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Statement of Appeal Against Refusal of Full Planning Permission for Change of Use From Class 10 (Non-residential Institutions) to Class 4 (Business); Erection of Replacement Extension, Alterations to Door and Associated Works

At Kingswells House, Skene Road, Aberdeen, AB15 8PJ

For AS Mosley

Aberdeen City Council Planning Reference 231380/DPP

September 2024



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1 Introduction, the Proposed Development, and its Refusal

1.1 Full Planning Permission Application Reference Number 231380/DPP was refused on 27 July 2024 for the following reasons:

Policy D7 (Our Granite Heritage) of the ALDP seeks the retention and appropriate re-use, conversion and adaptation of all historic granite buildings, structures and features and states that 'Proposals to demolish any granite building, structure or feature, partially or completely, will not normally be granted planning permission or listed building consent.' The proposal has not demonstrated that the proposed change of use necessitates the demolition of the garage/store extension and as such the proposal has failed to address the expectations of Historic Environment Policy for Scotland and is deemed contrary to Policy D7.

In terms of the merits of the proposed replacement extension which would be located on the principal elevation of this listed building where it would project some 10 metres beyond the frontage of the main house, it is considered that it would neither appear sufficiently subordinate nor would it be of a suitably high quality in terms of its scale, form or design and could not reasonably be described as exemplary or appear harmonious when viewed in the context of the existing property. The proposed development is deemed to be contrary to Policies 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the NPF4, Policies D1 (Quality Placemaking) and D6 (Historic Environment) of the ALDP and fails to address the requirements of Historic Environment Policy for Scotland (HEPS) or of Historic Environment Scotland's Managing Change in the Historic Environment Guidance on Extensions.

Whilst it would accord with the objectives of Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) of NPF4 in part, it is of note that as a result of the demolition works required to deliver the replacement extension and lack of any biodiversity enhancement the proposal would be contrary to Policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity) and 12 (Zero Waste) of the NPF4, whilst also conflicting with Historic Environment Scotland's Managing Change in the Historic Environment's Guidance on the Use and Adaptation of Listed Buildings.

The application site is accessed directly off the A944, a dual carriageway which acts as a key arterial route into the city with a 40mph speed limit, carrying a significant volume of vehicular traffic and with a well-used shared use path extending along the frontage of the site. Pedestrian access to the property is off the A944 along a narrow access track with no separation from motor vehicles, a lack of lighting and heavy vegetation

cover and not considered to be a particularly pedestrian friendly route. Refusal of the application by the Planning Authority on the grounds of road safety is agreed by Aberdeen City Council's Roads Development Management team, taking into account that the existing junction of the site's single track road with the A944 is far below modern standards. In the absence of the required visibility splays, the proposal raises significant safety concerns for vehicles accessing/exiting the site. The extremely poor visibility at that junction is also of concern with regards the likely conflict with cyclist and pedestrian use of the shared public footway. As a result of existing land ownership limitations and the location of buildings outwith the site there is an inability to address or overcome these road/public safety concerns, as confirmed by the applicant. The Roads Development Management team has advised that this does not justify any relaxation in safety standards and has maintained their objection to the proposed change of use to Class 4 (Business).

The proposal would therefore be contrary to the requirements of Policy 13 (Sustainable Transport) of NPF4 and Policy T2 (Sustainable Transport) of the ALDP, both of which require safe access to new development by a range of transport modes. Whilst Policy T3 (Parking) of the ALDP seeks to ensure adequate parking standards are delivered for new development and in this regard the proposed vehicle on-site parking arrangements are in themselves deemed acceptable by the Roads DM team, such provision and use is clearly inextricably linked to and dependant on vehicles having safe access to the site and therefore given the road safety concerns which have been raised, the proposal would also raise tension with Policy T3 (Parking) of the ALDP.

There are no material planning considerations which would warrant approval of planning permission in this instance.

- 1.2 For clarity the application was assessed as being in accordance with NPF4 and ALDP as follows:

The proposal would not be contrary to Policies NE3 (Natural Heritage) and NE5 (Trees and Woodland) of NPF4 or Policies 4 (Natural Places) and 6 (Forestry, Woodland and Trees) of the ALDP.

The application relates to a proposed change of use to Class 4 (Business) for the Category B listed Kingswells House and the development works associated with its extension and adaptation in support of that Class 4 (Business) use. The proposed use of the property as an office for an engineering consultancy business would be deemed acceptable in principle on the basis that it would be compliant with the criteria of Policy B2 (Business Zones) of the Aberdeen Local Development Plan 2023 (ALDP) and the expectations of Policy 26 (Business and Industry) of the National Planning Framework 4 (NPF4).

In terms of the intended business use and subsequent waste generation, the proposal has suitably addressed the requirements of Policy R5 (Waste Management Requirements for New Development) of the ALDP and the relevant aspect of Policy 12 (Zero Waste) of NPF4.

- 1.3 For completeness, the associated application for listed building consent for erection of single storey extension and alterations to door, internal alterations to include upgrading of existing doors, repair and maintenance works, planning reference 231347/LBC was also refused on 9th July 2024 and an appeal has been submitted to the Department of Planning and Environmental Appeals. Each appeal must be determined on its own merits and considerations, however, it is requested that Aberdeen City Council Local Review Body do not determine this appeal until the outcome of the listed building consent appeal is known given the duplication of the reasons for refusal of full planning permission. Notwithstanding this duplication, the grounds for appeal which were included within the appeal to the DPEA, are also contained within this appeal. These are covered at the end of the grounds for appeal. For clarity, it is the principle of the extension which was refused listed building consent and the other alterations included within the application appear to be acceptable to the Planning Authority.
- 1.4 AS Mosley, the business which proposes to operate from the premises, is a small, local engineering analysis consultancy business, specialising in surface and subsea design for the offshore industry. It employs 16 people, who, following the Coronavirus Pandemic, continue to work a successful hybrid system consisting of a combination of office and home working (minimum 1 day in office per week).
- 1.5 Appeal documents 9 and 46 extensively explain the proposal as far as access and visibility are concerned, A previous application to convert the building to its current Class 10 use (Application A6/0170 approved on 26th October 2006) included a supporting statement which confirmed that the premises would have “meetings and gatherings in small groups (normally around 4-6 people, with an absolute maximum of around 12) to engage in spiritualism”. In addition to this, the supporting letter for this application also confirmed that “the property will also be used on an occasional basis for accommodation for guest speakers and visiting guests from further afield who have come to engage in spiritualism. That maximum number of people that would reside in the premises is around 8 people”, and that “a caretaker is resident at the property full-time”. From this, we can see that around 20 people may easily have been coming and going from the site each day. Due to the somewhat ambiguous nature of this text, it is unclear if there were more than one group per day and therefore this number could easily be more if, for example, one group were present in the morning, and another in the afternoon.
- 1.6 Aberdeen City Council Roads Authority has stated that as part of any change of use the junction would require to be upgraded to have a visibility splay of 9m deep x 120m wide in both directions along the carriageway. This means there is a requirement to have clear visibility of the road edge, 120m away from the centre of the access/egress, from a point 9m back from the road edge. The bell mouth forming the access/egress would also require radii of 10.7m.
- 1.7 The existing junction is a “Direct Access Junction”. Contrary to current standards however, this junction can continue to be utilised under its current lawful use (Class

10 – Non-Residential Institutions) and can be used as both an access and an egress despite this ‘non-compliant nature’. As part of the change of use proposal to Class 4, the Roads Authority require that the junction is “brought up to current ACC/DMRB Standards”. However, this is not feasible due to the ‘landlocked’ nature of the existing site by the surrounding sites and adjacent domestic building. Following land sales by the previous owners, site ownership effectively extends only to the width of the junction at this point, with the surrounding land to either side of the entrance now under separate ownerships and with the applicant therefore having no control over this. All alternative exit options have been thoroughly explored, with discussions to buy areas of neighbouring land and requests to use an existing exit to the north having been rejected.

- 1.8 The proposed external alterations include demolition of the existing single storey, flat roofed double garage (not original) to the north side of the west (front) elevation, its replacement with a single storey, flat roofed extension in the same position set back from the main elevation to the front further to the north than the existing garage but projecting further to the west, the erection of retaining wall to rear (north) of the proposed extension and removal of an existing internal door to form an external full height fixed window. The proposed internal alterations include upgrading the existing doors on the ground floor and replacing existing doors on the ground, first and second floors.
- 1.9 The full history of Kingswells House and the estate is covered in the Heritage Statement which accompanied the planning application and is also included as appeal document 2. Similarly, the background to the proposals is contained within the Design Statement which accompanied the planning application and is also included as appeal document 1. It is not the intention of this appeal to cover the historical, architectural and other background information contained in these documents.
- 1.10 Appeal document 47 demonstrates how, in addition to the information contained within appeal documents 1 and 2, the matters questioned by the Planning Authority (in blue text) were addressed by the agent (in red) and that to suggest that there has been no justification advanced in support of the demolition of the garage/store or that it has failed to address Historic Environment Scotland requirements is obtuse. It would appear there is a misunderstanding on the part of the Planning Authority whereby the extension is of a *“non-domestic scale attached to a domestic property”* when Kingswells House is no longer a dwellinghouse and the extension can be considered to be of a domestic scale (considering the size of Kingswells House or any other number of large rural properties).
- 1.11 It should be noted that the setting of the house has completely changed over the years and is now almost surrounded by various commercial developments. Kingswells House is not widely visible in the surrounding landscape. Other buildings and extensions have existed over hundreds of years and the proposal is the next part of its evolution.
- 1.12 The grounds for appeal are therefore:

- The only matters of concern raised by the Planning Service were with regard to built heritage and access. At no point were issues pertaining to NPF4 Policies 1, 2, 3, 4, 5, 6, 9 or 12 raised.
- No clear reason has been given why the proposal is contrary to Policy 1 or Policy 2 of NPF4 which in any event are overarching policies. This is not a new development. Kingswells House is retained and an unsustainable and not original extension is removed.
- With regard to Policy 3 and Policy 12 of NPF4 the applicant was not asked at any point in the processing of the application to include proposals for biodiversity net gain.
- With regard to Policy 13 of NPF4 and Policy T2 of ALDP, the proposal could be accepted as a departure to these policies.
- It is unreasonable to say that the proposal does not accord with ALPD Policy T3 by linking it to the fact that cars need to use the existing junction which road object to when there is no such link written into the policy.
- The principle of business use has been agreed as being acceptable by the Planning Authority, however, the economic benefit which would derive from the development has not been given significant consideration in coming to a decision.
- It is material to the consideration of this appeal that there are wider considerations in terms of the business and wider economic implications if the building is not able to adapt to change and provide much needed employment in a high quality development, serving the wider business's needs and requirements and which reflects much of the PRIME FOUR masterplan now built out and supporting the economy of Aberdeen City and Shire.
- The existing garage is of no historic or architectural value and notwithstanding the desire to make demolition the last option, more than adequate justification has been provided to justify its removal, replacement with a modern and sustainable extension and the reuse of material in the proposed retaining wall in compliance with NPF4 Policy 9.
- The demolition of the garage/store has been justified within the supporting justification and papers submitted with the application. To suggest this is not the case is unfair and unreasonable. Not only was this done at the point of the application being submitted, but it was also done throughout the processing of the application including concessions where these were considered acceptable to the client. As such the proposal complies with Policy D7 Our Granite Heritage of the ALDP and Historic Environment Scotland Managing Change in the Historic Environment Guidance on Extensions and Historic Environment Scotland do not

object to the development. (Ground of Appeal also submitted in appeal against refusal of listed building consent).

- It is unclear why the Planning Authority consider the proposal does not accord with the guidance for the use and adaptation of listed buildings and guidance on setting when the only Historic Environment Scotland guidance deemed applicable by Historic Environment Scotland is that concerning extensions. The new extension is subordinate and high quality in terms of design, construction and materials and complies with ALDP Policy D6 Historic Environment and Historic Environment Policy Managing Change in the Historic Environment Guidance on Extensions and Historic Environment Scotland do not object to the development. (Ground of Appeal also submitted in appeal against refusal of listed building consent).
- The Planning Authority have ignored the consultation response from Historic Environment Scotland which does not object to the development, have not consulted their own specialist built heritage staff and have carried on in a 'judge and jury' fashion to refuse consent despite it clearly complying with national policy and guidance and the Local Development Plan and without any consideration to the fair and reasonable alterations agreed to by the applicant. (Ground of Appeal also submitted in appeal against refusal of listed building consent).
- While this is an appeal against refusal of full planning permission, it is relevant to consider the justification for the associated application for listed building consent. It is material to the consideration of this appeal that there are wider considerations in terms of the business and wider economic implications if the building is not able to adapt to change and provide much needed employment in a high quality development, serving the wider business's needs and requirements and which reflects much of the PRIME FOUR masterplan now built out and supporting the economy of Aberdeen City and Shire. Some of the PRIME FOUR development which has been built in such close proximity to Kingswells House already compromise its setting to an extent. The proposed development will be an attractive to employees who will be provided with the same high quality environment and working surroundings being afforded to many workers in adjacent office buildings, there is no recognition of the specific needs of the business in terms of operational and business requirements which have led the development to being designed in the way it has been, and the development secures the long term investment required to maintain such an important building in the next stage of its use and history.



2 The Development Plan and Material Considerations

Only the policies which it is considered are contravened are included in this section.

National Planning Framework 4

Policy 1 Tackling the Climate and Nature Crises

When considering all development proposals significant weight will be given to the global climate and nature crises.

- a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible
- b) Development proposals will be sited and designed to adapt to current and future risks from climate change
- c) Development proposals to retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported

Policy 2 Climate Mitigation and Adaptation

- a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible
- b) Development proposals will be sited and designed to adapt to current and future risks from climate change
- c) Development proposals to retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported.

Policy 3 Biodiversity

- a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible
- c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.

Policy 7 Historic Assets and Places

- a) Development proposals with a potentially significant impact on historic assets or places will

be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

b) Development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. Considerations include whether the:

i. building is no longer of special interest;

ii. building is incapable of physical repair and re-use as verified through a detailed structural condition survey report;

iii. repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or

iv. demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

Where the tests for demolition are met the visible re-use of salvaged features within the development site is required.

Policy 9 Brownfield, Vacant and Derelict Land and Empty Buildings

a) Development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

b) Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP.

c) Where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.

d) Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.

Policy 12 Zero Waste

- a) Development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.
- b) Development proposals will be supported where they:
 - i. reuse existing buildings and infrastructure;
 - ii. minimise demolition and salvage materials for reuse;
 - iii. minimise waste, reduce pressure on virgin resources and enable building materials, components and products to be disassembled, and reused at the end of their useful life;
 - iv. use materials with the lowest forms of embodied emissions, such as recycled and natural construction materials;
 - v. use materials that are suitable for reuse with minimal reprocessing.
- c) Development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:
 - i. provision to maximise waste reduction and waste separation at source, and
 - ii. measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.

Policy 13 Sustainable Transport

- a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals:
 - i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy
 - ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery
 - iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems).
- b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:
 - i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
 - ii. Will be accessible by public transport, ideally supporting the use of existing services;
 - iii. Integrate transport modes;
 - iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
 - v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
 - vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
 - vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of

all users; and

viii. Adequately mitigate any impact on local public access routes.

c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance

d) Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area

e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people

f) Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation

g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer

While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

Policy 14 Design, Quality and Place

a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale

b) Development proposals will be supported where they are consistent with the six qualities of successful places:

- **Healthy:** Supporting the prioritisation of women's safety and improving physical and mental health.
- **Pleasant:** Supporting attractive natural and built spaces.
- **Connected:** Supporting well connected networks that make moving around easy and reduce car dependency
- **Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.
- **Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.
- **Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

Further details on delivering the six qualities of successful places are set out in Annex D.

c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Aberdeen Local Development Plan 2023

Policy D1 Quality Placemaking

All development must ensure high standards of design, create sustainable and successful places and have a strong and distinctive sense of place which is a result of detailed contextual appraisal.

Proposals are required to ensure:

- quality architecture, craftsmanship and materials;
- a well considered layout, including biodiverse open space, high quality public realm and landscape design;
- a range of sustainable transportation opportunities ensuring connectivity commensurate with the scale and character of the development. Successful places will sustain and enhance the social, economic, environmental, wellbeing and cultural attractiveness of the city. Proposals will be considered against the following six essential qualities.
- distinctive
- welcoming
- safe and pleasant
- easy to move around
- adaptable
- resource efficient

Policy D6 Historic Environment

Development must protect, preserve and enhance Aberdeen's historic environment, including its historic fabric.

There will be a presumption in favour of the retention and appropriate reuse of historic environment, historic assets, and heritage assets that contribute positively to Aberdeen's character.

Appropriate developments, including new features and fixings, must be designed to respect the character, appearance and setting of the historic environment and protect the special architectural or historic interest of listed buildings, conservation areas and historic gardens and designed landscapes. Stone cleaning will only be supported if in line with local and national guidance.

Proposals which have the potential to impact on historic environment, historic assets, and heritage assets, or a significant element thereof, will be required to ensure the effective recording, assessments, analysis, archiving and publication of any reports or records to an

agreed timeframe.

The physical in situ preservation of all scheduled monuments and archaeological sites is expected. Developments that would adversely impact upon archaeological remains, of either national or local importance, or on their setting will only be permitted in exceptional circumstances, where there is no practical alternative site and where there are imperative reasons of over-riding public need.

In any such case, the applicant must at their own expense:

- take satisfactory steps to mitigate adverse development impacts; and
- ensure suitable investigation and recording is completed, and
- where the preservation of the site in its original location is not possible, arrange for the full excavation and recording of the site in advance of development and the publication/curation of findings, and, where appropriate, associated events for the public benefit.

Policy D7 Our Granite Heritage

The Council seeks the retention and appropriate re-use, conversion and adaption of all historic granite buildings, structures and features, including setted streets, granite kerbs and granite boundary walls.

Proposals to demolish any granite building, structure or feature, partially or completely, will not normally be granted planning permission, conservation area consent or listed building consent.

Any listed building; structure or feature in the curtilage of a listed building; or any unlisted building, structure or feature in a Conservation Area, may only be demolished where:

- evidence is provided to demonstrate that every effort has been made to retain it, and:
- It is no longer of special interest or cultural significance; or
- It is incapable of meaningful repair; or
- It can be demonstrated the demolition is essential to delivering significant benefits to economic growth or the wider community; or
- Its repair and reuse is not economically viable and that it has been marketed in an open and transparent manner.

Policy T2 Sustainable Transport

Proportionate to the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated. 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, wheeling, cycling and public transport. Proposals should be designed to allow for public transport penetration which should be available within 400 metres from the centre of the development.

Transport Assessments and Travel Plans will be required where thresholds set out in Aberdeen Planning Guidance are exceeded.

Where sustainable transport links to and from new developments are not in place, developers will be required to provide infrastructure to support such facilities or a suitable contribution towards implementation.

Development of new communities should be accompanied by an increase in local services as well as employment opportunities that reduce the need to travel.

Recognising that there will still be instances in which people will require to travel by car, initiatives such as car sharing, alternative fuel vehicles and Car Clubs will also be supported where appropriate.

Existing access rights, including Core Paths, rights of way and paths within the wider network will be protected and enhanced. Where development proposals impact on the access network, the principle of the access must be maintained at all times by the developer through provision of suitable alternative routes approved by the Council.

Policy T3 Parking

In inner city areas, low or no car development will be supported in suitable locations where there is adequate access to active travel and public transport options. Where this is not possible, development shall be required to comply with the parking standards set out in Aberdeen Planning Guidance: Transport and Accessibility. Low car development is encouraged within conservation areas.

Historic Environment Scotland Managing Change in the Historic Environment Guidance

- Extensions
- The Use and Adaptation of Listed Buildings (Deemed not relevant by HES)
- Setting (Deemed not relevant by HES)

Scotland's Economic Strategy and the Regional Economic Strategy

These highlight a range of both urban and rural short- and long-term opportunities and challenges but ultimately the aim is to ensure economic growth is sustainable. The vision for the Northeast of Scotland is to align commitment, lead investment and coordinate diversification opportunities.



3 Discussion including Response to Reason for Refusal, Development Plan Assessment and Decision

Ground of Appeal 1

- **The only matters of concern raised by the Planning Service were with regard to built heritage and access. At no point were issues pertaining to NPF4 Policies 1, 2, 3, 4, 5, 6, 9 or 12 raised.**

3.1 It is unacceptable and unreasonable to not give applicants the opportunity to address any matters the Planning Authority is concerned about. How can agents and applicants remotely hope to address any outstanding matters if these are not communicated. As highlighted in Appeal Document 47 which was compiled in response to the continuing wait for a final response from the Planning Authority with regard to the additional information and justification provided, these requests were never responded to by the Planning Authority prior to issuing the refusal.

Ground of Appeal 2

- **No clear reason has been given why the proposal is contrary to Policy 1 or Policy 2 of NPF4 which in any event are overarching policies. This is not a new development. Kingswells House is retained and an unsustainable and not original extension is removed.**

3.2 The Chief Planner's letter of 8 February 2023 clearly detailed the transitional arrangements with regard to NPF4 and stated that it is important to bear in mind that 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.

Ground of Appeal 3

- **With regard to Policy 3 and Policy 12 of NPF4 the applicant was not asked at any point in the processing of the application to include proposals for biodiversity net gain.**

3.3 The applicant has carried out acceptable tree management at the site to the overall betterment of the health and safety of the remaining trees. New planting to help

biodiversity gain can easily be provided.

Ground of Appeal 4

- **With regard to Policy 13 of NPF4 and Policy T2 of ALDP, the proposal could be accepted as a departure to these policies.**
- 3.4 The direct access junction is already in use, in a non-domestic situation as both an access and an egress. If approved, this situation would in effect, remain unchanged, and while it is accepted that this is not to current Aberdeen City Council Standards (on the basis that the Roads Authority consider this should be treated a Priority Junction rather than the existing Direct Access), the level of road safety would not be compromised in any way from that of the existing situation.
- 3.5 Due to no fault of the applicant, it is simply not feasible to comply with current Roads Authority standards. If it were feasible, i.e. the required land was within the applicant's ownership, the applicant would indeed seek to upgrade the junction as required. This would only be feasible from a cost perspective through the applicant's business, and it is this business that intends to occupy the site.
- 3.6 All other options to egress the site have been explored by the applicant including discussions to buy areas of neighbouring land and requests to use an existing exit to the north having been rejected. This has left no other option other than to utilise the existing, functional Direct Access Junction, which is already in use as part of the lawful Class 10 use of the site.
- 3.7 Other junctions which would not be considered compliant under the current regulations remain in use along this section of the A944 for both domestic and non-domestic usage.
- 3.8 The junction as existing is a direct access junction to a non-domestic development. The minimum standard for a direct access junction would be to have a visibility splay depth of 2m (rather than the standard 9m associated with a Priority junction). In this circumstance, the junction, has a visibility splay (2m x 120m) which is compliant.
- 3.9 Since the previous change of use to Class 10 was approved, the speed limit of the A944 has reduced making the egress safer. The more recent introduction of the AWPR has also reduced traffic numbers past the site and further decreasing the chance of incident.
- 3.10 The number of people using the junction will be reduced from the site's maximum as a Class 10 building (which it could be utilised as without any changes, upgrades, or permissions required), by the known, factual numbers associated with the applicant's proposals as a Class 4 Business. Adequate parking provision has been shown for the specific numbers required on site and should the capacity of the building increase for any reason, it would be subject to future applications for planning permission and listed building consent that would be needed to create additional parking within the

grounds of the site. The Roads Authority would be able to comment accordingly at this time. This would also be the case should the current applicant wish to increase parking above and beyond that of this application and could be rejected if deemed excessive.

- 3.11 If in use as a Class 4 Business, access and egress times are relatively standardised and known quantities i.e. access will be required in the AM and egress in the PM as the office opens and closes. At these times, traffic on the A944 will be moving more slowly in this area due to congestion, reducing the likelihood of incident further.
- 3.12 Additional safety measures such as closing the gap in the central reservation could be discussed as part of any negotiation or condition. This can be done separately to upgrading the junction to current Priority Junction standards and helps to make the junction safer whilst retaining it as a compliant Direct Access Junction. This provides a mitigation measure to help facilitate the continued use of the junction.
- 3.13 Whilst not directly related to mitigation for this application, it is also of note that the same standards have not been applied (and/or enforced) at the only other junction which appears to have been upgraded in any way along this section of road, which is to the west at the Ardene Veterinary Practice. If standing 8-9m back from the carriageway at this junction, the visibility splay is also significantly less than the desired 120m in either direction due to the presence of trees and road signage.
- 3.14 With regard to the historical permission, the Roads Authority state that: *“This approval as class 10 was subject to a specific condition which restricted use of the building to activities and intensity of use as described in a letter from the agent [as quoted from above]. Roads did raise concerns over the access junction and the lack of right hand turn stacking lane on the A944. However, no objection was submitted on the basis that intensification of use does not increase based upon that which was submitted in this letter and a condition was attached to the permission relating to this”*.
- 3.15 As part of AS Mosley’s hybrid working system, the *“number of vehicles accessing and exiting the site each day is going to be 4-5 on average. This will increase to 7 as a maximum if there are new starts. This is less than the most recent Class 10 Use under the Summerland Trust”*.
- 3.16 As noted, AS Mosley currently employs 16 staff members in a hybrid work pattern consisting of a combination of office and home working (minimum 1 day per week in the office per week) and resulting in no more than 7 (maximum) staff on site in a day. Given the listed nature of the building, and the desire/heritage requirement to retain the important existing floor plan, it would not really be suited to housing more than this number in any case. The plans therefore show desks for 10 staff (8 in the proposed extension plus 2 manager’s offices), plus some meeting spaces. This again reflects the maximum requirements of the company i.e. staff members will have their own individual workstation on the days they attend the office. Not all these staff members will be present at any one time, due to the hybrid work pattern, and therefore what is shown is exactly what is required by the company to facilitate their presence within

the building. The proposal is very clear on the associated intensity of use which again appears to be lower than that of the previous approval.

- 3.17 In their most recent correspondence, the Roads Authority has also noted that *“with a change of use there is no guarantee this will always be the same end user”* and that a future owner/occupier could result in a greater intensity of use if the building were to change hands in future. However, with regard to the previous approval, the Roads Authority has also stated in this same correspondence, that *“The proposed use as a religious retreat was outlined as of low intensity, with relatively small numbers of people visiting and a residential element retained in the form of the resident caretaker ... Any future class 10 use of this building would likewise need to adhere to this condition. Any requests to change/remove this condition would require planning permission”*. This qualification to maintain use intensity would therefore also apply if the proposed Change of Use to Class 4 were approved, but the then Class 4 building was to change hands in future.
- 3.18 The Roads Authority has also requested that more parking spaces than shown are provided (or ultimately require). This seems to be somewhat contradictory, as it has the effect of facilitating additional use intensity. The number of suggested spaces to be provided is 12, however, a maximum of only 9 spaces can be provided on site and in appropriate proximity to the building without coming into the various Zones of Influence of existing trees. It is not desirable to form parking within these areas or to disrupt any of the existing trees unnecessarily to provide parking spaces that the business does not ultimately require. What is therefore provided is the maximum that can be under these circumstances and equates to 7 spaces (i.e. the maximum number of staff likely to be in the building at one time) plus 2 overflow spaces which can be used for visitors as required.
- 3.19 It is clear that the proposed Change of Use, which will serve to facilitate economic development on a site directly abutting the wider Prime 4 business park, will not increase the intensity of use from that already accepted and lawful for the site.
- 3.20 Should greater parking be required in the future for this, or indeed, any other business, this would be subject to a new planning application to be decided to its own merits. With that and given the lack of options (outlined previously) regarding the junction upgrade and/or alternative means of egress, it is suggested that a similar condition to that seen with the 2006 planning permission could be attached in the same way. For reference, the condition on the previous 2006 planning permission is outlined below: *“That the proposed use shall be restricted to the activities and intensity of use described in the letter from Halliday Fraser Munro [Agent] dated 28 September 2006 – in the interests of preserving the character of the Green Belt and the Category B listed building”*.

Ground of Appeal 5

- **It is unreasonable to say that the proposal does not accord with ALDP Policy T3 by linking it to the fact that cars need to use the existing junction which the Roads**

Authority object to when there is no such link written into the policy.

- 3.21 ALDP Policy T3 seeks to ensure that any car parking provided as part of development proposals accords with Council standards. It is completely unclear how Policy T3 can be used as part of a reason for refusal when there is no issue with the level of parking provided. The on-site parking arrangements are not *“inextricably linked to and dependent of vehicles having safe access to the site”*.

Ground of Appeal 6

- **The principle of business use has been agreed as being acceptable by the Planning Authority, however, the economic benefit which would derive from the development has not been given significant consideration in coming to a decision.**
- 3.22 The North-East is supposed to be open for business, however, the merits of the application have not been given due weight in terms of the built heritage impact (which will be addressed through the listed building consent to the Department of Planning and Environmental Appeals) or the unreasonable approach taken to the use of the access into the site addressed elsewhere in this appeal.

Ground of Appeal 7

- **It is material to the consideration of this appeal that there are wider considerations in terms of the business and wider economic implications if the building is not able to adapt to change and provide much needed employment in a high quality development, serving the wider business’s needs and requirements and which reflects much of the PRIME FOUR masterplan now built out and supporting the economy of Aberdeen City and Shire.**
- 3.23 Some of the PRIME FOUR development which has been built in such close proximity to Kingswells House already compromises its setting to an extent. The proposed development will be an attractive to employees who will be provided with the same high quality environment and working surroundings being afforded to many workers in adjacent office buildings, there is no recognition of the specific needs of the business in terms of operational and business requirements which have led the development to being designed in the way it has been, and the development secures the long term investment required to maintain such an important building in the next stage of its use and history.

Ground of Appeal 8

- **The existing garage is of no historic or architectural value and notwithstanding the desire to make demolition the last option, more than adequate justification has been provided to justify its removal, replacement with a modern and sustainable extension and the reuse of material in the proposed retaining wall in compliance with NPF4 Policy 9.**

3.24 The historical and architectural information, nor the reasoned justification provided have not been given adequate weight. The building has not been in use for some time and the wider roads and access implications are of grave concern with regard to where this leaves the future of the building. Biodiversity can easily be enhanced, if this is communicated to the appellant.

Ground of Appeal 9

- **The demolition of the garage/store has been justified within the supporting justification and papers submitted with the application. To suggest this is not the case is unfair and unreasonable. Not only was this done at the point of the application being submitted, but it was also done throughout the processing of the application including concessions where these were considered acceptable to the client. As such the proposal complies with Policy D7 Our Granite Heritage of the ALDP and Historic Environment Scotland Managing Change in the Historic Environment Guidance on Extensions and Historic Environment Scotland do not object to the development. (Ground of Appeal also submitted in appeal against refusal of listed building consent).**
- 3.25 To suggest that an “*appropriate understanding of the buildings significance*” has not been provided nor any justification in terms of impact or minimising of negative impact is incorrect. There was no suggestion during the processing of the application that it was lacking in this regard. The focus was very much on the specifics of the proposal in terms of mass and design. Although it is “*not normal*” for listed building consent to be granted for demolition in terms of Policy D7 Our Granite Heritage of the ALDP, it has been demonstrated in the information submitted that the garage is not original, has been previously adapted and why the operational requirements of the owner and business necessitate its removal. Historic Environment Scotland raised no issue in terms of their guidance for extensions about the demolition of the garage and its replacement with a new extension and thus it is compliant with that. They make no mention of their guidance on the use and adaptation of listed buildings or setting and as such it must be assumed are not relevant and should not be used in coming to a decision of the application.
- 3.26 The alterations which were made to the proposal include amended site plans to comply with Roads Authority requirements on 30th November 2023, further amendments to comply with Roads Authority requirements on 19th January 2024 such that the only outstanding roads matter related to the use of the junction and then the provision of additional information and amended drawings related to the house in line with some of the requests from the Planning Authority on 27th March 2023. These did not address every single point requested by the Planning Authority as those would have not met the applicant’s operational needs and requirements but certainly recognised some of the concerns and addressed these.
- 3.27 In terms of ALDP Policy D7, while it could be argued that there is no specific evidence provided to demonstrate that every effort has been made to retain the existing extension, the proposals will deliver economic benefit. It is considered that as the

existing garage is a later addition which is of little historical character or reference and that the proposal will otherwise see the use and upgrading of the building. The supporting information and justification provided with the application is demonstration of the wider benefits and the efforts being made to secure the viable future of the building.

Ground of Appeal 10

- **It is unclear why the Planning Authority consider the proposal does not accord with the guidance for the use and adaptation of listed buildings and guidance on setting when the only Historic Environment Scotland guidance deemed applicable by Historic Environment Scotland is that concerning extensions. The new extension is subordinate and high quality in terms of design, construction and materials and complies with ALDP Policy D6 Historic Environment and Historic Environment Policy Managing Change in the Historic Environment Guidance on Extensions and Historic Environment Scotland do not object to the development. (Ground of Appeal also submitted in appeal against refusal of listed building consent).**

3.28 Notwithstanding that Historic Environment Scotland do not consider that the guidance on the use and adaptation of listed buildings or setting are applicable, it should be noted that proposals that keep buildings in use should be supported so long as they do the least possible harm. Historic Environment Scotland clearly do not consider there is any harm caused by the demolition of the garage and the replacement extension and are content that the benefits of the development will be secured for present and future generations. The guidance is also clear that later extensions of little interest are likely to be best options for removal. This is the case with this proposal. Although the extension is on the front and has a higher impact, this has also been accepted by Historic Environment Scotland as compliant with their guidance.

3.29 Arguments about the principle of the change of use of the building which has been refused under the accompanying full planning application are made within that appeal. While there may be no other viable alternative to the redevelopment of this building due to the objections to the use of the existing junction and the Local Review Body will consider the grounds for appealing that refusal, acceptance of the demolition and extension from a built heritage perspective will go some way to addressing the reasons for refusal as it is clearly one of a number of material considerations in the determination of that appeal.

3.30 As Historic Environment Scotland has noted in its consultation response the guidance on extensions sets out four key considerations when extending a historic building. Specifically, it notes that extensions:

- Must protect the character and appearance of the building:
- Should be subordinate in scale and form:
- Should be located on a secondary elevation:
- Must be designed in a high-quality manner using appropriate material

- 3.31 Responses from Historic Environment Scotland commonly do not make any further comment on applications other than that they “do not object”. However, in this case there is a detailed response stating the proposals are acceptable as follows:

“The extension would be connected through to the main elevation of the building but because it would be located further back than the previous existing garage, it would allow for better visibility of the main elevation. We note the scale of the proposed building would be greater than the existing garage, but because of its form and set-back location, it would appear subordinate.

The materials proposed for the extension are contemporary, with zinc and timber cladding, aluminium windows and a green roof. This would maintain a clear distinction between the historic house and the new element.

Taking these factors into consideration, in our view, the proposed extension would not significantly detract from the character and appearance of the house.

We have not seen details of the proposed upgrading of internal doors to meet fire regulations, but we have no concerns about this in principle.

Planning authorities are expected to treat our comments as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on listed building/conservation area consent, together with related policy guidance”.

- 3.32 The Planning Authority has completely ignored this advice and it is a material consideration supporting approving the proposal.

Ground of Appeal 11

- **The Planning Authority have ignored the consultation response from Historic Environment Scotland which does not object to the development, have not consulted their own specialist built heritage staff and have carried on in a ‘judge and jury’ fashion to refuse consent despite it clearly complying with national policy and guidance and the Local Development Plan and without any consideration to the fair and reasonable alterations agreed to by the applicant. (Ground of Appeal also submitted in appeal against refusal of listed building consent).**
- 3.33 As can be seen in appeal document 47 “Response Follow Up”, no further correspondence was received from the Planning Authority in response to the suitability or otherwise of the amended drawings, further information and justification provided by the agent. This is a clear case of a lack of objective judgment being exercised by the Planning Authority, a lack of clarity about their view of the supporting

information and justification and no further reasoning being provided for rejecting that – until the point of refusal. There is also a lack of consistency in the application of policy and guidance as demonstrated by the numerous examples of similar, if not more impactful, extensions granted consent in Aberdeen.

- 3.34 With regard to the materials, multiple examples were given of the same materials being approved for use on similar listed granite buildings in Aberdeen, and pointed out that the extension is of a contemporary form – even more so with the changes requested by the Planning Authority including the splayed canopy fascia, fin walls, glazed link etc. and that as a result, a contemporary material palette was therefore, the most appropriate for this purpose. It was made clear that granite from the doughtings was to be re-used in line with policy on the adjacent retaining wall 1200mm to the north of the house and extension – replicating the adjacent walled garden, and that utilising this in context of the wider site is just as meaningful as elsewhere as the grounds of the house significantly contribute to its setting. To utilise the granite on the extension itself would only serve to “blur” the contrast between the existing and new elements and create an extension which is ‘neither here nor there’ in terms of style – contrary to the desire to clearly contrast the extension with the existing building required in line with Historic Environment Scotland Managing Change in the Historic Environment Guidance for Extensions.

Grounds of Appeal 12

- **While this is an appeal against refusal of Listed Building Consent, it is relevant to the consider the justification for the associated application for full planning permission. It is material to the consideration of this appeal that there are wider considerations in terms of the business and wider economic implications if the building is not able to adapt to change and provide much needed employment in a high quality development, serving the wider business’s needs and requirements and which reflects much of the PRIME FOUR masterplan now built out and supporting the economy of Aberdeen City and Shire. Some of the PRIME FOUR development which has been built in such close proximity to Kingswells House already compromise its setting to an extent. The proposed development will be an attractive to employees who will be provided with the same high quality environment and working surroundings being afforded to many workers in adjacent office buildings, there is no recognition of the specific needs of the business in terms of operational and business requirements which have led the development to being designed in the way it has been, and the development secures the long term investment required to maintain such an important building in the next stage of its use and history.**
- 3.35 Inadequate consideration has been given to other material considerations in the determination of the application. NPF4 Policy 26 Business and Industry states that business and industry uses will be encouraged, promoted and facilitated. National and Regional Economic Strategies seek the same. Policy 14 Design, Quality and Place states that well designed development that makes successful places will be encouraged, promoted and facilitated. The design process as contained within appeal document 1 describes the design thinking behind the proposal and design in terms of

the scale, setting back and contemporary style and materials in compliance with Policy 14. NPF4 Policy 9 Brownfield, Vacant and Derelict and Empty Buildings encourages the sustainable reuse of vacant buildings. Development proposals for the reuse of existing buildings will be supported taking into account the suitability for conversion to other uses. The lawful use of the building is Class 10, however, it is not the intention of the applicant to use it for that purpose and as such it should be classed as vacant. While embodied energy is to be given consideration under this policy and that demolition is the least preferred option, the main house will not be demolished and it is a small, later, not original extension which is being demolished which is considered to not be significant in terms of Policy 9. On balance, there are other development plan policies which should be given weight in reaching a decision.

- 3.36 In conclusion, the historical and architectural importance of Kingswells House has not been underestimated by the applicant. The risk that this place will not secure a change of use including the alterations proposed is a great threat to the future of this listed building. The proposal complies as it retains a historically important building, will see many improvements to the fabric of the building, minimises demolition and reuses salvaged materials from the doughtings. The proposed alterations protect the character of the building more than what exists. The pushing back of the extension to the north ensures the extension better respects the character of the most important part of the front elevation which is currently obscured and the flat roof ensures it will be a subservient feature. Various elements of the design have been altered to address points raised by the Planning Authority, however, the mass needs to remain as proposed for the operational needs of the business. Robust justification has been provided for what elements required by the Planning Authority could and could not be agreed to yet there has been no reasonable acceptance of this and no negotiation without justification for this on the part of the Planning Authority.
- 3.37 Extensive investigation and discussion took place with the Roads Authority. It is disappointing that despite the conflict with Policy 13 Sustainable Transport of NPF4 and Policy T2 Sustainable Transport of ALDP, that support could not have been given to the proposal to secure the future of this important building and in support of economic development. The desire to upgrade the existing Direct Access Junction is understood, however what is not understood is why the condition on the previous change of use permission is not acceptable now given the proposed similarly low intensity of use. The intensity of use of the junction would not be increased and it is unclear why the position taken by the Roads Authority and the Planning Authority last time cannot be taken again. The applicant will happily work with the Roads Authority regarding 'additional' measures such as closing the gap in the central reservation to improve the existing situation. The previous approval and conditions were justified based on the listed building being utilised, which remains a key factor, now even more so with the passing of time. Facilitating this application becomes even more important when looking at the condition of the building which has deteriorated during and after The Summerland Trust's occupation, the aforementioned economic benefits, and that the applicant is not only seeking to occupy the building "in situ", but to actively restore and maintain many of the historic aspects which make it so special – something which did not seem to form part of the previously approved plans.

- 3.38 While the desire to upgrade the existing Direct Access Junction is understood, the previous permission and condition, and which remains the lawful use of the site and building, was clearly granted as a result of seeking to be supportive of the preservation of this important Grade B listed building of “exceptional heritage value”.
- 3.39 While it is no longer feasible to upgrade the junction, and, although despite the best efforts of the applicant, it has not been possible to secure an egress via another route, a change of use could still be facilitated for this proposal in a similar to that on the 2006 permission. The intensity of use will not be increasing from that accepted previously and the appeal simply asks for the same view to be taken with this proposal for the sake of consistency. Utilisation of this listed building remains a key factor, now even more so with the passing of time. Facilitating this development becomes even more important when the deteriorating condition of the building is taken into account along with the aforementioned economic benefits, and that the applicant is not only seeking to occupy the building “in situ”, but to actively restore and maintain many of the historic aspects which make it so special – something which did not seem to form part of the previously approved plans
- 3.40 Historic Environment Scotland has no objection and considers the extension is of a high quality and appropriate design which will significantly improve the front elevation. It is concerning that the Planning Authority has failed to acknowledge this. There appears to be a lack of recognition of the extensive background work carried out in terms of the historical significance of the building and previous alterations, not all of which are considered sympathetic, and that despite the extension being fundamentally acceptable but for a reduction in size of 1metre in length and the same in depth, that the proposal is considered unacceptable.
- 3.41 it is respectfully requested that the appeal is upheld.