



HALLIDAY FRASER MUNRO

CHARTERED ARCHITECTS & PLANNING CONSULTANTS

# Statement of Case

SPADEMILL STUDIO APPEAL

(Application Ref: 230759/DPP)

Diamond Developments Limited

Revision P01

Rev	Date	Signed
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Registered Office:

8 Victoria Street

Aberdeen

AB10 1XB

T: 01224 388 700

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## 1. Introduction/The Proposal

Halliday Fraser Munro have been instructed to lodge this appeal on behalf of the applicant Diamond Developments Ltd. The applicant is committed to provide the highest quality new residential development on brownfield sites in Aberdeen which would otherwise sit vacant or underused. This application is no different. They seek to replace an ugly and unused office development with a modern home of a very high-quality design in one of Aberdeen's rear lanes. Planning policy supports rear lane brownfield development and the end result would be an improvement to this area of Aberdeen, both in built form and new green space replacing the existing car park. It will enhance the Albyn Place/Rubislaw Conservation Area. The local community via Queen's Cross and Harlaw Community Council support this application (see Document SS1). The Report of Handling (RoH) incorrectly reported that they had made no comment.

The new house is 2-storeys to the lane with a single storey wing to the rear. The new home will enclose a large garden with the remaining three sides bound by the existing high stone walls and a new 1.8 metre wall to the rear to match. The hedge to the rear will remain and the single storey wing will include a green roof. Car parking is provided within the site (under the building). The rear garden has been designed to offer privacy and security and the house will provide a strong boundary to the lane. Application drawings are included in the Appeal Documents.



*Figure 1 - Visual of Proposed House from the garden – Extract from Design Statement (Brown & Brown – Document AD15)*

Diamond Developments Limited instructed Brown & Brown to design an exceptional quality contemporary new home to replace the current poor quality office. Brown & Brown are the recipients of several prestigious awards and accolades over the years, including the Scottish Design Awards 'Architecture Practice of the Year', British Homes Awards, House of the Year shortlist, Aberdeen Society of Architects Awards and the Saltire Housing Design Award amongst others. Their work is regularly featured in renowned global publications in print and online as exemplary. Their design approach and well respected designs are exactly the type of development which can make best use of redundant west end sites and highlight the quality achievable on these sites in Aberdeen.

In September 2024 Brown & Brown won the British Homes Award (House of the Year) for their The Arbor House at 9 Westerton Road, Aberdeen (application reference 191470/DPP). The design concept of that house and this proposal are similar as are the proposed finishes and

design detail. British Homes Awards described The Arbor House as a thoughtfully designed and striking low-energy home situated in a conservation area in Aberdeen that transforms an open plot into a private, leafy sanctuary emphasising craftsmanship and design. The Arbor House was designed with sustainability in mind, making use of natural materials and systems to minimise energy consumption. The Arbor House is a perfect example of how a contemporary house, and the Planning Authority taking a welcoming approach to contemporary and good design, can help the image of a city at a local, national and international level. Not only has the development been featured in many design and housing publications but it has also been picked up by the New York Times (see Document SS11). The proposal at Spademill Lane has the credentials to become another award winning housing design that the City can be proud of.

Diamond Property Developments are also award winning developers, having been finalists in numerous awards and winning Best Apartment in Scotland in 2019 and Best Conversion/Renovation in 2019 (Herald Property Awards). Quality development is their key driver and they are currently developing a range of sites in the west end of Aberdeen with the aim of delivering extremely high quality development on redundant sites and underused or vacant buildings. This approach should be supported and will bring life back to the City. Other developments include:

- Spireview (North Silver Street) – quality City Centre apartments
- 78 Queen’s Road – unique townhouse apartments
- 8 Queen’s Road – Boutique Hotel
- Bayview Estate (ex-Grammar Club, Queen’s Road) – luxury apartments

The redevelopment of this site for a contemporary new home is a distinct improvement compared to the existing office building and car park. Having examined the policy basis for this decision we are of the view that planning policies support an approval rather than a refusal. The key deciding factors are related to the present built form and context, the improvement post development and the proposed design approach. Having examined all of these in this Statement of Case we are of the opinion that this appeal should be upheld and the development approved.

### **1.1 Site and Location**

The site is located in Spademill Lane in the west end of Aberdeen. At some point in the past it was separated from number 78 Queen’s Road. It has been a distinct planning unit for many years, separated from 78 Queen’s Road by a high hedge which is to remain as part of the proposed development. The proposal site currently houses a poor quality office development with the remaining ground used exclusively for car parking. There is currently no open space on site.

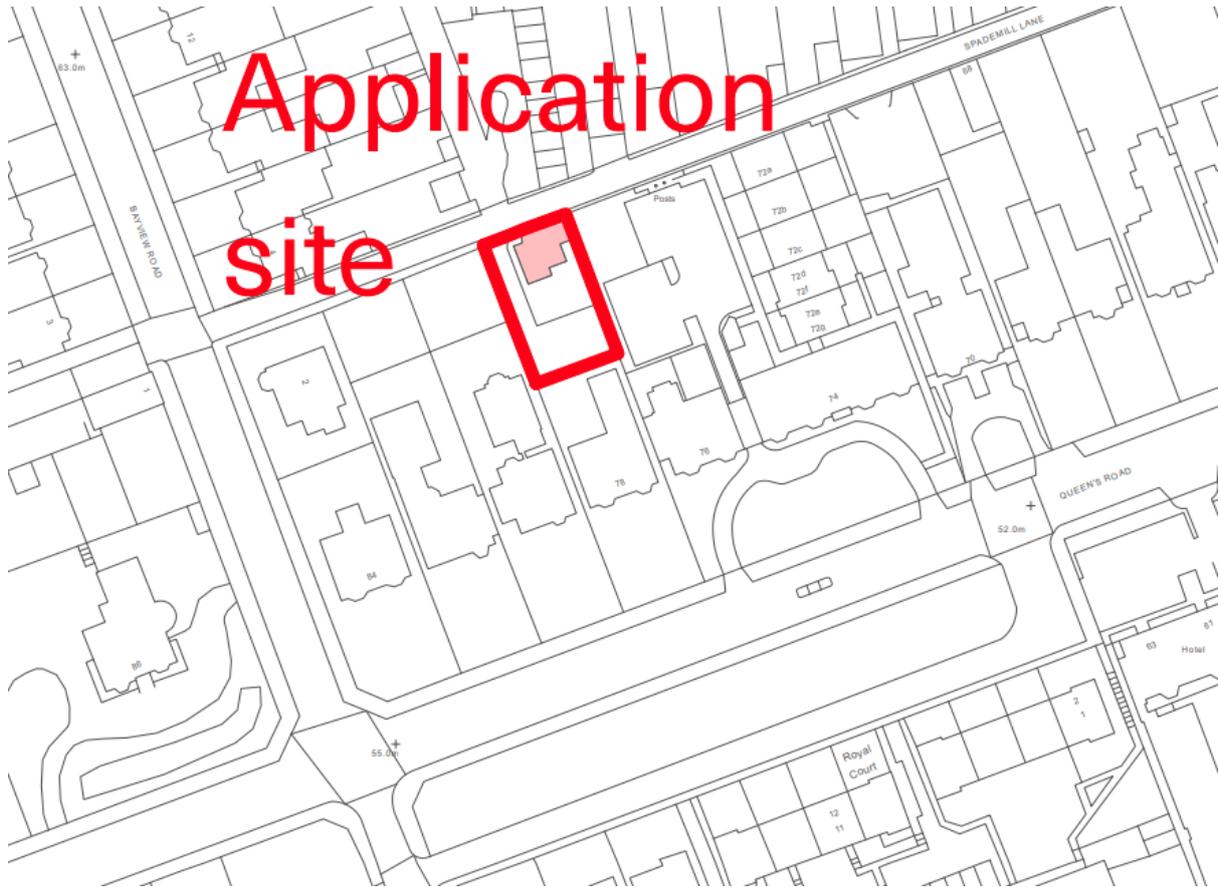


Figure 2 – Extract from Location Plan (AD5)



Figure 3 – Existing Office Building



*Figure 4 – Hedge to Southern Boundary*

The site is approximately 486 sqm in area with existing high traditional walls to the east and west. These too are to remain. The existing poor quality office has no architectural merit, does not offer any benefit to the Conservation Area, and is proposed to be demolished and replaced with a high quality and modern new home. The car park is to become the garden for the house.

## 1.2 Reasons for Refusal

The decision notice was issued on 22<sup>nd</sup> August (Document AD1). All of the reasons for refusal are considered subjective and are not shared by the applicant or their architect. The central key aim of this application is the replacement of a very poorly designed office building and associated parking across the whole site with a contemporary, well-designed home and garden that will enhance the conservation area and its setting. The reasons for refusal stated in the decision, which this appeal strongly disagrees with, are:

- *Level of development is considered excessive by officers – **This is refuted*** - the proposal is for a single housing unit and therefore entirely appropriate for this site and in line with extant policy. This is not a valid reason for refusal.
- *The scale, form and design of the dwelling is considered unacceptable by officers – **This is refuted. There is no absolute criteria in the extant policy or guidance which the proposals categorically can't comply with.***
- *The proposal is not considered by officers to represent an appropriate development informed by the historic context or the original building envelope – **This is refuted – the architect considered the historic and physical context when designing the proposals. The existing building envelope is not relevant given its use and poor quality design.***
- *The development is considered by officers to have an overbearing impact on 78 Queen's Road – **This is refuted*** – 78 Queen's Road and this site have been separate planning units with separate feus for many years. The Planning Service in the recent standalone approval for residential use at number 78 considered it to have acceptable amenity. It did not need the Spademill Lane site to achieve that amenity. Development at Spademill Studio conversely will not impact on number 78. Queen's Road is also a 2.5 storey traditional granite building approximately 12 metres tall. **The development of a 2 storey domestic building onto the rear lane (over 20 metres away) with a single storey extension to the rear will not have an overbearing impact on such a large building.**
- *Not enough external amenity space – **This is refuted – the house has a large garden and other external amenity space, including a green roof. It has plenty of amenity space.***
- *Detrimental impact on the Conservation Area, would not preserve or enhance the immediate area – **This is refuted*** – the existing office is poor quality and the remainder of the site is hardstanding used for car parking. **Replacing the existing office with a contemporary house and garden will have a positive impact on the Conservation Area.**

These will be considered in the following Statement of Case and split into the following key issues.

- Planning Policy Considerations
- Scale, Form and Quantum of Development
- Physical and Historic Context
- Impact on 78 Queen's Road
- Amenity Space
- Impact on the Conservation Area

We note that the Report of Handling (RoH – document SS2) indicates:

- The general principle of housing is accepted (subject to their comments on Criteria 1 and 2 of the H1 policy) and, in principle, the re-use of brownfield sites complies with the aims of national and local land-use policies.
- This is a private curtilage so would not result in the loss of any open space. In fact, it would remove a car park and replace it with garden ground so would increase and improve the quality of open space in this part of the City, albeit private.
- That the APG on Development in Rear Lanes “...provides a ‘design checklist’ **to guide development**” page 7, paragraph 1 (our emphasis on guide – this checklist **is not a rule book.**) and,
- That “... *neither ALDP policy H1 or the Development Along Lanes APG outlines calculations of what is an acceptable level of development...*” page 7, paragraph 2. The key policies relating to this type of development, instead, allow some flexibility and scope for imagination and flair.

As per page 3 of the Report of Handling (RoH) consultees including Environmental Health, Roads Development Management and Waste and Recycling have no objections to this application. **Technically, therefore, the development is acceptable.**

There are also no public objections to this application. **Importantly, and contrary to the Report of Handling, Queen’s Cross and Harlaw Community Council have lodged a letter of support for this application – see 1.3 below.**

Although we recognise that there will be differing opinions on design elements we specifically disagree with some of the statements made in the Report of Handling, specifically:

- Page 7 – the inference that the new building is the same scale as number 78 Queen’s Road to the south of this site. That is not the case and this is considered later.
- Page 7 – only 21% of the current site is developed. That is also considered later but the whole site is developed at present with both buildings and hardstanding car parking.
- Measurements related to the proposed development – the architect has provided overmarked drawings confirming proposed dimensions and heights (Document SS3).

### **1.3 Community Council Support**

The RoH indicates that Queen’s Cross and Harlaw Community Council (QCHCC) had made no comments on this application. **That is not the case.** This application includes an associated Conservation Area Consent (CAC) application (Ref: 240930/CAC) for the demolition of the office building. That CAC application was a requirement of the Council’s Planning Service but is directly linked to the detailed planning application that is the subject to this appeal and includes the same supporting information and plans. QCHCC lodged a representation to that application in support of the demolition and in that representation (being considered by same case officer and prior to the date of decision) specifically stated their support for that CAC application and this appealed detailed application.

**The RoH is therefore incorrect in stating that the Community Council made no comment on the detailed planning application. They have in fact directly indicated their support for the proposed development and should be able to participate in this appeal process should they be minded to do so.**

The Community Council consultation response (Document SS1) states “*The existing Spademill Studio has passed its time and not fit for use in our ever changing city of old outdated offices. Queens Cross and Harlaw Members **unanimously Support planning application Ref. No :230759/DPP Erection of dwelling house with garage, rear boundary wall and associated landscaping of Spademill Studio Spademill Lane AB15 4EZ.** We believe the proposed new residential home is of high standard and fits in with the other new/redeveloped homes within our area of back lanes. **This new build is an impressive and ambitious project, of which our area needs many more.**”*

There are no public objections to this proposal and the local Community Council have voiced unanimous support. This we believe is a strong material consideration in support of the proposal and should be considered when coming to a decision on this appeal.

#### **1.4 Design Changes**

The architect/agent has sought meetings with the planning service to discuss their suggested changes to the originally proposed design. Direct discussions have however been limited and more recent requests for an on-site meeting to examine some of the issues raised was not granted. That’s unfortunate as we are of the view that an on-site meeting would have been especially useful to both understand potential solutions and offer alternative approaches. It would also have been useful to illustrate that the existing office building does not meet the criteria in the APG, particularly that of building depth. During the e-mail exchanges on the application the agent lodged a review of the existing building dimensions (Document SS10) which indicates that the existing building is 11.2 metres deep excluding the chimney stack which extends to the rear.

The applicant has, however, included design changes to go some way towards the amendments requested by the planning service. These are mentioned in the RoH on page 3 but include:

- Reducing the length of the rear single storey extension and removing the rear covered walkway which originally extended across the width of the rear of the plot. This reduces the overall footprint of the house but also stops development before it reaches the rear of the plot, reducing any perceived impact on number 78 Queen’s Road.
- Removing the 3 metre high wall to the rear and introducing a new 1.8 metre high boundary wall to match the existing walls to the east and west of the plot. The hedge will remain;
- Introducing new window openings into the elevation facing onto the lane to improve passive surveillance and overall security of the lane (in line with the requirements of the APG – SS6);
- Stepping in the upper floors to reduce the perceived massing of the building and reflect the requirements of the APG (SS6);
- New additional planting in the rear garden.

Although we note the commentary in the RoH that the planning service does not believe these go far enough we are of the view that the architect’s design does reflect the context of this site and offers a fitting contemporary and high quality design. The design changes above have indicated a willingness to amend the scheme but the changes requested by the planning service in this instance are not considered to reflect the site, or the opportunity it offers for a contemporary design and urban living.

## 2. Planning Policy Considerations

The Report of Handling and the Decision Notice refer to a number of policies and plans, including National Planning Framework 4 (NPF4), the Local Development Plan 2023 (LDP) and Aberdeen Planning Guidance. It also mentions Historic Environment Scotland Managing Change Guidance. **In our view none of these merit the refusal of this application.**

Document AD2 (Planning Review), lodged with this application examines the policy issues in detail and we refer you to that for additional detailed analysis. In summary the Planning Review found:

- (at Section 1.1) This site and number 78 Queen’s Road have been operating as separate planning units for many years. 78 Queen’s Road recently received standalone consent for the conversion to flats based on the extant site boundaries and the Planning Service, in coming to that decision, found that there was sufficient amenity space, sufficient open space and no impact in the surrounding sites. **That is a self-contained consent and will not be impacted by this development in any negative manner.** The setting and amenity for number 78 is established and will not change especially as the existing hedge is to remain on the northern boundary.
- (at Section 3.1) National Planning Framework 4 (NPF4) is a strategic policy document which does not offer any detailed policy guidance in relation to the proposed development. It does, however, support high quality development in urban areas, compact urban growth and the intensification on brownfield sites. **NPF4 therefore supports the proposed development.** We note the Planning Service comments on this so have elaborated on NPF4 in this Statement of Case.
- (on pages 4-6) Policy D1 – Quality Placemaking does not mention the APG on Development Along Lanes but does seek quality development which meets the six essential qualities of place. The Planning Review (AD2) has examined that policy and the six qualities of place and confirms that **the proposed development complies with D1. It concludes that “It is precisely the type of development that the policy sets out to achieve. It reuses a brownfield site in a highly sustainable location and provides a high-quality design approach to complement the surrounding context.”**
- (on pages 6-9) On the APG Development Along Lanes the Planning Review has examined the policy intent and the checklist guidance (note that it is guidance and not absolute requirements). On the general purpose of APG the Local Development Plan indicates that these are for “information and advice.” This specific APG encourages development along rear lanes and offers 19 points of guidance. **These are reviewed in section 3.4 of the Planning Review (AD2) but concludes that the proposals can be considered to comply with all 19. Specifically the APG supports “responsive contemporary design” in the historic context.**
- (on pages 7-9) The Planning Review considers the APG checklist guidance. We would refer you to these pages in AD2 but these have also been included in Appendix 2 for convenience. In essence though, the proposal is considered to:
  - Have considered the historic and surrounding context (see the Heritage Statement lodged with the application - Document AD3);
  - Form a strong boundary edge and maintains a sense of enclosure;
  - Have been designed to benefit from solar gain with south facing rooms;
  - Have conducted the requisite surveys;

- Incorporate the original boundary walls;
- Improve the amenity of the neighbouring buildings;
- Be in line with the guidance in that it builds across the entire feu to create the security need for the proposed residential users;
- Be no more than 2 domestic storeys in height and although it exceeds a notional guidance height (which we question in the review) is still in line with other contextual buildings along the lane;
- Reflect the existing built context along the lane (note that the existing office is approximately 10m deep);
- Reflect the need for a robust ground floor public elevation;
- Have a clearly defined and secure pedestrian access;
- Provide an attractive level of low maintenance hard and soft landscaped areas;
- Comply with daylight and sunlight needs;
- Include a canted (stepped in) upper floor to reduce visual impact (note that the current office is stepped out into the lane);
- Introduce natural surveillance onto the lane with new openings; and
- **Overall – suggests that the APG should not be used as a reason for refusal.**

## 2.1 National Planning Framework 4

In response to points set in the Planning Service Report of Handling (RoH) - NPF4 is a high level strategy document which sets out a number of policy intentions and outcomes as well as the policies themselves. These policies do not include specific detail or specific design criteria so are not applicable to the detailed elements of proposals. They are more related to the principle of development. NPF4 supports the reuse of brownfield sites, provision of modern and flexible housing development, urban intensification as a means of sustainable development and locating new homes in areas that can access existing services and facilities (localism and the 20-minute neighbourhood concept). **None of NPF4 suggests that this development should be refused and in fact the key policies and their policy intent and outcomes would support the proposed development.**

### 2.1.1 Applying NPF4 Policy

NPF4 is a single strategy document which forms part of the Development Plan but it should be read as a whole to allow balanced decision making. The Scottish Government recognise that policy conflicts are inevitable and anticipate that Planning Authorities are able to take decisions that are not necessarily in line with every policy. Individual policy elements shouldn't be picked out and used as reasons for refusal without a corresponding balanced review of how a proposal meets the overall objectives and requirements of other policies. NPF4 therefore supports a balanced planning process. This is especially important in decision-making on planning applications as set out by Scotland's Chief Planner in their letter of February 2023 (Document SS4) on how to interpret and apply the policies of NPF4.

In that letter the Chief Planner reinforces that *“Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise”* and that ***“planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.”***

That also state “*It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making. Conflicts between policies are to be expected. **Factors for and against development will be weighed up in the balance of planning judgement.***”

The policies of NPF4 are not designed to be applied individually or at a detailed design level. We are therefore of the view that using the NPF4 policies referred to in the Decision Notice and Report of Handling is not appropriate and does not reflect NPF4 as a whole.

The refusal notice specifically mentions Policy 7 and 14 of NPF4. We have examined these and do not believe that these are defensible or valid reasons for refusal.

**2.1.2 Policy 7 Historic assets and places** (included in Document SS5- NPF4 Extracts) sets out its policy intent “*To protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places*” and policy outcomes to value the historic environment, protect and enhance it, support the transition to net zero and ensuring resilience to impacts of climate change.

Replacing a poorly designed office with the proposed contemporary, high quality and modern energy efficient house meets those policy intentions. The new house will have a positive impact on this part of Aberdeen when compared to the existing situation.

The policy itself (part 7a) requires a statement of impact on historic assets (as lodged with the application – Document AD3).

Part 7b) and c) relate to the demolition or re-use of listed buildings and does not apply here as the existing office is not listed.

Part 7d) relates to the development in Conservation areas, indicating that proposals will be supported where “*the character and appearance of the conservation area and its setting is preserved **or** enhanced.*” Note the highlighted “**or**” in Policy 7d). NPF4 policy 7 only requires that conservation area setting be preserved and not enhanced. However, in this case we would argue that the conservation area setting will be significantly enhanced as a result of the development and the existing poor quality office removed. The Community Council letter of support confirms that is also their view.

Part 7e) requires that existing natural and built features are retained. The proposal retains the existing boundary walls and the hedge to the rear of the site. Some trees are being removed but these need to be removed as they have been identified as poor quality and their removal and direct replacement has been agreed with the Planning Service and the tree officer.

Part 7f) relates to the demolition of buildings in conservation areas which make a positive contribution to its character. The existing building does not make any positive contribution therefore this part of the policy does not apply.

Part 7g) is a procedural issue relating to when Conservation Area Consent should be issued so is not relevant to this appeal.

The remaining parts h-o of Policy 7 do not apply to this application.

**NPF4 Policy 7 is therefore not a valid reason for refusing this application. We would argue instead that it supports the proposal by virtue of its compliance with the relevant parts of the policy as set out above.**

**2.1.3 Policy 14 - Design, quality and place** (See extract in SS5) includes a policy intent to “*encourage, promote and facilitate well designed development*” and taking a design-led approach. The policy outcomes are stated as: “*Quality places, spaces and environments; Places that consistently deliver healthy, pleasant, distinctive, connected, sustainable and adaptable qualities.*”

Design is a subjective issue but it’s quite clear that the proposed development is a well-designed development which meets the tests for quality places.

Part a) of policy 14 requires well-designed development and part b) supports development which is consistent with the six qualities of successful places. Part c) indicates that poorly designed development that is detrimental to the amenity of the area or is incompatible with the six qualities of a successful place should not be supported. The reasons for refusal as stated by the Planning Service in their decision notice, however, has linked Policy 14 with the historical context when that issue should really be considered under Policy 7 (set out above).

**As stated previously, the 6 qualities of a successful place have been examined in the Planning Review (Document SS2, pages 4-6) and found the proposal to contribute to all 6. This is not a poorly designed development by any means. NPF4 Policy 14 is not a valid reason for refusal for the reasons set out here, backed up by the analysis in the Planning Review.**

#### **2.1.4 Other NPF4 Policies**

As indicated earlier it is NPF4 as a whole which should be applied to planning decisions. In mentioning only a few policies, the Planning Service excludes some key policies which support the development and the overarching spatial principles of NPF4. These include (see extracts in Document SS5):

The Overarching Spatial Principles (page 4 of NPF 4)

- *Just transition - empowering people to shape their places and ensure the transition to net zero is fair and inclusive.* The Community Council have lodged a letter of support for this application and have made it clear in separate communication with the architect that they wish to see more regeneration and development of this type in this area of the City.
- *Conserving and recycling assets – to make productive use of existing buildings, places, infrastructure and services.* The existing building is poor quality and replacing it with a modern house will have a long-standing and more positive outcome than retaining it. The proposal makes best use of this brownfield site and the existing infrastructure.
- *Local living – to support local liveability and improve community health and wellbeing by ensuring people can easily access services, greenspace, learning, work and leisure locally.* The location perfectly meets these requirements.
- *Compact urban growth – to limit urban expansion and optimise the use of land.* Again the proposal perfectly meets these requirements.

By applying these spatial principles, the national spatial strategy aims to support the planning and delivery of:

- *Sustainable places*, where we reduce emissions, restore and better connect biodiversity;
- *Liveable places*, where we can all live better, healthier lives; and
- *Productive places*, where we have a greener, fairer and more inclusive wellbeing economy.

We are of the view that this proposal will contribute to all 3 of these.

Page 6 of RoH mentions **Policy 16 – Quality homes** but suggests no evidence has been provided to show how the proposal complies with that policy. It's quite simple. This proposal will deliver more quality and sustainable homes, even if it's only the one. Policy 16 includes the policy intent to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities. Policy 16 is not aimed at one housing sector only and instead promotes good quality housing in sustainable locations.

In terms of policy outcomes it encourages:

- Good quality homes are at the heart of great places that contribute to strengthening the health and wellbeing of communities. It's worthwhile noting the Community Council response in this respect.
- Provision of land in the right locations to accommodate future need and demand for new homes, supported by the appropriate infrastructure and,
- More energy efficient, net zero emissions homes, supporting a greener, fairer and more inclusive wellbeing economy and community wealth building.

Clearly one house can't tackle all of these issues but it does provide a modern, energy efficient new home which is welcomed by the local community and should be supported.

**Policy 15 Local Living** of NPF4 (included in Document SS5) supports and encourages localism and specifically proposals which contribute to local living with good interconnectivity to the surroundings area using public transport, walking, cycling to access employment, shopping, health and social care facilities, childcare, schools and recreational areas. This site is perfectly located to access everyday needs by non-car modes and will contribute to and is therefore supported by Policy 15.

### 2.1.5 NPF4 Conclusions

Overall NPF4 is not considered to be justifiable reason for refusal. It has been used as a generic justification for refusal by the Planning Service which is not its intention. NPF4 supports the principle of brownfield urban development, densification in urban areas and new homes close to services and facilities. **This site reflects all three of those key principles and, as a result, we are of the view that NPF4 is a reason to support the proposal.**

### 3.0 Aberdeen City Local Development Plan (LDP) 2023

The 2023 LDP is the key policy document relating to development decisions in the City. It contains policies and references Aberdeen Planning Guidance (APG) but also contains conflicting policies requiring a balanced decision making process. Our view is the LDP does support the proposed development albeit it may not comply with every piece of guidance in the plan or associated documents. No application ever will. In this case, however, we are of the view that the proposal complies with the majority of policy tests and guidance. These have been examined in depth in the Planning Review lodged with the application (Document AD2). Further analysis or reference to that is included below.

The RoH mentions Policy H1 Residential Areas (the site falls within that zoning), suggesting that the principle of residential use in these areas is acceptable subject to certain tests. These are shown in the policy extract below/over. On these:

1. *Over-development* – the ROH states on page 7, paragraph 2 that neither ALDP policy 1 nor the relevant APG on Development Along Lanes includes any guidance on the calculations of what is an acceptable level of development for the type of development proposed. Defining “*over development*” is therefore a matter of opinion rather than fact. **We are of the view that the proposal is not over-development. This is examined further in sections 3.1 and 3.3 of this statement but in summary the house has been designed to make best use of the site and still provide a substantial garden and amenity area. It therefore makes best use of a brownfield site in a highly sustainable location.**

The RoH also mentions the APG on the Sub-Division and Redevelopment of Residential Curtilages as alternative guidance on the extent of site to be developed. **We would suggest that does not apply here.** That APG specifically relates to subdividing residential feus. As there is a specific APG on Developing in Rear Lanes that should take precedence and planning decisions should not be based on the content of guidance not directly related to the type of development being proposed. The APG on Developing on Rear Lanes (Document SS6) quite rightly considers the context rather than applying a specific development coverage. However, if the Planning Service was to continue to apply the APG on Sub-Division of Residential Curtilages then it also includes many other policy provisions which may support this proposed development. These have not been considered in the analysis set out in the RoH. The APG on splitting residential feus is not a reason for concluding that the proposal is over-development. Comments on the scale of amenity space is covered later.

2. *Does not have an adverse impact in the residential amenity or character or appearance of the area* – again these are matters of opinion and are subjective. The existing vacant office development is of a poor design and the rest of the site is a car park (For noting the building is not subject of a live commercial lease so is effectively empty). **The proposal, on the other hand, will have a positive impact on the residential amenity, character and appearance of Spademill Lane. This is a point recognised by the Community Council in their comments.**

3. *Does not result in the loss of open space* – the RoH already recognises that it doesn't and therefore complies with this element of the policy.

The proposal then fulfils all three requirements to be acceptable under this policy. **Policy H1 is therefore considered to support the proposal and the principle of housing on this site.**

## Policy H1 – Residential Areas

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential and householder development will be approved in principle if it:

1. does not constitute over-development; and
2. does not have an adverse impact to residential amenity and the character and appearance of an area; and
3. does not result in the loss of open space.

Within existing residential areas, proposals for non-residential uses will be supported if:

1. they are considered complementary to residential use; or
2. it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

### 3.1 Scale, Form and Quantum of Development

The RoH makes much of the scale of development in relation to the scale of the existing office development. These are not comparable uses so they are not comparing like for like. An office requires car parking associated with the number of employees working within it. The scale of building to car parking, and therefore site area, is therefore much lower i.e. less building and more car parking in order that the site can accommodate both. For a house, the parking requirements are substantially lower meaning that the site can be used much more efficiently with the scale of building to overall site area higher while still maintaining enough space to create good amenity and create a quality development.

The APG on Development in Rear Lane does not set out a specific ratio for development on brownfield sites and instead allows the context and design to be considered in coming to a decision. The RoH mentions the APG on Subdivision of Residential Curtilages and uses that as justification for the decision. We have indicated previously why that APG is not relevant. Even if it was that APFG also contains a range of other criteria that are met by this proposal including:

- *At section 2.7 that garden ground in rear gardens of houses up to two storeys in height should have an average length of at least 9 metres and dwellings of more than 2 storeys should have garden lengths of at least 11 metres. **This proposal's garden is approximately 21.5 metres deep and 10.5 metres wide. This suits the scale of the proposed house.***
- *Garden ground should be conveniently located immediately adjoining residential properties, be in a single block of a size and layout to be usable for sitting out and have an acceptable level of privacy and amenity. **This proposal positions the garden to the rear immediately adjacent to the house with good privacy and amenity.***
- *Rear garden grounds should be enclosed by solid fences or walls of at least 1.8 metres in height in order to ensure security and privacy, details of which will be secured through the evaluation of the application or via condition. **This application uses the existing***

**boundary walls and introduces a new boundary treatment to the rear reflecting this requirement.**

These criteria are only included above to illustrate that there are many factors which planning policy and guidance seek in new development. The proposal satisfies the majority of these. The proposed house fits physically and contextually within the site, replaces a poorly designed/poor quality office development and improves the amenity and character of the Conservation Area. Its garden is larger than the average garden for a 4-bedroom house, creates the amenity and privacy required by planning policy and guidance, and overall reflects the requirements of the APG on Development in Rear Lanes.

The open space/green space associated with the development includes the following:

Type	Area (approximate)	Usable/Amenity
Garden Ground	210 sqm	Usable
Green Roof/planted boundary to south	126 sqm	Amenity
Open Terrace (1 <sup>st</sup> Floor)	12 sqm	Usable
Pedestrian access/Open Space for car parking (under building)	50 sqm	Usable
Total Usable	272 sqm	
Total Amenity	126 sqm	
<b>Total</b>	<b>398 sqm</b>	

Of the total site area the careful design and inclusion of a green roof can therefore deliver over 80% of the site area as open space or green amenity space. Even excluding the green roof it can achieve over 60% open space coverage. Basing a planning decision on a simple calculation of site coverage of the built element does not take account of the overall proposal.

### 3.2 Physical and Historic Context

The Planning Review (AD2) also considered the physical and historic context of the site and Spademill Lane. We refer you to the contents and appendices of that document for more detail. It found that:

*“Spademill Lane is not a typical rear lane. It tends to feel slightly wider than other City lanes and with many more rear lane buildings fronting onto it. A review of the depth of buildings fronting it indicates an average depth of around 12 metres. Residential uses have a range of building depths between 13 metres and almost 43 metres. Garages that front onto the lane range from just under 7 metres to 19.5 metres. 87.5% of the rear lane buildings are greater than 7 metres in depth.*

*Applying a maximum 7 metre depth for new development would therefore run contrary to the existing context in this particular rear lane. In saying that, however, the main 2-storey element of the proposed design is approximately 7 metres deep. This is the only element of the building visible from the lane and appears from the lane as a 7 metre deep 2-storey contemporary*

*building and therefore meets the aims of the guidance. The remaining single storey element sits behind an existing traditional boundary wall and is hidden from view.”*

Details and analysis of the character are included in the Planning Review lodged with the application and included as Document AD2 in this appeal.

The RoH disputes some of these findings but we remain of the view that Spademill Lane does have the character or “feels” wider than other lanes in the City and that the proposed development does complement the surrounding context. We dispute the suggestion that Spademill is only 5 metres wide as it varies along its length with some sections opening up to almost 10 metres wide at site entrances. However, the character of an area is related to how it feels and in this case debating exactly how wide a lane is not the point. The decision should be whether the proposed development improves the character of the lane and the Conservation Area.

Page 9 of the RoH suggests that there are only 3 rear lane developments that are relevant to this proposal on the south side of the lane. We disagree. It is the whole lane context which is important. In any event two thirds of those examples chosen by the Planning Service are greater than 7 metres deep. The suggestion that as some of these were consented in previous policy regimes means they are of no relevance to this decision is absolutely not the case. Built form and context is what is currently built regardless of when and how that decision was taken. We therefore refer to the Planning Review content and appendices in respect of a fuller review of context.

We have also included an extract from Google Maps Aerial photos showing the site in context (Document SS7). It’s quite clear from that image that the 2 plots to the west have large extensions to the rear of the historic villas, the plots to the east have been amalgamated and have a very large extension running the length of the rear garden and plots eastwards of that have many and varied rear extensions and rear lane buildings. The northern boundary of the lane is almost continuously built up (buildings and high walls) with development either almost the width of some of the feus (and deeper than 7 metres) and a house (The Cottage located 130 metres to the east of this site) extending over more than the width of a single feu. The context here then is one of a range of building forms along the lane. That context does not support the approach being taken by the Planning Service in their refusal of this application. In our view the proposed development has considered this varied context and offers an excellent solution to achieve the required residential amenity for the residents as well as improving the character of the Conservation Area.

### **3.3 Impact on 78 Queen’s Road**

78 Queen’s Road and this site have been separate planning units with separate feus for many years. The Planning Service in the recent standalone approval for residential use at number 78 considered it to have acceptable amenity (Document SS8– 78 Queen’s Road Report of Handing extract). It did not need the Spademill Lane site to achieve that amenity. Development at Spademill Studio conversely will not impact on number 78.

Queen’s Road is a 2.5 storey traditional granite building approximately 12 metres tall. The development of a 2 storey domestic building onto the rear lane (well over 20 metres away) with a single storey extension to the rear will not have an overbearing impact on such a large

building. That is especially the case as the rear hedge of number 78 is being retained and a 1.8 metre new wall, or equivalent boundary, is proposed.

The architect has annotated the application drawings (Document SS3) with the actual heights to assist with this appeal. Page 10 of the RoH, paragraph 2 suggests some estimated heights which are incorrect. The architect's annotated drawings illustrate the following accurate measurements:

- Ground floor depth (2 storey element) – 7.01 metres
- Upper Floor depth (2 storey section) – 6.74 metres (to open terrace) to 7.94 metres maximum
- Single Storey rear wing depth – 20.07 metres
- Building width (at lane) – 16.48 metres
- Building width (rear wing) – 6.18 metres
- Building height to eaves (westmost) – 4.95 metres
- Building height to eaves (eastmost) – 5.6 metres
- Building height to ridge (highest element) – 7.01 metres
- Garden width (16.48 metres – 6.18 metres) – 10.3 metres
- Garden Depth – 21.87 metres
- Green Roof – 106.93 square metres

We note the comments on the proposed rear boundary wall in the RoH page 11, paragraph 4. When the revised plans were lodged the agent offered to discuss that element should it be of concern. The Planning Service did not take up this offer but it remains an element which could be changed should that be considered worthwhile.

We would also refute the statement on page 7 of the RoH that the proposed house will be of a similar size as number 78 Queen's Road. This is an overstatement of scale. Number 78 is a 2.5 storey traditional large villa approximately 12 metres tall. This proposed single house has a footprint of 230sqm (see plans in SS3 – and not 255 sqm as suggested in the RoH) but arranged as a 2 storey element to the north (max. 7.01 metres) and a single storey extension to the rear closest to number 78. Even assuming the footprint suggested for number 78 in the RoH of 242 sqm (which we believe is too low) the overall floorspace over 3 floors will be around 2.5 times each floor i.e. 242x2.5 equalling 605 sqm and incorporating three large apartments. In contrast the proposed house has an overall floor area on only 257.6 sqm arranged in such a way to reduce or remove any potential impact on number 78. These are not buildings of a similar size or scale and the massing is substantially different.

Any impacts on the setting of number 78 Queen's road will be positive by removing the ugly office and site-wide car parking and replacing it with a quality contemporary home and garden.

This application did not need listed building consent. Historic Environment Scotland (HES) has also responded to the CAC application (Document SS9) re the demolition of the existing office and have made no comment. We note the Planning Service has briefly mentioned HES document Managing Change in the Historic Environment: Setting. That document does not set out to stop development but to encourage it to consider its setting in context, particularly the impact of the change on the setting of a historic building. In this case the change is for the better and has been considered extensively in preparing the proposals.

### 3.4 Amenity Space

The proposed house has a large garden and other external amenity space, including a green roof. The garden is over 20 metres deep and 10 metres wide. The building also incorporates a covered terrace at first floor level and a green roof covering the extent of the single storey wing, There is therefore plenty of amenity space for the proposed house.

### 3.5 Impact on the Conservation Area

The existing office is poor quality design and the remainder of the site is hardstanding used for car parking. Replacing the existing office with a contemporary house and extensive garden will have a positive impact on the Conservation Area. The RoH on page 10, paragraph 5, recognises that the upper floors have been stepped in from the original proposals and that has helped with massing, the development has a robust appearance which is contemporary in design which “*in one sense*” meets design checklist criteria. We are of the view that the new proposal is a significantly better design solution for this site than the view presented by the planning service. Our view is echoed by the Community Council in their letter of support.

**The proposal is considered to have a positive impact on the Conservation Area.**

## 4. Statement of Case Conclusions

This Statement of Case has considered the reasons for refusal set out in the decision notice and the Report of Handling. It has concluded that the reasons set out do not constitute an overriding justification for the refusal of this application. In examining the key policy elements we have found:

- The proposal complies with national policies for the reuse of brownfield sites, urban development and the location of new homes in accessible locations close to services and facilities;
- The proposal is also be considered to comply with Local Development Plan Policy H1 as it is located in an H1 zoning and meets the three criteria within that policy in that it does not constitute over-development, does not have an adverse impact on amenity or character (it will in fact have a positive impact) and does not result in the loss of open space. The principle of a single house on this site is therefore supported by the H1 policy;
- The proposal also complies with the substantial majority of the guidance in the APG on Developing in Rear Lanes. That guidance does not set out a scale of acceptable development and instead requires consideration of context when developing designs for such sites. In particular the proposal can be considered to comply with the APG checklist guidance (see appendix 2). APG is guidance and allows for imagination and design flair – it is not a set of strict rules;
- The house and large garden are suited to a site of this scale, location and context and the design approach is of an extremely high standard. A very high level of amenity will be provided by locating the house onto the lane and the enclosed garden;
- It will not impact unduly on the neighbouring C listed building at 78 Queen’s Road and cannot be considered to have an overbearing impact. That building is being

redeveloped at present from offices into three flats and has recently been granted a standalone consent. The two plots have been operating as separate entities for many years. This proposal will replace the poorly designed office and car park to the rear with a contemporary high quality house and garden. It will have a positive impact;

- Similarly the high quality design approach will have a positive impact on the Conservation Area and constitutes an enhancement where the policy only requires that the character and amenity be maintained; and
- There are no public objections to the application, the technical consultees have no objections and the Queen's Cross and Harlaw Community Council have responded to this application indicating their unanimous support for the proposals.

Overall, we are of the view that this application will be a positive development for the City and is exactly the type of development that should be supported to help bring outdated and redundant sites back into active use, with the associated benefits of supporting local services. This view is supported by the comments of the Community Council. We therefore request that this appeal is upheld and consent granted.

## **Appendix 1 – Appeal Documents**

### *Application Documents*

- AD1 – Aberdeen City Council Decision Notice dated 22<sup>nd</sup> August 2024
- AD2 – Planning Review (Halliday Fraser Munro)
- AD3 – Heritage Statement (Brown & Brown)
- AD4 – Application Form
- AD5 – Location Plan (Brown & Brown)
- AD6 – Existing Elevations and Site Sections (Brown & Brown)
- AD7 – Existing Site Plan (Brown & Brown)
- AD8 – Proposed Site Plan (Brown & Brown)
- AD9 – Proposed Ground Floor Plan (Brown & Brown)
- AD10 – Proposed First Floor Plan (Brown & Brown)
- AD11 – Proposed Roof Plan (Brown & Brown)
- AD12 – Proposed Elevations 01 (Brown & Brown)
- AD13 – Proposed Elevations 02 (Brown & Brown)
- AD14 – Proposed Site Section (Brown & Brown)
- AD15 – Design Statement (Brown & Brown)

### *Other Documents Referred to:*

- SS1 – Queen’s Cross and Harlaw Community Council letter of support
- SS2 – Aberdeen City Council Report of Handling (RoH)
- SS3 – Annotated application drawings (showing measured dimensions) (Brown & Brown)
- SS4 - Chief Planners letter dated February 2023
- SS5 – NPF4 extracts
- SS6 – APG Developing in Rear Lanes
- SS7 – Extract (Google Maps) Showing Context
- SS8 – Report of Handling Extract – 78 Queen’s Road (Aberdeen City Council Planning Service)
- SS9 – Historic Environment Scotland Response to Conservation Area Consent Application
- SS10 – Existing Building Dimensions
- SS11 – New York Times Article on The Arbor House, Aberdeen



## Appendix 2 – Planning Review Extract – APG Development Along Rear Lanes checklist review

### 1.1 APG – Checklist Guidance

The Development Along Lanes APG (2023) sets out guidance on the development along existing and new lanes. It suggests that development should:

*a) Look to the historic context in terms of footprint, orientation, walls, entrances and other features.*

In this instance the context on site is the relatively recent existing 2-storey hipped roof office building, which has no design merit, set within the original walls that run north-south along the edges of the feu and an access point on the west of the site. **The proposed design has considered that context as well as surrounding context.** This is covered further in the Design and Conservation statements prepared by the architect.

*b) Form a strong boundary to the edge of the lane and maintain a sense of enclosure and define the curtilage.*

**The proposals meet this requirement,** with a strong boundary edge and a clear sense of enclosure that helps create the residential amenity required for the proposed use.

*c) Have regard to solar orientation and design in maximum passive solar gain.*

The orientation of the feu is such that the lane side is north facing and the garden is south facing. The design has been developed to maximise that south facing aspect and maximise passive solar gain. **This criteria is therefore satisfied.**

*d) Ensure a tree survey is carried out for trees within 15m of the site.*

**A tree survey has been prepared.** No trees outside of the site will be impacted and any trees impacted within the site will be replaced as part of the site landscaping.

*e) Recognise the role of trees in new development and ensure that appropriate tree species are chosen.*

This will be the case and could be subject to a condition should the application be supported. Alternatively a replanting schedule can be prepared for agreement. **This criteria can easily be satisfied.**

*f) Respect the built environment context by incorporating existing original boundary walls.*

**The proposal does this.**

*g) Not prejudice the amenity or servicing of adjacent property.*

The proposal sits within its own planning unit, previously used as office space and associated car parking. It offered no amenity or servicing value to adjacent properties. This new proposal will introduce a garden where car parking used to be and a new quality development incorporating green roofs, instead of the existing inferior quality office building. **It will not prejudice amenity or servicing of adjacent properties.**

*h) Be built across the entire feu width, or most of the feu width to maintain the sense of enclosure of the lane.*

The proposal is built across the width of the feu for two reasons. The first is to maintain the sense of enclosure in the lane as per the policy requirements. At ground floor level the car port/garage approach offers the opportunity for good vehicular access off of the lane and glimpses into the site during the day. It also offers a clear sense of enclosure and security for

those living in the property. If the building didn't extend the full width of the feu it would still need a gate across the remainder to create the level of security required for residential use in a rear lane. Residential uses accessed from Spademill Lane generally have secure boundaries. **This proposal therefore meets the requirements of part h) and supports the amenity and security of the property for residential use.**

*i) Be no more than two domestic storeys in height and be equal or less than 5.6 metres to the ridge line from the ground floor level in order to maintain a traditional domestic height and scale.*

The proposal is no more than two domestic storey. **It therefore complies with the first part of this policy.**

The 5.6 metre to ridge line though is an unrealistic figure to aim for. Current building control and energy efficiency standards require new homes to be energy efficient and well insulated. Floor to ceiling heights are generally at least 2.4m excluding foundations and intermediate floor build outs which could add a further 0.3m to 0.5m across two floors. These elements alone create a building between 5.1m and 5.3m in height to the eaves and leaves only 30cm to 50cm for a well-insulated pitched roof. On a sloping site such as that on Spademill Lane the overall height will differ across the site. Applying a strict maximum height therefore introduces restrictions that compromise the potential quality and buildability of new housing in rear lanes. Where the built context is clearly that of low level buildings along a lane there may be some merit in trying to achieve a modern equivalent. On Spademill Lane, however, that isn't the case. Contextual analysis of the range of rear lane buildings suggest an average depth of just over 12 metres with existing office and residential mews buildings around 5.7 to 7.3 metres in height immediately adjacent to the lane. The proposal reflects that context with the main building onto the lane approximately 7 metres deep and ranges between 5.2 metres adjacent to the lane to 7.5 metres in height. The highest part of the roof is set back approximately 4.2 metres from the edge of the lane and will therefore have substantially less impact than had it been adjacent to the lane. The building form adjacent to the lane is no higher than approximately 5.6 metres.

See table and plan in Appendix 1 and 2 for contextual analysis

*j) Be no deeper than 7 metres in order to maintain a relatively narrow footprint in keeping with traditional mews.*

Spademill Lane is not a typical mews lane. It tends to feel slightly wider than other City lanes and with many more rear lane buildings fronting onto it. A review of the depth of buildings fronting it indicates an average depth of around 12 metres. Residential uses have a range of building depths between 13 metres and almost 43 metres. Garages that front onto the lane range from just under 7 metres to 19.5 metres. 87.5% of the rear lane buildings are greater than 7 metres in depth.

Applying a maximum 7 metre depth for new development would therefore run contrary to the existing context in this particular rear lane. In saying that, however, the main 2-storey element of the proposed design is approximately 7 metres deep. This is the only element of the building visible from the lane and appears from the lane as a 7 metre deep 2-storey contemporary building and **therefore meets the aims of the guidance.** The remaining single storey element sits behind an existing traditional boundary wall and is hidden from view.

*k) Have a ground floor public elevation with a robust appearance, with appropriate materials, to reinforce the sense of enclosure of the lane with a defensible edge to the property.*

The proposal has a ground floor robust public elevation that reinforces the sense of enclosure of the lane and provides the new house with defensible edge. **That is a clear aim of the design approach and meets the requirements set out in k).** Materials have been chosen carefully to reflect the context and create a contemporary home but if there are any concerns with the materials then these can be discussed and potentially amended.

*l) Have a clearly defined and secure pedestrian access to/through the mews to a private courtyard.*

**It does and therefore complies with this requirement.**

*m) Provide an attractive level of low maintenance hard and soft landscaped amenity space incorporating a drying green/courtyard.*

**It does and therefore complies with this requirement.**

*n) be capable of fulfilling necessary daylight and sunlight needs to habitable rooms.*

The design has been established to offer south facing and light-filled accommodation to habitable rooms. **It therefore complies.**

*o) Consider the practical supply and servicing of the site (water, sewerage bike storage).*

**Easily complies.**

*p) Consult with the Council's Waste Management Team.*

The Council's Waste Management Team have responded to the application setting out requirements. **There are no issues complying with these.**

*q) Be sited off a lane that is adopted by Aberdeen City Council*

**Complies.**

*r) Have an upper floor of a stepped or canted form to reduce any potential over-bearing to the lane and to allow for architectural expression.*

**The revised drawings now step the first floor in.** This is in stark contrast to the existing office building which projects into the lane at first floor level. The proposed new design is a substantial improvement on the existing. Context photographs show that (see Appendix 3).

*s) Provide for natural surveillance across the lane without compromising the privacy of habitable rooms in nearby residential properties*

Additional openings have been added to the northern elevation to improve natural surveillance. There are no residential properties impacted as a result. **The proposed design complies with this requirement.**

**The above review of the APG criteria identifies that the proposals can be considered to comply with all criteria. The APG then shouldn't be a reason for refusal.**