation is proposed to compensate this loss resulting in a moderately positive impact given that the area, which has been previously felled, contains areas of dense bracken and non-indigenous trees. The report does however neglect to mention the natural regeneration of the area of Ancient Woodland, which has been clearly highlighted throughout the above paragraphs. It is considered incorrect and inaccurate to state that “*The area is being colonized by dense areas of bracken and non-indigenous trees such as sycamore*”. This is considered to undermine the current and future value of the area of Ancient Woodland and overall, it is considered that the residual effect would be negative should the area of Ancient Woodland to the west be removed to allow for the proposed access road. Furthermore, there is significant doubt regarding the feasibility of all compensatory planting proposed as noted above.
- 7.46.6 In light of the above it is considered that the effect on the environment due to the loss of trees and Ancient Woodland would be significant, despite what is outlined in the EIA Report.

## 7.47 Ecology and Environmental Impact Assessment

- 7.47.1 The ALDP states that “*the protection, preservation and enhancement of natural heritage, in terms of both sites and species, are important aims of this Plan. All new development should*

*seek to protect geodiversity and enhance biodiversity, which may include restoring degraded habitats, and must avoid further habitat fragmentation". While Policy NE8 - Natural Heritage states that "direct and indirect effects on sites protected by natural heritage designations, be they international, national or local, are important considerations in the planning process".*

- 7.47.2 Given the status of this site and the inclusion of the western and south-eastern portions of woodland within the site boundary, the application requires to be sufficiently supported by information related to ecology. This was also highlighted through the EIA Screening and Scoping Opinions issued by the Service. As such an Environmental Survey Report as well as a chapter in the EIA Report were submitted in support of this application. Further to this an addendum was submitted in response to queries raised by Environmental Policy.
- 7.47.3 The EIA Report and Environmental Survey Reports considered a number of species, with surveys carried out in respect to invertebrates, birds and bats. The content of the reports have been reviewed and the information below is the Planning Service's overall assessment of all information submitted. Concern has been highlighted by Environmental Policy with regards to the timing of the surveys, however this is related to the point at which this information was requested.
- 7.42.4 In terms of invertebrates, it is noted that the survey has been carried out in a short survey window, however, the survey does show that the site is of good quality for such a species and the presence of Lepidoptera (butterflies and moths) shows that there is a strong birch regeneration in the woodland, which correlates with the information highlighted in the preceding paragraphs. In terms of mitigation, this survey provides a Deadwood Management Plan to enable some habitat creation in the woodland to the west.
- 7.47.5 With regards to birds, there are concerns that the survey does not acknowledge the net loss of bird habitat in the long term, especially considering that that the reports states that there will be a 40% loss of habitat due to the proposed construction of the access road. It is also considered that the area of woodland to the west is of more value to birds than is potentially stated in the report. Furthermore, it is considered that the reference to the impact upon the breeding bird population only be in the short term, is deemed to be incorrect. Given the extent of the woodland that would be lost by the road development and the fact that any compensatory planting would not start until after the construction of the road is complete, as well as the time it would take for the planting to establish itself, means that the impact on breeding birds will be significant. Additionally, a large majority of the woodland would be replanted off site, leading to a disturbance and displacement of habitat.
- 7.47.6 In respect to the bat surveys carried out, the survey coverage of the existing buildings and the site itself, the information is overall acceptable. The reports note that varying numbers of bats utilise the woodland edge rather than then the woodland itself, also noting that very little activity is noted within the woodland to the east.
- 7.47.7 Wildlife corridors have been shown on the indicative site layout plan, these run west/east providing potential access between areas of woodland. However, as noted above it is considered that the location of these, within a proposed relatively urban residential setting, would not allow for the unhindered movement of species between the areas. It is further considered that these corridors do not provide sufficient buffers around them to prevent disturbances from domestic pets. Environmental Policy has noted that such wildlife corridors should be in excess of 30m in width, 20m wider than what is being proposed. Furthermore, it is considered that while these corridors are shown to connect the site to the area to the west, as noted above it is likely that this area would be lost as a result of the development, meaning that habitats would be lost. Any planting proposed would take years to establish, as such there would be no benefit to the wildlife corridors at this time. Badger tunnels are

also proposed at two points on the proposed access road, however, as mentioned above, the loss of woodland in this area would leave to the loss of foraging habitats, rendering such proposals unnecessary due to the loss of habitat.

### Summary

- 7.47.8 Overall, it is acknowledged that there will be a loss of woodland, especially woodland to the west, which from the information highlighted above is ecologically healthy. While mitigation is proposed and could in theory alleviate concerns with regards to the natural heritage impact some of this would not be a short-term fix and ultimately the construction of the access road would result in an unacceptable impact upon many species using the site, the fragmentation of habitats and the permanent loss of foraging areas and as such the proposal is considered contrary to Policy NE8 - Natural Heritage.

### Environmental Impact Assessment

- 7.47.9 In respect to the EIA Report, it is noted that the potential effects on ecology will be adverse, whether it is a low or moderate impact, with the applicant stating that after mitigation the area will be improved, with the development having an overall positive impact on the area. However, it is considered that overall, the EIA Report fails to acknowledge the natural regeneration of the Ancient Woodland to the west, which as noted above, is a hive of activity for biodiversity. Its loss, regardless of the proposed compensatory planting, would lead to a significant impact on the ecological value of the site. While some of the mitigation is welcome, it does not replicate the existing situation and does not warrant the approval of this application.

### 7.48 **Habitats Regulation Appraisal**

- 7.48.1 OP53 of the Proposed ALDP 2020 advises that a Habitats Regulations Appraisal is required to accompany development proposals in order to avoid adverse effects on the qualifying interests of the River Dee Special Area of Conservation (SAC). Such an appraisal has been carried out and it has been found that the proposal will not adversely affect the integrity of the SAC. This has been reviewed by NatureScot, who are in agreement with this finding.

### 7.49 **Peterculter Local Nature Conservation Site**

- 7.49.1 Due to their proximity to each other, Peterculter LNCS is made up of the former District Wildlife Sites – Woodend, Guttrie Hill, Culter House Woods and Hill of Ardbeck. The area which relates to this application, is ‘Woodend’ located in the south east corner of the site. This area is mainly comprised of upland birch woodland with small areas of mixed woodland, other broadleaved woodland, other pine woodland and other coniferous woodland. There are a number of priority habitats and species including the red squirrel. There is also a substantial area covered by a TPO. Consideration has been given to the impact on woodland and habitats under the above section and as noted there is no proposed development taking place in this area. However, it is acknowledged that should the development be approved, then it is likely to result in an intensification of use for recreational purposes resulting in disturbance to the LNCS. Should the application be approved, further information would be required at a future application stage.

### Drainage and Flooding

- 7.50 In respect of Policy NE6 - Flooding, Drainage and Water Quality, a Drainage Assessment and Flood Risk Assessment have been prepared and submitted in support of the application.

### 7.51 **Drainage**

- 7.51.1 In terms of drainage, Policy NE6 advises that a Drainage Impact Assessment (DIA) will be required for new development proposals. Surface water drainage associated with development must, be the most appropriate available in terms of SuDS and avoid flooding

and pollution both during and after construction.

- 7.51.2 In respect of this proposal, the DIA advises that there is no existing infrastructure within the development site, but both foul and surface water sewers are present on Malcolm Road at its junction with Bucklerburn Road and further sewers are located within the residential development to the south.
- 7.51.3 In relation to foul drainage for the proposed development, the assessment advises that sewers would be provided within the site, along with a single disconnecting chamber to be located within each curtilage of the residential units. The assessment also notes that Scottish Water are progressing a Network Impact Assessment study to establish the capacity with the existing network.
- 7.51.4 With regards to surface water drainage, new sewers would be provided within the site to deal with all run off, whether it be from the proposed roads, footpaths, residential units or other buildings or parking bays. These sewers will then discharge to the proposed detention basins, one located to the south of the proposed access road and the other to the south west of the residential development. However, a detailed drainage design would be required for the site with associated sensitivity tests to assess flood risk from the drainage system. Such detail would be required by condition should the application be approved.

## 7.52 Flood Risk

- 7.52.1 Turning to flood risk, Policy NE6 states that development will not be permitted if; it would increase the risk of flooding, be at risk itself from flooding; adequate provision is not made for access to waterbodies for maintenance; or it would require the construction of new or strengthened flood defences that would have a significantly damaging effect on the natural heritage interests within or adjacent to a watercourse. Within the Proposed ALDP, OP53 does advise that a Flood Risk Assessment would be required.
- 7.52.2 The Flood Statement submitted shows that the application has looked at fluvial flows, sewer and drain flooding, pluvial flow and groundwater. The statement advises that there is no risk of flooding from the development, additionally the SEPA Flood Map indicates that there are no known flooding issues for this site.
- 7.52.3 In terms of flood risk, SEPA has advised that based on the indicative site plan provided, the forested area appears to be remaining as it currently is, with the development being set well back from the Buckler Burn, therefore, the development is unlikely to be at risk of flooding. As such, SEPA have no objection to the application on flood risk grounds subject to a condition that the area around Buckler Burn remains undeveloped. Although the site plan submitted is indicative owing to other matters regarding the south east corner, it is considered prudent to restrict development in this area by way of a condition, should the application be approved.
- 7.52.4 There also appears to be a water feature running along the B979 Malcolm Road, running from north to south along the western site boundary. SEPA note that this should be left free of development with an appropriate buffer zone in place. Based on the plan submitted, the majority of the watercourse remains untouched with a separation of approximately 9m from the location of the proposed excavation for the access road, however, the southern part of the watercourse conflicts with part of the proposed access. If the application is approved further details would be required.
- 7.52.5 SEPA has also noted that the developer could also consider measures such as:
- Designing SUDS with biodiversity and amenity value;

- Multi-functional green infrastructure and space with green space incorporating native planting and tree species and create a diverse range of habitats;
- Incorporating green/blue infrastructure and linking it to enhance connections to neighbouring sites to benefit wildlife as well as benefits for active travel and recreational connections;
- Rainwater harvesting and sustainable water reuse measures - green roofs - environmental education (interpretive boards etc.); and
- Supporting active travel.

7.52.6 SEPA also supports measures to address and reduce the impacts of climate change and to improve the water environment.

7.52.7 The Council's own Flooding Team has considered the information submitted and upon submission of further discharge rate details, the Service is satisfied at this stage. However, as noted above, further design detail of the infrastructure is required to ensure compliance with Policy NE6 - Flooding, Drainage and Water Quality and the Flooding, Drainage and Water Quality SG, such information would be required via condition.

### **Access and Informal Recreation**

7.53 Policy NE9 - Access and Informal Recreation requires new development to not compromise the integrity of existing or potential recreational opportunities including general access rights to land and water, Core Paths and other paths and rights of way. It also seeks to ensure that, wherever possible, developments include new or improved provision for public access, permeability and/or links to green space for recreation and active travel.

7.54 At present there are informal paths that run through the site within the woodland to the east and along part of the western boundary of the residential development and a Core Path/track that runs along the southern boundary. All of these provide pedestrian access between the site and Peterculter to the south, the LNCS, Culter House Road and beyond. It is expected that these will not be impacted by the development, with the applicant also proposing to improve connections throughout the site to the surrounding area. In terms of access to Malcolm Road, this will be provided via an uncontrolled pedestrian crossing connecting the site to the existing footpath network along the public road. This will not impact on existing access links.

7.55 However, although submitted with the application, a further Construction Environment Management Plan (CEMP) would be required via a suspensive condition in the event that a willingness to approve is given. The CEMP would need to incorporate details of how the existing access routes, used by the public, would be maintained during the construction works.

### **Community Facilities**

7.56 The application notes the provision of community facilities on site, but there is a lack of detail about what this actually entails at this time and due to the application being for PPP. As such, a full assessment against Policy CF2 - New Community Facilities cannot be undertaken. Should permission be granted, a condition would be required to ensure details of this aspect of the proposal are submitted for assessment to ensure compliance with the aforementioned policy.



### **Aberdeen Airport**

- 7.57 Policy B4 - Aberdeen Airport requires all development to ensure that the continued safe and efficient operation of Aberdeen International Airport. While the site lies a significant distance from the airport, the Planning Service are required to consult with them due its substantial size of the development. In this case, Aberdeen International Airport have examined the proposals from an aerodrome safeguarding perspective and consider that the proposed development could conflict with safeguarding criteria, unless a condition requiring the submission of details of any building or structure that exceeds 45m is submitted for approval by the Planning Service in consultation with the airport. Additionally, the Airport have requested that the applicant be made aware of the requirement for the safe use of cranes during the construction phase.
- 7.58 In light of the above, it is considered that while there is no objection from the Airport, further detail is required to satisfy Policy B4, but such information could be secured via a condition and an advisory.

### **Health and Safety Executive (HSE)**

- 7.59 Owing to the proposal being an EIA development, the Planning Service are required to consult with the HSE. HSE has confirmed that the site does not lie within the consultation distance of a major hazard site or major hazard pipeline and therefore HSE do not require further consultation. As such, no further assessment is required against Policy B6 - Pipelines, Major Hazards and Explosives Storage Sites.

### **Historic Environment**

- 7.60 Policy D4 - Historic Environment requires development to not adversely impact upon archaeological remains of either national or local importance. Aberdeenshire Council's Archaeology Service has reviewed the proposal and advise that the proposed development impacts on one site of surviving medieval/post-medieval rig & furrow (HER Ref No NJ80SW0131) and the site of a 2009 evaluation (NJ80SW0373). The rig & furrow remains were surveyed at the time of the 2009 work and at that time the records were updated to reflect the true extent of those remains, which are far larger than currently depicted on the Council's maps. Given that the remains have been surveyed and that the evaluation work ahead of the new buildings at Tillyoch didn't locate any significant finds, the Service can confirm that neither site places any form of constraint on the potential development.
- 7.61 However, considering the wider landscape evidence, including both for the Bronze Age activity to the East at Beanshill and the closer medieval activity documented around Tillyoch, it is recommended that, should the application be minded for approval, a Programme of Archaeological Works condition is applied. Subject to the imposition of that condition, it is considered that the proposed development would not cause any harm to the historic environment, in accordance with Policy D4.

### **Contaminated Land**

- 7.62 Policy R2 - Degraded and Contaminated Land requires that all land that is degraded or contaminated, is either restored, reclaimed or remediated to a level suitable for its proposed use. In this case, the site has been assessed by the Council's Contaminated Land Team, who consider that there is unlikely to be any significant land contamination at the site, with the greatest area for contamination being within the area occupied by the buildings associated with the existing equestrian centre. Therefore, care should be taken during demolition of these buildings to make sure that no contamination is caused as a result. The

Contaminated Land Team have advised the use of an advisory note should permission be granted.

### **Waste and Recycling**

- 7.63 Policy R6 (Waste Management Requirements for New Development) requires all new developments to have sufficient space for the storage of general waste and recyclables, with details of storage facilities and means of collection to be included as part of any application. As this application is for PPP no details for waste have been submitted, however it has been confirmed that the access road is a sufficient width to allow a refuse vehicle to enter and exit the site safely. Further detail of waste provision for each unit and the acceptability of the refuse vehicle accessing collection points will be considered at a subsequent application stage should the application be approved.

### **Low and Zero Carbon Buildings, and Water Efficiency**

- 7.64 Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency requires all new buildings to meet at least 20% of the buildings regulations carbon dioxide emissions reduction target applicable at the time of the application through the installation of low and zero carbon generating technology. The policy also requires all new buildings to incorporate water saving technologies and techniques, to reduce pressure on water abstraction from the River Dee.
- 7.65 Given that the application is for PPP, the details required to satisfy the requirements of Policy R7 are not yet known. In the event that the application is approved, suspensive conditions would be added to the permission requiring the incorporation of appropriate low and zero carbon and water saving technologies. Therefore, subject to the imposition of such conditions, the proposals are considered to meet the requirements of Policy R7.

### **Digital Connectivity**

- 7.66 Policy C11 - Digital Infrastructure requires all new residential development to have access to modern, up-to-date, high-speed communications infrastructure. Details of broadband availability for the site are not yet known at this stage but in the event that the application is approved, a condition would be attached to any permission, requiring the delivery of high-speed broadband for all premises, prior to occupation, in order to meet the requirements of Policy C11.

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

- 7.67 The above evaluation gives due consideration to the principle of development in light of the proposed allocation of part of the application site as OP53 within the Proposed ALDP, however as noted above, the extant ALDP and SDP takes primacy at this point, given the content of the Proposed ALDP is going through an examination, potentially subject to change, and that Tillyoch is an unresolved issue that is subject to a substantial level of public objection. As such, given the uncertainty of the content of the Proposed ALDP at this stage, it is considered that less weight can be afforded to it as a material consideration, and cannot be afforded sufficient weight to merit overriding the extant and adopted ALDP.
- 7.68 In terms of the principle of development, the Planning Service is affording more weight to the site's current Green Belt and GSN status, as well as the designation of part of the site as Ancient Woodland and woodland within the Open Space Audit. While the application is considered to be premature in terms of the LDP process, it is noted that parts of the proposal, such as the access road, conflict with relevant policies of both the Adopted and the Proposed ALDP, including Policy NE1 - Greenbelt and Policy NE2 - Green and Blue Infrastructure of

the Proposed ALDP.

- 7.69 Other relevant policies contained within the Proposed ALDP are highlighted under paragraph 6.5.7 above, however these policies substantially replicate the wording of current ALDP policies, with an assessment having been carried out in respect to these. Therefore, for the reasons noted above, the proposal is considered to conflict with a number of policies within the Proposed ADLP, such as Policy NE3 - Our Natural Heritage, Policy NE5 - Trees and Woodland and Policy T2 - Sustainable Transport. Conflict with Policy D2 - Landscape, due to the irrevocable change to the landscape character of the site and the surrounding area has also been highlighted, along with concerns regarding Policy D1 - Quality Placemaking and the overall layout of the site as this stage.

### **Environmental Impact Assessment**

- 7.70 The application required the submission of an EIA Report. A range of potential impacts are considered in the EIA Report. In respect of the chapters relating to the Ecological Impact Assessment; Arboricultural Impact Assessment; Landscape and Visual Impact Assessment; Green Belt and Green Space Network Statement; and Transportation, these have been given due consideration above and overall, it is found that there is some ambiguity in terms of the potential significant environmental impacts. It is considered that appropriate mitigation has not been proposed and that the residual effects of the development are likely to be significant.
- 7.71 In respect of the Construction Environmental Management Plan, this chapter required to look at the level of pollution on the environment resulting from the development, which shows that the principal likely impact is to come from the construction of the development with a moderate negative impact overall. However, what also needs to be considered is the impact from the permanent change and operation/occupation of the site as a residential development within what currently is Green Belt, which has not been given due consideration. While many aspects in relation to pollution and impacts on the environment can be mitigated against, there are concerns that there will be an increase in reliance on private transport given the nature of the site. This will result in a degree of pollution and impact on air quality and fundamentally climate change, especially considering the level of trees to be removed from this site to allow for the development.
- 7.72 Overall, the findings within the EIA Report are considered to be presented in favour of the development. This is not the purpose of an EIA and based on the assessment of the Planning Service it is considered that there would be significant environmental impacts should this development be approved. This is reflected in the Recommendation below.

### **Legal Agreement and Head of Terms**

- 7.73 As noted under the Developer Obligations section above, specifically paragraphs 7.27 and 7.28, contributions would be required towards the Core Path Network, Healthcare Facilities as well as 0.5 affordable housing units by a commuted sum. Additionally, the affordable housing provision of 62 units would need to be secured on site. As such, should the application be approved then a section 75 Legal Agreement would be required. It is noted that the applicant has agreed to the Heads of Terms outlined within the Developer Obligations Assessment.

### **Representations**

- 7.74 A total of three hundred and nine (309) representations have been received in which three hundred and three (303) object, four (4) are in support and two (2) have provided neutral

comments. The objections and concerns raised have been separated into the following headings, a full list is provided above:

- Woodland
- Green Belt / Green Space Network / Open Space
- Principle of Development
- Local Facilities/Amenities
- Local and Natural Heritage
- Environment
- Transport/Access
- National and Local Policies
- General

7.75 In respect to these headings and the comments received, these have been given due consideration and all material considerations raised have been taken into account in the assessment of this application. It is noted that some of the comments raised were not material and as such these have not formed part of this assessment. All other comments raised that have not been addressed in the body of the report will be considered below.

#### 7.76 Woodland

- Woodland should be retained for people to enjoy – local amenity – *while the Planning Service are of the opinion that the woodland should be retained, it is privately owned as such, its use as a local amenity is dependent on the landowner.*
- Previous illegal felling of woodland to make way for development – *while the Planning Service are aware of the illegal felling on site, there can be no assumptions made that it was carried out to make way for development. Furthermore, this happened prior to the application being submitted and as such cannot be taken into account.*
- Application would set precedent for destroying Ancient Woodland – *each application is assessed on its own merits and any other application for development on Ancient Woodland would need to be given due consideration based on its context.*

#### 7.77 Green Belt / Green Space Network / Open Space

- Loss of agricultural land – *should the application be approved, there would be a loss of agricultural land.*
- Existing areas used by many as amenity area/for recreation (walking) – *while the Planning Service are aware that the area is used for amenity purposes, it is privately owned as such, its use as a local amenity is dependent on the landowner.*

#### 7.78 Principle of Development

- Smaller development would lead to more land being left undeveloped – *the Planning Service are required to assess planning applications as submitted.*
- Use of unnatural material – *the development would see the significant use of materials that are not found on site, such as construction and building materials.*
- Poor quality of houses – *the application is for PPP, as such no details of the units have been provided.*
- This development will lead to further development into OP-52, 54 and 109 – *These sites are allocated within the current ALDP, as such the development of this site, has no bearing on the potential development of these sites.*

#### 7.79 Local Facilities/Amenities

- Insufficient infrastructure in Peterculter – primary school/academy, medical practice and dentist all at capacity – *the site falls within the catchment areas for Culter Primary School*

*and Culter Academy and it is considered that there is sufficient capacity at Culter Primary School to accommodate the number of pupils expected to be generated by the proposed development. It has also advised that no developer obligations would be required from the developer for Culter Academy as there is sufficient capacity. In terms of healthcare facilities, contributions are required towards these as noted under Developer Obligations section.*

- *Lack of local amenities – this is not a material planning consideration and cannot form part of this assessment.*
- *Increased stress and pressure on limited local amenities, including shops and community facilities – this is not a material planning consideration and cannot form part of this assessment.*
- *No sufficient provision of infrastructure, e.g. public transport and leisure/sport facilities etc., to facilitate development – the matter of public transport has been addressed above. In terms of leisure/sport facilities, this is not a material planning consideration and cannot form part of this assessment.*

#### 7.80 Environment

- *Not a net zero development – this cannot be assessed at this time owing to lack of relevant details.*
- *Safety concerns over SUDs provision – the SUDs are proposed part of the open space provision, further details would be required as to how this would work from safety perspective.*
- *Loss of public right of way through site – a path provision is to be retained through the development.*

#### 7.81 Transport/Access

Several concerns regarding transport and access were highlighted, but these have not been raised as an issue by the Roads Development Management Team, these are as follows:

- *Limited/bad visibility and existing junction on Malcolm Road.*
- *Existing traffic and parking issues in Peterculter even with AWPR in place.*
- *Increase in commuter traffic.*
- *Existing roads/infrastructure insufficient for development and require upgrades.*
- *Development residents will use existing shorter routes, e.g. Culter House Road would be used as a rat run.*
- *Development would result in increase of traffic on Culter House Road.*

Other comments:

- *Intensification of pedestrians through existing housing developments – given the nature of the proposal, this approval of the development would increase the number of pedestrians slightly but this is not a material planning consideration.*
- *Culter House Road not included in the Transport Assessment – no access, other than emergency access, is proposed along Culter House Road and therefore does not need to be included within the Transport Assessment.*
- *Good route out of site onto Culter House Road – this is proposed to be an emergency access only and is not sufficient for 'normal' access to and from the site.*
- *Excessive HGV use during construction – this will be considered through a subsequent CEMP should the application be approved.*

#### 7.82 General

Several general concerns were highlighted, but some of these are not a material planning consideration for the assessment of this application, these are as follows:

- *Not an efficient use of the site.*
- *Existing undeveloped brownfield sites and allocated opportunity sites elsewhere in the city.*

- High number of unoccupied dwellings – 2,500 units vacant.
- Unoccupied/oversupply of properties across the city.
- Inadequate brownfield capacity study.
- City centre regeneration required.
- No need for another housing development.
- Current market conditions – Countesswells Development Limited in administration as an example.
- Loss of existing equestrian facility.
- Development increases Peterculter population by 10% - demand on facilities and infrastructure.
- Increase in population.
- No benefit for residents or future of village.
- Site is used to graze animals.
- View will be destroyed.
- Not needed due to Oil and Gas industry.

Other comment:

- Neighbours not notified – *all neighbours within 20m of the application site boundary were notified. Additionally, adverts were placed both in the Evening Express and Edinburgh Gazette.*

7.83 With regards to the representations reviewed which were in support of or provided neutral comments on the development, these too have been given due consideration in the above evaluation.

### **Conclusion**

7.84 It is considered that the development would constitute a significant departure from Development Plan Strategy and be contrary to Policy NE1 - Green Space Network and Policy NE2 - Green Belt of the adopted ALDP 2017, as it proposes a form of development that is not considered acceptable in the Green Belt and would result in the loss of valuable Green Belt land as well as eroding the character and function of both the Green Belt and Green Space Network.

7.85 Although it is acknowledged that the Proposed ALDP 2020 is a material consideration and part of the site has been allocated in that as an opportunity site for residential development, the Plan is currently undergoing Examination by Scottish Ministers and the allocation of the site has been the subject of a significant level of unresolved objection. The application is therefore considered to be premature and the allocation of part of the site for housing in the Proposed ALDP cannot be afforded sufficient weight to justify a departure from the adopted ALDP, which, along with the SDP is considered to be the primary document against which the application is assessed.

7.86 In the Proposed ALDP, the access road would still remain as Green Belt and GSN and would therefore be contrary to the relevant policies of the Proposed ALDP in its own right. Additionally, there is sufficient housing land supply and therefore no urgent need to develop the site to meet housing demand within the city. Furthermore, the development does not contribute to sustainable development for the reasons highlighted within this report and as such paragraph 33 of SPP is not relevant.

7.87 The proposal as a whole, would result in an adverse impact on the existing landscape character, given that it would result in a permanent change to the use of the site and as a result of this, the long distance views from the north and west would be significantly altered. The land to the north and west is currently Green Belt land and this change would therefore

adversely affect the open rural landscape character of the area, contrary to Policy D2 - Landscape as well as Policy NE2 - Green Belt of the current ALDP.

- 7.88 The development is not considered to be sustainable due to its remote location, distance and lack of safe and desirable connections to the amenities and services within Peterculter, as such the proposal is considered contrary to Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel.
- 7.89 Specifically in relation to the proposed access road, as well as having an adverse impact on landscape, it is considered that this part of the development would result in the unacceptable form of development within a significant area of Ancient Woodland and the loss of a substantial number of trees that are protected by a TPO within the application boundary. Moreover, and again due to the location of the access road and sensitive nature of the site on which it would sit, it is considered that such a development would have a direct negative effect on natural heritage, which is considered to be ecologically healthy. The loss of the woodland would result in an unacceptable impact upon many species using the site, the fragmentation of habitats and the permanent loss of foraging areas. As such, the development, specifically the access road aspect of the proposal, is considered contrary to Policy NE5 - Trees and Woodlands and Policy NE8 - Natural Heritage.
- 7.90 Overall, the development is considered to represent a significant conflict with the Development Plan Strategy and fails to comply with a number of relevant policies within the ALDP. Furthermore, the proposal is not considered to contribute to sustainable development and there are no other material considerations that would provide sufficient justification to support this application as a departure from the Development Plan Strategy. The application is therefore recommended for refusal.

## **8. RECOMMENDATION**

8.1 Refuse

## **9. REASON FOR RECOMMENDATION**

1. That the proposed development is considered to represent the erosion of the character and function of the designated existing Green Space Network. Due to its location and scale, the proposal does not meet any of the exception criteria highlighted within Green Belt policy. Furthermore, the proposed access road is not considered to be essential infrastructure. As such, the development is contrary to Policy NE1 - Green Space Network and Policy NE2 - Green Belt of the Aberdeen Local Development Plan 2017 and would represent a significant departure from the adopted Development Plan Strategy.
2. That the development would result in the large-scale alteration of the existing rural landscape character of the site and surrounding area, to its detriment. This would harm the strategic landscape framework of the area, which is a key part of the city's setting, especially when viewed from the gateway route of the A93 from the west. As such, the proposal is contrary to Policy D2 - Landscape of the Aberdeen Local Development Plan 2017.
3. That due to its location, which is considered removed from the established area of Peterculter, the proposal does not constitute sustainable development and sufficient measures have not been taken to maximise opportunities for sustainable and active travel and to minimise the use of the private car. As such the development is considered contrary

to Policy T2 - Managing the Transport Impact of Development and Policy T3 - Sustainable and Active Travel of the Aberdeen Local Development Plan 2017.

4. That the proposed access road and junction from the B979 would result in the unacceptable loss of a significant area of Ancient Woodland and a substantial number of trees that are protected by Tree Preservation Order 256 located within the application boundary. Sufficient acceptable mitigation has not been proposed. The proposal is accordingly considered contrary to Policy NE5 - Trees and Woodland of the Aberdeen Local Development Plan 2017 and Policy NE5 - Trees and Woodland of the Proposed Aberdeen Local Development Plan 2020.
5. That the proposed access road and junction from the B979, due to the related loss of a significant area of Ancient Woodland and trees covered by a Tree Preservation Order, would adversely impact on the natural heritage and ecological integrity of the site. Sufficient acceptable mitigation has not been proposed. The proposal is accordingly contrary to Policy NE8 - Natural Heritage of the Aberdeen Local Development Plan 2017 Policy NE3 - Our Natural Heritage of the Proposed Aberdeen Local Development Plan 2020.

## **10. CONDITIONS IN THE EVENT OF A WILLINGNESS TO APPROVE**

- 10.1 If the Committee is minded to give a willingness to approve the application, it is recommended that this should be subject to a legal agreement to ensure payment of the required developer obligations and to secure the associated affordable housing provisions as contained within the Development Obligations response. It is also recommended that conditions should be attached to any grant of planning permission in relation to the following items:
- Full details of the layout of the site and elevational details of any dwelling or building, as well as the materials proposed to be used;
  - Details of the community facilities;
  - Full details of the proposed access to Malcolm Road, internal road and footpath layouts, including pedestrian crossing points, parking (vehicle & cycle) provision and EV charge points in line with Roads Development Management Team comments;
  - Residential Travel Pack;
  - Safe Routes to School;
  - Details of the interaction with the existing watercourses;
  - A full Drainage Impact Assessment, including details of the SUDs basins;
  - A full landscaping scheme, with detail of hard and soft landscaping as well as an implementation and mitigation plan;
  - Play facilities details;
  - A Programme of Archaeological Works;
  - Full details of waste provision and collection;
  - Low & zero carbon technologies and Water efficiency measures;
  - Tree Protection Measures;
  - Full details of compensatory planting;
  - Full details of ecology mitigation – wildlife corridors, badger tunnels, bat boxes etc.
  - External lighting;
  - Construction Environment Management Plan; and
  - Limiting the development near the Buckler Burn and details of the development near the Burn adjacent Malcolm Road.

Please note this list is not exhaustive.