

ABERDEEN CITY COUNCIL

COMMITTEE	Finance and Resources
DATE	08 May 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	The Deeside Way and Proposed Inchgarth Retirement Village, Cults
REPORT NUMBER	F&C/24/133
DIRECTOR	Eleanor Sheppard
CHIEF OFFICER	Stephen Booth
REPORT AUTHOR	Jonathan Steele
TERMS OF REFERENCE	4.1 and 4.4

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise Committee of the developer's approach regarding the proposed development of Inchgarth Retirement Village, Cults and their requirement to obtain airspace over The Deeside Way to enable construction of a new bridge. The bridge will form part of a new link road through the development connecting North Deeside Road and Inchgarth Road.

2. RECOMMENDATION(S)

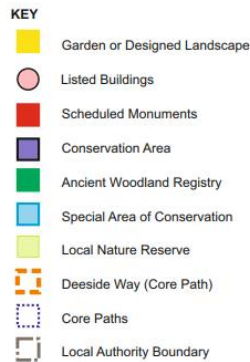
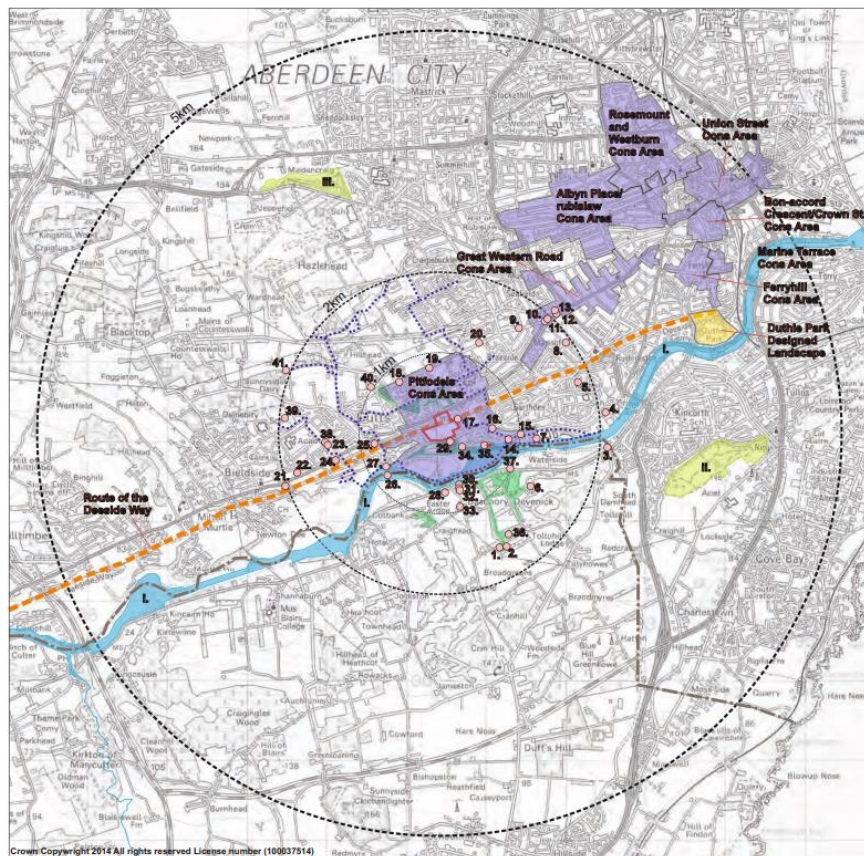
That the Committee: -

- 2.1 Approve the proposal to lease airspace rights over The Deeside Way to enable construction of a new bridge, subject to approval of its final technical design by the planning authority;
- 2.2 Instruct the Chief Officer – Corporate Landlord to agree Terms for the proposed lease of the airspace based on the final approved technical design of the bridge; and
- 2.3 Instruct the Chief Officer – Governance to conclude an agreement for the lease of the airspace rights incorporating conditions necessary to protect the Council's interest in accordance with the Terms agreed at 2.2.

3. CURRENT SITUATION

3.1 A conditional Planning Consent (Reference 181224/PP) was granted in March, 2023 to Cults Property Development Company Limited for a mixed use development upon ground situated on either side of the Deeside Way between North Deeside Road and Inchgarth Road, within Cults. A Section 75 Minute of Agreement has also been entered into between the Council and the developer.

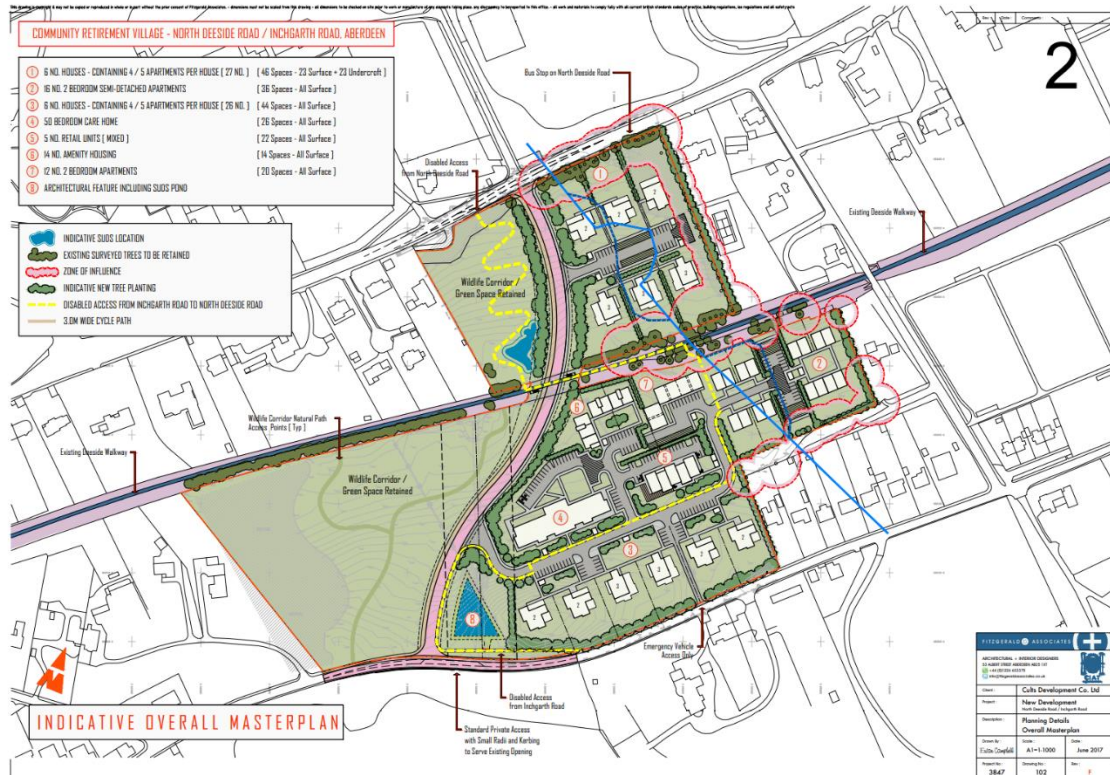
3.2 Location plan:-



3.3 The proposal is for a residential led development for the retired / elderly, including affordable housing, a 50 bedroom care home, and 500 sq. m.,

approximately, of ancillary retail / community use, together with public open space and associated infrastructure, including a link road as detailed in the following plan.

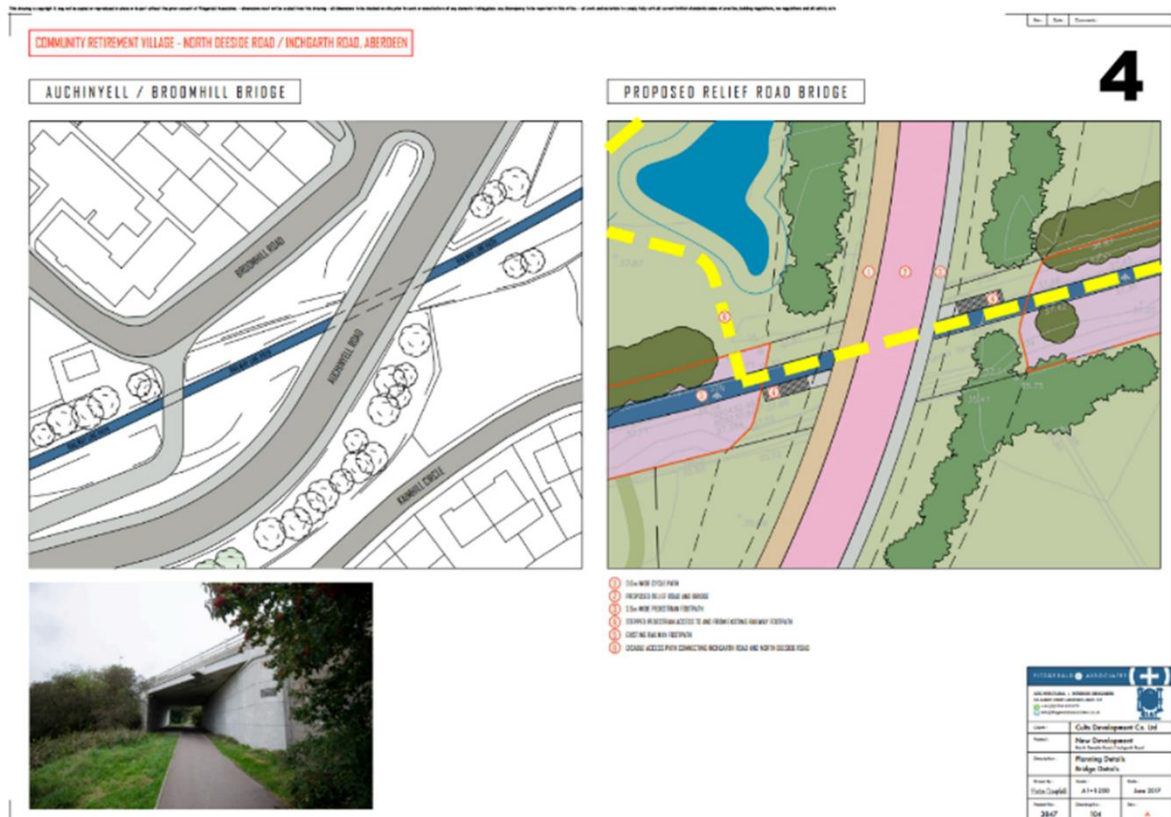
3.4 Proposed development plan:-



3.5 The proposed link road forming part of the development will comprise a new road linking North Deeside Road to the north, and Inchgarth Road to the south. The new road will require the construction of a bridge to enable it to cross over The Deeside Way, which dissects the development.

3.6 The Deeside Way is a popular public trail and cycle way, incorporating the Former Deeside Railway Line, which has been safe guarded from a local planning perspective to ensure continued use in the public interest.

3.7 Example bridge structure:-



- 3.8 The developer upon receiving full planning consent in principle has approached the Council, as owner of The Deeside Way, to undertake the necessary process required to construct the new bridge.
- 3.9 The planning consent in principle has various conditions, which require further approval by the planning authority. This includes the developer providing full details of the proposed means of access to the development.
- 3.10 This will involve providing full technical design details of the proposed bridge, which will be subject to the approval of the relevant Council departments.
- 3.11 Once the bridge design is approved and the exact area required is confirmed, it is proposed the Council will instruct an external valuer with specialist knowledge to provide a market valuation of the area to confirm Market Value and Market Rent.
- 3.12 Due to the specialist nature of the subjects it is considered appropriate to instruct an external valuer with the necessary expertise to provide a formal valuation. The developer has agreed to meet the Council's costs in relation to the valuation and any additional legal advice required.

- 3.13 It is proposed that the method of transfer of the airspace rights will be a lease for the period required to complete construction of the bridge and new link road, to an adoptable standard.

4. FINANCIAL IMPLICATIONS

- 4.1 The Council will obtain formal quotes from appropriate external valuers. The developer has agreed to cover the cost of the valuation and any legal advice required in relation to this matter.

5. LEGAL IMPLICATIONS

- 5.1 Legal Services will undertake the necessary due diligence to ensure the lease of airspace rights comply with the Terms agreed per industry norms and the planning consents while incorporating conditions necessary to protect the Council's interest.
- 5.2 Safeguards (including but not limited to) lease termination options and the provision of road bonds, should be incorporated into the legal documentation to ensure the Council is adequately protected against the Developer potentially going insolvent prior to the road being completed to an adoptable standard.
- 5.3 Corporate Landlord in consultation with Legal Services will consider and (if necessary) incorporate early termination provisions within the lease to accommodate the potential for a future re-purposing of the Deeside Way back to railway use.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report. The design and construction of the bridge will be subject to a separate application to ensure compliance with environmental and wider planning policy.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant risks identified		L	Yes
Compliance	Requirement to meet best value	Obtain formal valuation over the required area once specified.	L	Yes
Operational	No significant risks identified	The Deeside Way is both a Core Footpath and a wildlife corridor and is accessed by a variety of users. While no significant risk identified in relation to the proposal, following a decision at CG&R Committee ref RES/19/424 on 5.12.2019, instructions were confirmed re various restrictions to access to the Deeside Line.	L	Yes
Financial	Requirement to meet best value	Obtain formal valuation over the required area. Developer to meet cost of valuation.	L	Yes
Reputational	No significant risks identified		L	Yes
Environment / Climate	No significant risks identified		L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
Impact of Report	
<p>Aberdeen City Council Policy Statement</p> <p><u>Working in Partnership for Aberdeen</u></p>	<p>The proposals within this report support the delivery of the following aspects of the policy statement:-</p> <ul style="list-style-type: none"> • Seeking to improve quality of life • Making a better place for people to live, work, raise a family and visit.
<u>Local Outcome Improvement Plan</u>	
Prosperous People Stretch Outcomes	This report and recommendation will not impact the Council's ability to fulfil its Stretch Outcomes.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	New Integrated Impact Assessment has been completed.
Data Protection Impact Assessment	Not required
Other	N/A

10. BACKGROUND PAPERS

10.1 None.

11. APPENDICES

11.1 None

12. REPORT AUTHOR CONTACT DETAILS

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