

# APPEAL STATEMENT

240463/DPP – Erection of two-storey detached dwelling house with integral garage and associated works.

Land Adjacent to Oldfold Farmhouse, Milltimber, Aberdeen, AB13 0HQ



Prepared by Fiddes Architects on behalf of Mr  
Euan Davidson & Amanda Maturana.

## Executive Summary

- The application site, which measures 0.138ha, is located in an enclosed plot to the west of and adjoining Oldfold Farmhouse which lies approximately 8km to the west of Aberdeen. It is accessed by an adopted road off the northern side of North Deeside Road. The access is shared with Oldfold Farmhouse and Tor-Na-Dee Care Home, albeit the care home access is not the primary access to the home. The application site historically formed part of Oldfold Farm when the farm occupied a great swathe of land to the north & west before the Hydropathic Establishment, later the Tor-Na-Dee Hospital, were established and later more the Oldfold Village housing development. The site is within an area zoned as part of Opportunity Site 48 (Oldfold), which is allocated for 550 homes and 5 hectares of employment land and holds an extant planning permission in principle for the erection of a dwelling house on the site.
- Our clients acquired the plot in 2023 shortly after the birth of their second child with the sole desire to build their family home in line with their wish to be closer to nature and in a well-connected yet noncity area to raise their young family and reside for many years to come in a dwelling designed to adapt to their changing needs both spatially and practically. The application site has been lying vacant since our clients acquired the property in 2023 and is not presently used for agricultural purposes and was previously used as a track for construction traffic during the implementation of the Oldfold Village development.
- It is proposed to erect a single dwellinghouse with a built footprint of approximately 211m<sup>2</sup> positioned approximately 2m from the north-eastern boundary shared with Oldfold Farmhouse with the majority of outdoor amenity space located around the south, west and north of the house. The proposal consists of two forms adjoining lengthways north-west to south-east. A gabled 2-storey form finished in local granite stonework and white silicone render on the ground floor with vertical timber cladding and dark grey metal corrugate on the first-floor walls and roof. The second form is a single-storey flat-roof clad in white silicone render and accommodating at its southern end an attached double garage.  
An asphalt driveway including turning circle is to be laid in the south-east of the site leading up to the garage and to the front door of the house set on the south-west elevation under an overhang of the first floor. Along the western boundaries, where there is an existing stone wall, this would be retained and made good in places where it has fallen into disrepair. Foul water drainage would be connected to the mains and surface water drainage would be managed via a soakaway in the south-east of the site.
- The reasons for the refusal of the application and a summary of our responses to those reasons for refusal are noted below:  
*01. 'It would visually intrude upon the existing Oldfold Farmhouse, to the detriment of its historic character and that of the wider setting of the area;*  
  
*On account of points 1 and 2, the development would fail to be distinctive and pleasant and would be contrary to Policy 7 (Historic Assets and Places) ... of National Planning Framework 4 (NPF4) ... and Policy D6 (Our Historic Environment) of the Aberdeen Local development Plan 2023 (ALDP).'*

Response - The farmhouse is neither listed nor registered on any historic record and as such we strongly feel the Council has placed a very surprising level of historic significance on Oldfold Farmhouse. The proposal makes no move to remove or demolish any buildings that have been previously deemed suitable for recording by Historic Environment Scotland. The neighbouring Oldfold Farmhouse is noted as a contemporary farmhouse on the site, the original historic farm buildings on the site of Oldfold Farm were permitted to be demolished as part of the application 150260 by Aberdeen City Council. It is now unfeasible to view the farmhouse without a prominent back drop of a pastiche mass housing development which has completely overwhelmed the setting of the farmhouse from all viewpoints publicly accessible, the only views the low-level single storey garage will block are when viewed from within the application boundary. Material changes and/or inclusion of windows on the south garage wall were offered, however, advice received during application discussions were that they would be inconsequential to the application. There is no mention of a 'preference against white and off-white renders' in APG Materials document under the heading Render. With the above in mind the Planning Officer decision to give such substantial weight to the historical significance is over precious, the proposed dwelling does not contravene Policy 7 (NPF4) and Policy D6 (ALDP), instead the proposal offers a distinctive and modern dwelling combining traditional and modern forms detailed to reflect the vernacular with a focus on robustness and longevity.

*02. 'by erecting a dwellinghouse where the majority of habitable rooms were excessively overshadowed by neighbouring woodland, it would provide inadequate amenity to the residential development and;*

*On account of points 1 and 2, the development would fail to be distinctive and pleasant and would be contrary to ... Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4) and Policy D1 (Quality Placemaking), Policy D5 (Landscape Design) ... of the Aberdeen Local development Plan 2023 (ALDP). It would further be contrary to ALDP Policy D2 (Amenity), by failing to fully promote and provide adequate residential amenity for the proposed development.'*

Response – Fiddes Architects are an award-winning design led Architecture practice in Aberdeenshire with a proven track record in delivering high quality modern architecture, to state the proposed dwelling is neither distinctive nor pleasant is a purely subjective statement and one which we strongly feel the planning officer is not fully qualified to make. The design is a direct response to the intimate nature of the site and the applicants wants and needs from the dwelling with its position on the site. The landscape design has been intentionally simplified as a cost exercise and to permit the applicant time to live on site before making key decisions on planting and habitat creation, there was plenty of time during the application process in which the Planning Officer was provided opportunity to request a more detailed landscape plan, however, due to the time allowed to pass by the Planning Officer between correspondence it was never raised as an issue in discussions and would gladly have been resolved with a revised site plan submitted. The size of the application site is 1381m<sup>2</sup>, the house occupies 211m<sup>2</sup>, to suggest that within the remaining 1,170m<sup>2</sup> and all rooms of the house the occupant will be unable to find adequate residential amenity throughout the year is both laughable and wrong. Only 15% of the site is occupied, by the dwelling, 43% (590m<sup>2</sup>) of the site is covered by the garden ground to the north and a further 42% (543m<sup>2</sup>) of the site is made up of garden and driveway to the south. The dwelling is a 236m<sup>2</sup>, spacious 4-bedroom house with a separate snug, study & utility room with an additional 38m<sup>2</sup> of garage space attached. To call into question the amenity of the dwelling and the

pleasantness of the outlooks and spaces is unmerited and illogical. Information available from Scottish Forestry directly links access and proximity to woodland as beneficial to health and a key amenity. Something our client wanted to embrace as a fundamental part of the design.

*03. thereby place undue pressure on woodland, in particular to the south-west of the site.*

*On account of point 3, it would be contrary to NPF4 Policy 6 (Forestry, Woodland and Trees) and ALDP Policy NE5 (Trees and Woodland).*

Response – An unduly pedantic interpretation and enforcing of the relevant policies have been implied by refusing the proposed development on a site which received planning permission in principle in March 2022. No healthy trees are proposed to be felled as a result of this application and the dwelling design is located out with the root protection zones and within the developable area on the site, therefore, the woodland trees can be considered protected. The trees in question are neither in a conservation area or covered by a Tree Protection Order (TPO), a point which would be very easily rectified by placing a protection order upon the trees or including a condition in the planning permission to safeguard against their removal at a later date without the Council's knowledge/approval. The site has a live approval in principle for development under previous policy, if any concern regarding the proximity of the trees to the development were of such issue, then they would have been raised during the planning permission in principle approval. However, the fact that the planning officer deemed the development acceptable, that the ZOIs were unavoidable and should not restrict development and that the trees only partially restricted the site's access to sunlight meant that the trees would be under minimal pressure.

- We are firmly and unequivocally of the opinion that our client's application for the erection of a single dwelling house proposed should not have been refused planning permission.

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## List of Documents

**Appendix 1** – Planning Appeal Forms

**Appendix 2** – Planning Application Documents Relating to Planning Application 240463/DPP

**Appendix 3** – Decision Notice dated 24<sup>th</sup> September 2024 Relating to Planning Application 240463/DPP

**Appendix 4** – Delegated Report Relating to Planning Application 240463/DPP

**Appendix 5** – National Planning Framework 4 (NPF4)

**Appendix 6** – Aberdeen Local Development Plan 2023 (ALDP)

**Appendix 7** – Aberdeen Planning Guidance 2023: Materials

**Appendix 8** – Oldfold Farm, Milltimber, Aberdeen: Historic Building Recording Report AOC 22800  
19th November, 2014

**Appendix 9** – Report of Handling Relating to Planning Application 220746/MSD dated 14<sup>th</sup> June 2022

## 1. Introduction

1.1 This statement has been prepared by Fiddes Architects, Chartered Architects (Aberdeenshire) on behalf of our clients, Mr Euan Davidson & Miss Amanda Maturana. We dispute, on behalf of our clients, Aberdeen City Council's reasons for refusing the above-mentioned application, which had sought planning permission, under the terms of Planning Application Reference Number 240463/DPP, for the formation of a two-storey detached dwelling at land adjacent to Oldfold Farmhouse, Milltimber, Aberdeen, AB13 OHQ. Under the terms of Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended) we wish to appeal the Council's decision on our client's behalf.

1.2 A copy of the planning application submitted to and refused by the Council (240463/DPP) is attached as Appendix 2 and a copy of the Decision Notice as Appendix 3.

## 2. Site Location & Description

2.1 The application site, which measures 0.138ha, is located in an enclosed plot to the west of and adjoining Oldfold Farmhouse which lies approximately 8km to the west of Aberdeen. It is accessed by an adopted road off the northern side of North Deeside Road. The access is shared with Oldfold Farmhouse and Tor-Na-Dee Care Home, albeit the care home access is not the primary access to the home due to the positioning of bollards at the junction preventing regular vehicle access. The application site takes in views to the south over the Dee Valley with the topography sloping downhill in a southerly direction.

2.2 The application site historically formed part of Oldfold Farm when the farm occupied a great swathe of land to the north & west before the Hydropathic Establishment, later the Tor-Na-Dee Hospital, was established and later more the Oldfold Village housing development. The site is within an area zoned as part of Opportunity Site 48 (Oldfold), which is allocated for 550 homes and 5 hectares of employment land and holds an extant planning permission in principle for the erection of a dwelling house on the site.

2.3 The application site has been lying idle since our clients acquired the property in 2023 and is not presently used for agricultural purposes and was previously used as a track for construction traffic during the implementation of the Oldfold Village development.

### **Planning History**

2.4 The following Planning History is of relevance to the current application proposals:

220746/MSC, Approval of matters specified in conditions 2 (tree survey and protection), 3 (surface water drainage) and 4 (waste-water connection) in relation to 220261/PPP for the erection of a detached dwelling house Matters Specified in Conditions Approved Unconditionally 19th August 2022.

220261/PPP, Erection of two-storey detached dwelling house and associated works Planning Permission in Principle Approved Conditionally 21st April 2022.

150260, Approval of Matters Specified in 130378 in relation to residential development of 58 houses (Condition 1-Phasing, 4-New Junction, 9-Drainage, 10-Archaeology, 11-Contamination, 14-Trees, 15-

CEMP, 16-SWMP, 17-Layout and Design, 18-Landscaping, 20-Travel Pack) Matters Specified in Conditions Approved Conditionally 6th August 2015.

130378, Development including residential comprising approx. 550 house units, commercial, primary school, associated ancillary uses and infrastructure improvements including road junction formation on A93 Planning Permission in Principle Approved Conditionally 24th February 2015.

### **3. Description of Proposed Development**

3.1 It is proposed to erect a dwellinghouse with a built footprint of approximately 211 square metres and rising to a ridge height of approximately 8.3 m. The house is positioned approximately 2 m from the north-eastern boundary shared with Oldford Farmhouse with the majority of outdoor amenity space located around the south, west and north of the house. The proposal consists of two forms adjoining lengthways north-west to south-east. A gabled 2-storey form finished in local granite stonework and white silicone render on the ground floor with vertical timber cladding and dark grey metal corrugate on the first floor. The roof would be clad likewise in dark grey metal corrugate. The second form is a single-storey flat-roof clad in white silicone render and accommodating at its southern end an attached double garage.

An asphalt driveway including turning circle is to be laid in the south-east of the site leading up to the garage and to the front door of the house set on the south-west elevation under an overhang of the first floor. The proposal for waste management is that domestic bins would be kept by the driveway entrance and walked up for via the driveway and path to Murtle Den Crescent to sit alongside the existing waste collection point for Oldford Farmhouse approximately 80 m away.

A vertical timber panel fence approximately 1.7 m high would be erected along the eastern boundaries. Along the western boundaries, where there is an existing stone wall, this would be retained and made good in places where it has fallen into disrepair.

Foul water drainage would be connected to the mains and surface water drainage would be managed via a soakaway in the south-east of the site.

3.2 It is important to note the following sequence of events and timescales that had been allowed to pass following the submission of the application which is the subject of these appeal proceedings:

12<sup>th</sup> April 2024 – Application for Detailed Planning Permission submitted and validated.

19<sup>th</sup> April 2024 – Planning Officer (Mr. Esmond Sage) issued a letter advising of required advertisement fee and to request permission for access for a site visit. Architect (Mr. Eddie Ashcroft) responded on 22<sup>nd</sup> April 2024 to advise that fee has been paid and advise Mr Sage on how to access the site.

21<sup>st</sup> May 2024 – Mr Ashcroft (Architect) contacted Mr Sage (Planning Officer) to enquire regarding consultee comments & public comment received and to ensure he was able to access the site. No response was received.

11<sup>th</sup> June 2024 – Determination Deadline passed with no further contact from Mr Sage (Planning Officer) or any other member of the Aberdeen City Council Planning team.

13<sup>th</sup> June 2024 – Mr Ashcroft (Architect) contacted Mr Sage (Planning Officer) to advise that revised drawings had been uploaded to the planning portal to take into account the comments received from the ACC - Roads Development Management Team. Enquires were sought into the progress of the application in lieu of the determination deadline passing the previous month when still no correspondence had been received. No response from Mr Sage was received.

24<sup>th</sup> June 2024 – Mr Ashcroft (Architect) contacted ACC Planning team general enquires email to request and update on the status of the application in lieu of any contact from the Planning Officer who had been uncontactable. Response was received on the 27<sup>th</sup> June from Garfield Prentice (Planning Team Leader) to advise that only Mr Sage (Planning Officer) would be in a position to respond to queries and that he would take up the matter with Mr Sage on his return from leave.

1<sup>st</sup> July 2024 - Mr Sage (Planning Officer) contacted Mr Ashcroft (Architect) to advise that feedback will be issued shortly. Feedback was issued on 5<sup>th</sup> July 2024.

17<sup>th</sup> July 2024 – Response to feedback submitted via the portal. Subsequent feedback discussed on the 5<sup>th</sup> August and a further response to feedback submitted to the portal on the 13<sup>th</sup> of August.

29<sup>th</sup> August 2024 – Mr Sage (Planning Officer) Advised decision and report would be completed and issued shortly.

10<sup>th</sup> September 2024 - Mr Ashcroft (Architect) followed up with Mr Sage (Planning Officer) to be advised the decision and report will be issued the following week (w/c 16<sup>th</sup> September) and advised that the application is being refused under delegated powers. Mr Sage advised that the next Local Review Body meeting was the 30<sup>th</sup> of September and that it is unlikely the report will be issued in time for any appeal to heard at that meeting.

25<sup>th</sup> September 2024 – Decision notice issued.

### **Personal Circumstances**

3.3 Our client currently reside in central Aberdeen and purchased the site in 2023 with the desire to build their family home in line with their wish to be closer to nature and in a well-connected yet noncity area to raise their young family. With direct access to early years education in walking distance (Milltimber School within 400m walking distance) and local amenities in neighbouring Bielside and Peterculter this plot provides the perfect opportunity. As keen gardeners with aspirations of cultivating their own fruit and vegetables on the site the scale and orientation of the plot also offers ample room for future development of the garden grounds to become a practical and biodiverse space for years to come.

## **4. Assessment of Development Proposals**

4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) (hereinafter referred to as 'The Act') states that:

*'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.'*

4.2 In the context of Section 25 referred to above, it is worth referring to the House of Lord's Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:



- *identify any provisions of the development plan which are relevant to the decision;*
- *interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;*
- *consider whether or not the proposal accords with the development plan;*
- *identify and consider relevant material considerations, for and against the proposal; and*
- *assess whether these considerations warrant a departure from the development plan.*

4.3 The relevant development plan for the area comprises National Planning Framework 4 (NPF4) and the Aberdeen Local Development Plan (ALDP) 2023. Other material considerations relevant to the determination of the application include Consultation Responses, Third-Party Representations and Planning History.

#### **National Planning Framework 4 (NPF4)**

4.4 National Planning Framework 4 (NPF4 – Appendix 5) was adopted by Scottish Ministers on 13th February 2023 and contains 33 no. policies against which applications for development proposals now require to be assessed.

In a letter dated 8th February 2023 dealing with the transitional arrangements for NPF4, the Minister for Planning and the Chief Planner of Scotland 18 gave the following advice to decision-makers in relation to the application of NPF4: *‘Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise.*

***Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.***

(highlighting added)

Within the context described our comments on the policies referred to in the Delegated Report are as outlined below:

#### **Policy 1 – Tackling the Climate and Nature Crisis**

4.5 The intent of Policy 1 in NPF4 on ‘Tackling the Climate and Nature Crisis’ is *‘to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.’*

Characteristics of the development proposal supporting the global and nature crises include, inter-alia, the following:

As noted in Paragraph 2.3, the application site last use prior to its current state was as a construction traffic access route and was laid with hardcore to form a solid base for heavy machinery and could therefore be considered brownfield.

Given the proximity of the site to Aberdeen it is easily accessible by a choice of means of transport including walking and cycling via the Deeside Way. Public Transport Services (bus based) are accessible on the A93 (North Deeside Road) through Aberdeen with train services also available in the city.

The proposed dwelling intends to adopt a fabric first approach to sustainability which involves meeting carbon reduction requirements by increasing thermal performance and minimising air infiltration. The current Building Regulations will ensure the dwelling utilises zero direct emission heating technologies including air source heat pumps & mechanical heat and ventilation recovery in conjunction with photovoltaics in contributing towards the energy requirements, as will the embodiment of low energy LED lighting and facilities for electric vehicle charging.

The proposal to introduce wildflower planting to large areas of the garden will be a great improvement on the biodiversity of a site which is currently covered by grasses with little evidence of

flowering plants or diverse flora to benefit pollinators or local wildlife.

Whilst not detailed in the design proposals explicitly, our clients are also keen to introduce additional planting and landscaping features to facilitate habitat creation to benefit and enhance biodiversity. The development proposed, is, as a consequence of the above considerations, considered to comply with the requirements of Policy 1 in NPF4.

#### Policy 2 – Climate Mitigation and Adaptation

4.6 The intent of Policy 2 in NPF4 on ‘Climate Mitigation and Adaptation’ is *‘to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.’* The measures outlined, combined with the characteristics of the development site highlighted in response to the terms of Policy 1 above, will contribute to a reduction in emissions thus rendering the proposal compliant with the terms of the policy.

#### Policy 3 - Biodiversity

4.7 The intent of Policy 3 in NPF4 on ‘Biodiversity’ is *‘to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.’* No trees are to be felled or landscaping features to be removed to facilitate the development of the dwelling houses proposed. Notwithstanding this and as noted in our response to Policies 1 & 2 above, additional landscaping and planting measures proposed will contribute to an overall net biodiversity gain. All landscaped areas will be managed and maintained by our client in the years ahead with a commitment given to the replanting of landscape features which fail. As a consequence of the considerations outlined, the proposal is compliant with the terms of Policy 3.

#### Policy 6 – Forestry, Woodland and Trees

4.8 The intent of Policy 6 in NPF4 on ‘Forestry, Woodland and Trees’ is *‘to protect and expand forests, woodland and trees.’* As noted previously, no trees within or neighbouring the application site are proposed to be felled or impacted. Notwithstanding this, our clients are proposing to undertake additional landscaping and planting to enhance localised biodiversity credentials. This policy will be discussed further later in the statement in the response to reason for refusal.

#### Policy 7 – Historic Assets and Places

4.9 The intent of Policy 7 in NPF 4 on ‘Historic Assets and Places’ is *‘to protect and enhance historic assets and places, and to enable positive change as a catalyst for the regeneration of places.’* Boundary walls and the neighbouring Oldfold Farmhouse have been highlighted as positive historic features. The application proposals intend to repair and retain the historic stone walls and ensure they are protected and enhanced. With regards to Oldfold Farmhouse, the dwelling house is not listed or protected in anyway and is noted in the ‘Oldfold Farm, Milltimber, Aberdeen: Historic Building Recording Report’ in application 150260 (Appendix 8) as being a ‘...(contemporary) farmhouse’ which suggests that from a heritage standpoint it is not considered historically significant and was not surveyed or recorded along with the Oldfold Farm steading demolished for that application. Insofar as archaeological considerations are concerned, these can be addressed through the imposition of a condition on any decision to grant permission for the proposal.

#### Policy 11 – Energy

4.10 The intent of Policy 11 in NPF 4 on ‘Energy’ is *‘to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS).’* It encourages all Councils to utilise their full potential for electricity and heat generation from renewable, low carbon and zero emission sources. As noted previously in our responses to Policies 1

and 2 of NPF4, it is our client's intention that the proposed dwelling will incorporate low and zero carbon generating technologies in the form of air source heat pumps, mechanical heat and ventilation recovery and photovoltaics rendering it compliant with the terms of Policy 11.

#### Policy 12 – Zero Waste

4.11 The intent of Policy 12 in NPF4 on 'Zero Waste' is *'to encourage, promote and facilitate development that is consistent with the waste hierarchy.'* Our clients are committed to working in line with the waste hierarchy referred to and will seek to reduce, reuse and/or recycle materials at every opportunity presented, thereby rendering the proposals compliant with the terms of Policy 12.

#### Policy 13 – Sustainable Transport

4.12 The intent of Policy 13 in NPF4 on 'Sustainable Transport' is *'to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel use and reduce the need to travel unsustainably.'* As noted previously the application site, given its proximity to Peterculter & Bieldside, is accessible via walking and cycling. Bus and train based public transport services are available on the A93 to provide connections to Aberdeen & beyond. The sustainable transport measures described render the proposal compliant with the terms of Policy 13 of NPF4.

#### Policy 14 – Design, Quality and Place

4.13 The intent of Policy 14 in NPF4 on 'Design, Quality and Place' is *'to encourage, promote and facilitate well designed development that makes successful places by taking a designed-led approach and applying the Place Principle.'* Policy 14 (b) states that:

*'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.'*

The scheme as proposed is in compliance with the six identified qualities of successful places for the following reasons:

**Healthy** – The proposed dwelling will be designed and constructed to be as thermally efficient as possible coupled with MVHR for internal air quality to promote a warm and safe place to live. The large plot also provides ample scope for food growing and access to nature & greenspace in the woodland areas surrounding.

**Pleasant** – The location on site offers ample protection from the elements with the woodland providing shade & shelter by natural means and also ensures climate resilience by using the woodland for natural solar shading in summer months. As a domestic dwelling situated next to an area of woodland there will be a strong connection with nature and the expanses of garden ground on the north and south of the plot provide ample space for play, and relaxation in sun or shade throughout the day.

**Connected** – The location of the site off North Deeside Road and proximity to Peterculter and Bielside provide easy opportunity for walking/cycling on the Deeside Way and good public transport connections to Aberdeen & beyond.

**Distinctive** – The massing is a direct, distinctive response to the site constraints and neighbouring typologies and the historic local vernacular. The 2 distinct forms, two-storey pitched roof & single storey flat roof, are separated materially and are formed to ensure respect is paid to the neighbouring Oldfold Farmhouse while also ensuring the dwelling stands alone in its own identity as an unashamedly modern family home. The materials reflect the surrounding context with a render ground floor with a subtle granite entrance feature and the first floor wrapped in timber cladding and metal corrugate adds a sustainable & modern interpretation of traditional materials. Clipped eaves detailing and the gabled form reinforce the traditional design but with a modern intent sympathetic to the context. The building largely following an indicative building line guided by Oldfold Farmhouse, however, much like many dwellings in the neighbouring Oldfold Village development, the garage is brought forward of the building line, largely due to the restrictions that have been imposed on the site. 19 & 20 Murtle Den Crescent both locally position their garages forward of the building lines they occupy. The plot is set out in the traditional way, similar to many of the local single dwelling plots, large area of garden to the north and south and the dwelling occupying the centre much like properties 140-190 on the North side of North Deeside Road, and very much unlike the neighbouring Oldfold Village development.

**Sustainable** - The dwelling is designed to current building regulations with ensure a zero direct emissions heating system will be included by means of an Air Source Heat Pump. The dwelling is also intended to have MVHR included to aid in an efficient use of resources in the move to Net Zero. Easy access to local amenities reinforces the notion of a close local community.

**Adaptable** – The dwelling is designed with future adaption in mind to ensure it remains fit for purpose as a family dwelling for many years to come as the occupants change in number and mobility.

The proposal is, as a consequence of the considerations outlined above, considered to be compliant with the terms of Policy 14.

#### Policy 15 – Local Living and 20-minute neighbourhoods

4.14 The intent of Policy 15 in NPF4 on ‘Local Living and 20-minute neighbourhoods’ is ‘*to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.*’ The measures outlined, combined with the characteristics of the development site highlighted in response to the terms of Policies 13 & 14 above renders the proposal compliant with the terms of the policy.

#### Policy 16 – Quality Homes

4.15 The intent of Policy 16 in NPF4 on ‘Quality Homes’ is ‘*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 across Scotland.*’ Criterion (a) states that:

*‘Development proposals for new homes on land allocated for housing in LDPs will be supported.’*

The proposal is considered to comply with the terms of Policy 16 as the site is within an area zoned as part of Opportunity Site 48 (Oldfold), which is allocated for 550 homes and 5 hectares of

employment land and holds an extant planning permission in principle for the erection of a dwelling house on the site.

#### Policy 19 – Heating and Cooling

4.16 The intent of Policy 19 in NPF4 on ‘Heating and Cooling’ is *‘to encourage, promote, and facilitate development that proposes decarbonized solutions to heat and cooling demand and ensure adaptation to more extreme temperatures.’* It promotes the connection of development proposals to Heat Network Zones where existing, or where planned and requires proposals to be designed and constructed to allow for cost effective connection at a later date. As there are no existing or proposed heat network zones within or in the vicinity of the application site, insofar as we are aware, the terms of Policy 19 are not considered relevant to the application proposals.

#### Policy 22 – Flood Risk and Water Management

4.17 The intent of Policy 22 in NPF4 on *‘Flood Risk and Water Management’* is *‘to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.’* An examination of SEPA’s Flood Maps has revealed that the application site is not at risk of flooding during the applicable return periods. All surface water from the development proposed will be discharged to soakaways as shown indicatively on the site plan submitted with the application. A connection will be made to the public sewer to deal with foul water discharge. It is also proposed to connect to the existing public water supply. Scottish Water has confirmed there is capacity for both a foul discharge and a connection to the water supply. As a consequence of this, the proposals are compliant with the terms of Policy 22.

4.18 Having assessed the application proposals against the terms of all policies within NPF4 and applying the principles of proportionality and reasonableness advocated by the Planning Minister and Chief Planner in their letter dealing with the transitional arrangements for NPF4 (referred to previously in Paragraph 4.4), the proposals, when ‘viewed in the round’ are compatible and should therefore be supported.

### **Aberdeen Local Development Plan 2023**

4.19 The Aberdeen Local Development Plan (Appendix 6) was adopted by Aberdeen City Council on 19<sup>th</sup> June 2023. The application site lies within the Opportunity Site 48 – Oldfold under the Land Release Policy.

4.20 Key policies of relevance to the determination of this application include:

- Policy D1 (Quality Placemaking)
- Policy D2 (Amenity)
- Policy D5 (Landscape Design)
- Policy D6 (Our Historic Environment)
- Policy LR1 (Land Release Policy)
- Policy LR2 (Delivery of Mixed Use Communities)
- Policy NE4 (Our Water Environment)
- Policy NE5 (Trees and Woodland)
- Policy R6 (Low and Zero Carbon Buildings, and Water Efficiency)
- Policy R7 (Renewable and Low Carbon Energy Developments)
- Policy T2 (Sustainable Transport)
- Policy T3 (Parking)
- Policy WB2 (Air Quality)

## Policy WB3 (Noise)

### Policy D1 (Quality Placemaking)

4.21 The intent of Policy D1 in ALDP on 'Quality Placemaking' is '*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.*' Policy D1 states that;

*'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*

*A design strategy will be required to be submitted that demonstrates how a development meets these qualities. The design, scope and content will be proportionate to the scale and/or importance of the proposal.'*

Fiddes Architects are an award-winning design led Architecture practice in Aberdeenshire with a proven track record in delivering quality architecture underpinned by all proposals being carefully considered in their layout, construction, materiality and appearance. All these principals have been implemented in the proposed dwelling and contribute to ensuring the proposal delivers on Policy D1. The six essential qualities set out in Policy D1 of ALDP correlate with the 6 qualities in Policy 14 of the NPF4 and can be referred to above in paragraph 4.13. The qualities can be aligned as follows; Distinctive – Distinctive; Welcoming/Safe & Pleasant – Healthy/Pleasant; Easy to move around – Connected; Adaptable – Adaptable; Resource efficient – Sustainable. The proposal is, as a consequence of the considerations outlined above, considered to be compliant with the terms of Policy D1.

### Policy D2 (Amenity)

4.22 Policy D2 states that;

*'In order to ensure provision of amenity the following principles will be applied.*

*Development will be designed to:*

- *make the most of any opportunities offered by the site to optimise views and sunlight through appropriate siting, layout and orientation;*
- *ensure that occupiers are afforded adequate levels of amenity in relation to daylight, sunlight, noise, air quality and immediate outlook;*

- *have a public face to the street to ensure natural surveillance, and active street frontages;*
- *ensure that refuse and recycling facilities, cycle storage, low and zero carbon technology, plant and services are sensitively integrated into the design;*
- *ensure that external lighting minimises light spillage into adjoining areas and the sky.*

*Residential developments will also:*

- *ensure that occupiers are afforded adequate levels of privacy;*
- *ensure minimum standards for internal floor space and private external amenity space in terms of quantity and quality;*
- *provide no less than 50% usable amenity space where it is necessary to provide car-parking within a private court. Underground and/or decked parking will be expected in higher density schemes;*
- *ensure minimal shading of external private and public spaces;*
- *ensure all residents have access to usable private/ semi-private open spaces and sitting-out areas provided by way of balconies, terraces, private or communal gardens;*
- *have a private face to an enclosed garden or court to ensure a sense of safety and enclosure.'*

It is the intention to discuss this policy in more detail later in the report under Response to Reason for Refusal as in this instance the site-specific conditions make mean that this policy is directly linked to Policy NE5.

#### Policy D5 (Landscape Design)

4.23 The intent of Policy D5 in ALDP on 'Landscape Design' is '*Development proposals will be designed with an effective, functional and attractive landscape framework supported by clear design objectives. The level of detail required will be appropriate to the scale of development.'*

The proposed landscape design has been kept clear and simple for the purposes of this planning application so that decisions on the locations & types of planting can be made once the dwelling has been allowed to bed into the site for a period of time and to ensure that any commitments to planting are realistic and feasible following the completion of the build. The proposed design incorporates areas of wildflower meadow and lawn onto a site which is currently covered with long grasses, therefore, protecting and improving the current biodiversity of the site and ensure the proposal is low maintenance as an initial starting point for the applicant. On the above basis the proposal complies with the intent of Policy D5.

#### Policy D6 (Our Historic Environment)

4.24 The intent of Policy D6 in ALDP on 'Our Historic Environment' is '*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.'* The proposed development protects and preserves Aberdeen's historic environment as the proposal would seek to retain and repair the noted historic stone boundary walls to the west & north. The proposal makes no move to remove or demolish any buildings that have been previously deemed suitable for recording by Historic Environment Scotland. As discussed in paragraph 4.9 in relation to NPF4 Policy 7 the neighbouring Oldfold Farmhouse is a contemporary farmhouse on the site and the original historic farm buildings on the site of Oldfold Farmhouse were demolished as part of application 150260. Oldfold Farmhouse is not listed or noted in any historic records as being noteworthy. On the above basis the proposal complies with the intent of Policy D6.

#### Policy LR1 (Land Release Policy)

4.25 The intent of Policy LR1 in ALDP on 'Land Release Policy' is '*Housing and employment development on existing allocated sites and housing sites for the period up to 2032 will be approved in principle within areas designated for housing or employment*'. The current proposal is located within the Opportunity Site 48 – Oldfold under the Land Release Policy therefore complying the policies intentions.

#### Policy NE4 (Our Water Environment)

4.26 The intent of Policy NE4 in ALDP on 'Our Water Environment' is to ensure that places are resilient to current and future flood risk. That water resources are used efficiently and sustainably. And ensure wider use of natural flood risk management benefits people and nature. This policy is strongly aligned with Policy 22 in NPF4 and for the reasons outline in paragraph 4.17 the proposal complies with Policy NE4.

#### Policy NE5 (Trees and Woodland)

4.27 The intent of Policy NE5 in ALDP on 'Trees & Woodlands' is '*Development should not result in the loss of, or damage to, trees and woodlands... Buildings and infrastructure should be sited to allow adequate space for a tree's natural development, taking into account the predicted mature height, canopy spread and future rooting environment. Where applicable, root protection areas should be established, and protective barriers erected prior to any work commencing*.' As noted previously no trees on the site are to be felled or harmed as a result of this development. An arboriculturists report was prepared for application 220261/PPP and remains relevant to the new application in detailing the developable area. The developable area is produced to show the area of the site suitable for development taking into account movement in the wind, future growth, perceived safety concerns, shade cast by the trees and the existing crown spread. On the above basis the proposal complies with the intent of Policy NE5.

#### Policy R6 (Low and Zero Carbon Buildings, and Water Efficiency)

4.28 The intent of Policy R6 in ALDP on 'Low and Zero Carbon Buildings, and Water Efficiency' is '*All new buildings will be required to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technology. To reduce the pressure on water abstraction from the River Dee, and the pressure on water infrastructure, all new buildings are required to use water saving technologies and techniques*.' The proposed dwelling intends to adopt a fabric first approach to sustainability which involves meeting carbon reduction requirements by increasing thermal performance and minimising air infiltration. The current Building Regulations will ensure the dwelling utilises zero direct emission heating technologies including air source heat pumps & mechanical heat and ventilation recovery in conjunction with photovoltaics in contributing towards the energy requirements, as will the embodiment of low energy LED lighting and facilities for electric vehicle charging. Water efficient fittings will be provided to all WCs and WHBs within a dwelling. Dual flush WC cisterns will have an average flush volume of not more than 4.5 litres, Single flush WC cisterns will have a flush volume of not more than 4.5 litres & Taps serving wash or hand rinse basins will have a flow rate of not more than 6 litres per minute. These requirements are set out in the Scottish Building Regulations to prevent undue consumption of water. On the above basis the proposal complies with the intent of Policy R6.

#### Policy R7 (Renewable and Low Carbon Energy Developments)

4.29 The intent of Policy R7 in ALDP on 'Renewable and Low Carbon Energy Developments' is '*Renewable and low carbon energy schemes will be encouraged and supported in principle, where*



*the technology can operate efficiently, and the environmental and cumulative impacts can be satisfactorily addressed.* It promotes the development of proposals for the generation of renewable heat and energy generating technologies on all scales, including energy storage. As discussed elsewhere in this statement the proposal intends to utilise zero direct emission heating technologies including air source heat pumps & mechanical heat and ventilation recovery in conjunction with photovoltaics in contributing towards the energy requirements. There is also adequate space in the proposed garage should the applicant wish to include battery storage in the future. On the above basis the proposal complies with the intent of Policy R7.

#### Policy T2 (Sustainable Transport)

4.30 The intent of Policy T2 in ALDP on 'Sustainable Transport' is *'Proportionate to the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated.'* It promotes development proposals to ensure large developments are accessible by as many means possible and to reduce the reliance on car travel. As the proposal is for a single dwelling on a plot neighbouring a large new housing development, the terms of Policy T2 are not considered relevant to the scale of the application proposal.

#### Policy T3 (Parking)

4.31 The intent of Policy T3 in ALDP on 'Parking' is *'To ensure any car parking provided as part of development proposals accords with Council standards.'* The proposal provides three external parking spaces and a turning circle within the curtilage of the dwelling along with safe storage for cycles and access to a vehicle car charger as required under the Scottish Building Regulations. The driveway/parking area would not decrease in size if the external parking spaces were removed in favour of the internal garage space. On the above basis the proposal complies with the intent of Policy T3.

#### Policy WB2 (Air Quality)

4.32 The intent of Policy WB2 in ALDP on 'Air Quality' is *'Development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed with the Planning Authority.'* ACC's Environmental Health team does not object to the application subject to construction proceeding in accordance with BS8228 – 1:2009+A1:2014 and best practice contained in BRE Guide (2003) Control of dust from construction and demolition activities. The proposal for the erection of a single dwellinghouse is of a scale and character that it does not meet the threshold for further air quality assessment under the guidelines.

#### Policy WB3 (Noise)

4.33 The intent of Policy WB3 in ALDP on 'Noise' is *'In cases where significant exposure to noise is likely to arise from development, a Noise Impact Assessment (NIA) will be required as part of a planning application.'* Aberdeen Planning Guidance: Noise acknowledges that higher levels of noise can be expected and accepted during the construction of development for a temporary period. ACC's Environmental Health team does not object to the application subject to guidance contained within: BS8228 - 1:2009+A1:2014 Code of practice for noise and vibration control on construction sites and open sites - Part 1 Noise and Part 2: Vibration. In addition, to protect the amenity of existing nearby residential properties, development works (including site/ground preparation, demolition, and construction) causing noise beyond the site boundary should not occur outside the following hours; Monday to Friday 0700 hours to 1900 hours: Saturday 0800 hours to 1300 hours. Noise over and above acceptable levels is controlled through mechanisms out with the planning system, such as the Control of Pollution Act 1974 and British Standard BS 5228:1997 Noise and Vibration Control on

Construction and Open Sites. On the above basis the proposal complies with the intent of Policy WB3.

### **Other Material Considerations**

4.34 As noted previously, in addition to the development plan, due consideration must also be given to other material considerations when determining a planning application/appeal. Such considerations in this instance include Consultation Responses, Third-Party Representations and Planning History.

### **Consultation Responses**

4.35 According to the Report on the Planning Application (See SLC Document 3) consultation responses were as follows:

Waste & Recycling - No objection in principle and advise that bins must be presented on Murtle Den Crescent for collection.

Roads Development Management Team – No objection - The only outstanding RDM issue was regarding waste storage / collection. The applicant has provided a response which has been deemed acceptable by the Waste Management team and, as such, there are no outstanding Roads concerns.

Scottish Water – No objection - There is sufficient capacity at the Invercarnie Water Treatment Works. There is currently sufficient capacity for a foul only connection in the Nigg PFI Waste Water Treatment works. For reasons of sustainability and to protect their customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into their combined sewer system.

Contaminated Land – No objection - The service does not believe the potential for land contamination issues at the site is sufficient to justify the attachment of conditions. However, should any ground contamination be discovered during development, the Planning Authority should be notified immediately.

Environmental Health – No objection – The service recommends the procedures and guidance noted previously in paragraphs 4.32 & 4.33.

4.36 In summary none of the consultation responses objected to or raised concerns about the granting of planning permission for the application proposals.

### **Third Party Representations**

4.37 A single representation was received raising concerns about dust and noise during construction. ALDP Policies WB2 (Air Quality) and WB3 (Noise) set out how potential impacts during construction are managed and are noted above in paragraphs 4.32 & 4.33.

### **Planning History**

4.38 Whilst planning permission in principle has been granted previously to a former owner of the property under the terms of Planning Permission Reference Numbers 220261/PPP for the erection of a two-storey detached dwelling house and associated works and 220746/MSC for the approval of matters specified in conditions of 220261/PPP. Our client did not wish to proceed with site layout or building outline as they considered the layout purely indicative of a dwelling on the site and intended to appoint an Architect to design a bespoke dwelling suitable for their needs and the site.

4.39 Having considered the application proposals against the terms of NPF4, ALDP and all other material considerations as required under Section 25 of the Town and Country Planning (Scotland) Act 1997, we are firmly and unequivocally of the view that the application proposals are compliant and that there are no material considerations existing which would support anything other than the granting of planning permission for the application proposals as applied for.

## 5. Response to Reasons for Refusal

5.1 The planning application was refused for a total of three reasons. Those reasons and our responses to them are outlined below:

***(01) It would visually intrude upon the existing Oldfold Farmhouse, to the detriment of its historic character and that of the wider setting of the area.***

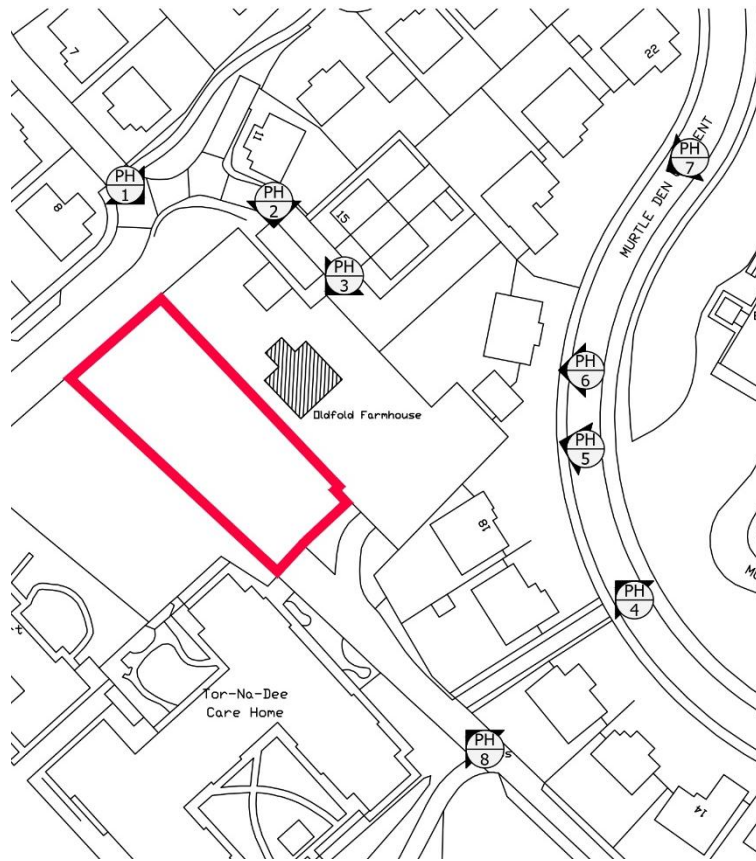
5.2 The Delegated Report issued by Planning on 25th September 2024 (See Appendix 4) provides some elaboration, on the grounds for considering the proposal to be contrary to the terms of Policy 7 (o) in NPF4 & Policy D6 in ALDP.

*'Oldfold Farmhouse is a traditionally built cottage dating to the second half of the 19th century and stands as a vestige of the original steading. It thus makes an important contribution to the place character of the surrounding area. Its historic value has been acknowledged in the determination of previous planning applications (in particular 150260, see Relevant Planning History above) whereby it was surveyed and recorded for the Historic Environment Record (HER). As such both the farmhouse and stone walls are considered to meet the criteria for non-designated historic environment assets.'*

5.3 As detailed previously, in our response to Policy 7 in NPF4 & Policy D6 in ALDP, the farm house while being of an age older than many of the buildings surrounding it was not included in the Historic Environment Record (HER) during application 150260 (Appendix 8) nor any application since. The report even goes so far as to refer to the farmhouse only twice where the farmhouse is referred to as 'contemporary'. The historic value of Oldfold Farm was wholly placed in the steading buildings which dated from the mid-19<sup>th</sup> century and were recorded prior to their demolition to make way for the incongruent neighbouring housing development. The farmhouse is neither listed nor registered on any historic record and as such we strongly feel the Council has placed a very surprising level of historic significance on Oldfold Farmhouse.

*'While Oldfold Farmhouse now lies in the relatively new context of a major housing development, it retains a sense of independent identity and separation which positively reinforces its historic character. The nearest dwellinghouses from the surrounding development are between 20 and 30 m away from Oldfold Farmhouse, and its raised position and tree screening mean that the surrounding development is rarely visually obtrusive when viewing the house.'*

5.4 Having visited the site numerous times and being of the understanding the planner officer handling the application has also visited the site we are at a loss to understand how the Council can be of the opinion that the neighbouring housing development has not already eradicated the historic character of the farmhouse. It is now unfeasible to view the dwelling without a prominent back drop of a pastiche mass housing development. Included below are a selection of site photos showing a number of views of the farmhouse from locations around the development on publicly accessible paths without venturing onto private land or off the adopted road leading up to the development. Photos 4-8 clearly show the extent to which the new development has had a greatly obtrusive effect visually when viewing the house. Photos 1-3 at the north of the farmhouse also demonstrate how screened the house is when viewed from the north and west by means of new boundaries and a harled garage.



Plan indicating photo locations



PH 1



PH 2



PH 3



PH 4



PH 5



PH 6



PH 7



PH 8

*'the proposal to place a stark and visually incongruent physical form in close proximity to and in advance of Oldfold Farmhouse would have a detrimental impact on both houses and the wider area. As such, the application is considered to be contrary to NPF4 Policy 7(o), as the development would fail to protect the historic farmhouse's historic setting. Likewise, it would be contrary to ALDP Policy D6 (Our Historic Environment) which requires appropriate development to protect the setting of Aberdeen's historic environment.'*

5.5 Reference must here must be made to the above images again and the effect that the neighbouring development has already had on the farmhouse and also to reiterate the fact that the farmhouse has neither been listed or recorded to date. This again reinforces the argument that there is in fact little to no historic setting worthy of protecting due to the development that has already been allowed to progress in the surrounding proximity to the farmhouse. As demonstrated above the surrounding development has already overwhelmed the setting of the farmhouse from all viewpoints publicly accessible. The 'stark and visually incongruent' form of the low-level single storey garage will only block views of the farmhouse when viewed from within the application boundary. As stated in the design submission accompanying the application the choice of a flat roof single storey form along the east boundary is in direct response to the farmhouse to ensure that the volume is as low and unobtrusive as possible. During discussions with the planning officer a material change and/or inclusion of windows on the south garage wall were offered as means to soften any negative impact, however, we were advised that they would be inconsequential to the application which makes the Councils comments regarding material choice all the more surprising when a material change was offered during discussions.



*Photo Montage of proposed dwelling located adjacent to farmhouse.*

*'It is acknowledged that render is a popular and widespread choice for contemporary finishing materials. APG Materials makes clear that its use still requires careful technical and design considerations and offers a range of colour choices and finishes appropriate in Aberdeen, and in the proximity of granite, with a preference against white and off-white renders, which often weather poorly in Aberdeen's climate.'*

5.6 Closer inspection of the above-mentioned document APG Materials finds that there is not note mentioning a 'preference against white and off-white renders'. A statement especially all the more confusing considering the material palette of every new build housing development in Aberdeen City. As architects it is our responsibility to ensure all detailing and material specifications are robust and capable of standing the test of time, should the Council have raised these concerns regarding detailing during discussions examples of our construction details would have been happily provide to reassure that their concerns will not be realised on this project.

***(02) by erecting a dwellinghouse where the majority of habitable rooms were excessively overshadowed by neighbouring woodland, it would provide inadequate amenity to the residential development and;***

5.7 The Delegated Report issued by Planning on 25th September 2024 (See Appendix 4) provides some elaboration, on the grounds for considering the proposal to be contrary to the terms of Policy 17 in NPF4 & Policy D1, D2 and D5 in ALDP.

*'Issues regarding daylight, sunlight, shading and layout/orientation on this site are heavily informed by the nearby trees as a significant constraint'*

5.8 It appears that the Council have taken the stance that the trees and their resultant *zones of influence* (ZOI) are a hard and fast boundary on the site with little room for a finer level of understanding or appreciation. The main stretch of trees in question in the neighbouring woodland which directly neighbour the site and project the greatest degree of influence on the site occupies a

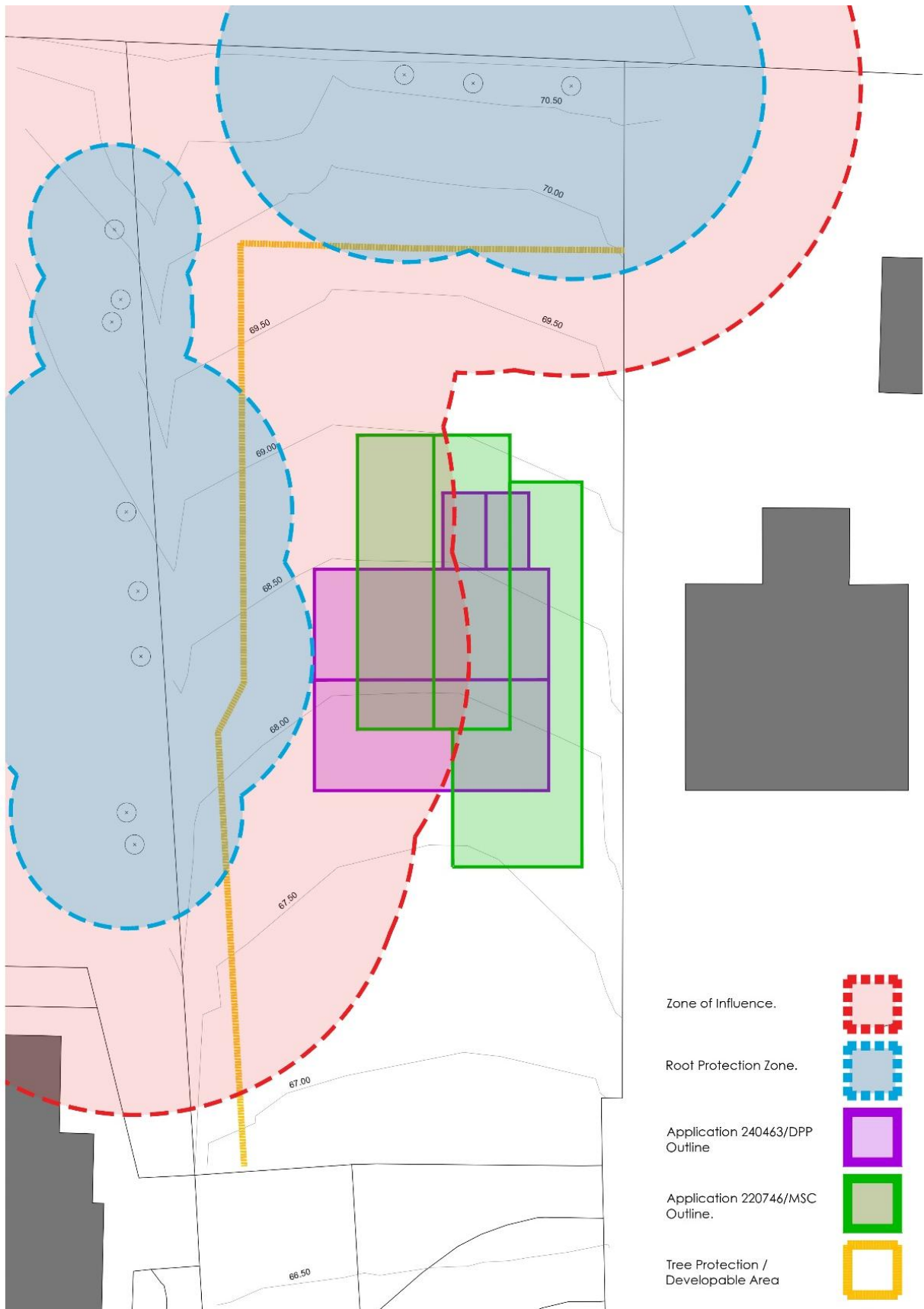
32m stretch over the whole 59m length of the southwest boundary. This leaves the east, southeast, & south of the site all 'exposed' and open to receiving sunlight for 2/3 of the day therefore suggesting that the position of the garden ground within the ZOI restricts the amenity of the development to the extent that the application should be refused is grossly unreasonable. Notwithstanding the fact that the trees in question are deciduous and spend a fair portion of the year when the sun is lowest without foliage thus diminishing their shade casting ability on the site as the winter sun is able to penetrate the woodland to lighten up the living areas on any given day the sun shines.

5.9 Issues regarding policy D5 Landscape Design in ALDP have been discussed previously in paragraph 4.23 which sets out the rationale for the submitted landscape design. Worth noting is also that at any time during the application process a landscaping design could have been requested by the Council for inclusion and it would have gladly been provided. It can be seen in paragraph 3.2 the timescales allowed pass during the application process during which we followed up with the planning officer. On these multiple occasions we were checking whether any additional information was required with the application at no point was a landscape design plan requested. It seems very unreasonable to not request information and then proceed to use the lack of information to persecute the application with and not in keeping with the spirit of aiding development.

*'The permission in principle provides a reference point for a layout, of size and position relative to Oldfold Farmhouse, of detailed development which may be acceptable on the site.'*

5.10 As stated in the delegated report the layout in the permission in principle is purely indicative and contains no guide on materiality or orientation of internal spaces. The indicative plan demonstrates no consideration to the layout and orientation other than to mirror the plan of Oldfold Farmhouse across the boundary onto the new plot. Shown below is a comparison of the two masses located on the site plan which clearly show both plots leaving similar levels of garden ground clear out with the aforementioned ZOIs.

The proposed dwelling layout demonstrates a greater distance between the proposed development and the root protection zone than that shown on the permission in principle. The desire by the applicant to position the house as on a north south axis and embrace the views to the woodland is a direct response to the character of the site and in appointing a design led architect shows a keen appreciation of distinctive modern design which should be encouraged and applauded.



Site plan comparing dwelling outlines from Application 220746 with that of application 240463 and the impact of the ZOIs and Root protection measures.



5.11 Information on the Scottish Forestry website (<https://www.forestry.gov.scot/forests-people/health-strategy>) notes that being able to view and interact with woodlands can help to reduce stress and mental fatigue along with improve behavioural and emotional development in children. On a more basic level woodlands trees provide shelter from wind and rain, can reduce noise levels and trees and woods can give a reassuring sense of cover and seclusion. The alternative for the applicant, the wish of the Planning Officer, is for the dwelling to be orientated to take in views to the south. Below I have included a photo demonstrating the captivating views to the south on the left-hand side alongside the views to the woodland on the right and the amount of light which is still able to pass through the foliage on a typically dreich Autumnal day.



***(03) thereby place undue pressure on woodland, in particular to the south-west of the site.***

5.12 The Delegated Report issued by Planning on 25th September 2024 (See Appendix 4) provides some elaboration, on the grounds for considering the proposal to be contrary to the terms of Policy 6 in NPF4 & Policy NE5 in ALDP.

*'ALDP Policy NE5 (Trees and Woodland) requires buildings and infrastructure to be sited to allow adequate space for a tree's natural development, taking into account the predicted mature height, canopy spread and future rooting environment. Root protection areas should be established and protection secured in line with Aberdeen Planning Guidance: Trees and Woodland ('APG Trees and Woodland')*

5.13 As highlighted previously when considering Policy NE5, no healthy trees are to be felled as a result of this application therefore the woodland trees can be considered protected. It has been noted in the report that the trees are mature therefore the trees can be managed with little future growth in mind. The submitted tree report clearly outlines the root protection zones and highlights a developable area on the site. It is stated in the delegated report that: *'proposed dwellinghouse is substantially different from the indicative layout at permission in principle stage, which would have informed assessment of the trees' potential impact.'* Discussions with Astell Associates, who prepared the Tree Survey Report, noted that the position of the root protection zones and the developable area do not take into account the indicative layout and that if they took into account our submitted layout the developable area would have tucked in a bit in line with the root protection area, therefore, positioning the indicative outside the developable area.

*'Bearing these considerations in mind along with the planning history and established principle of a house on the site, it is therefore accepted that:*

- a) The development of a dwellinghouse on site, including garden ground, would necessarily be partially within ZOIs;*
- b) Development of a dwellinghouse on the site can be accepted, subject to balancing specific details of layout and arrangement against the inevitable inclusion within the ZOIs;*
- c) The present policy context of the application site introduces an enhanced requirement to protect trees within and in proximity to the site.'*

5.14 The Planning Officer has conceded a few points key points here, firstly that development on the site is accepted and it is a given that a portion of the site is going to be affected by the ZOI. When balancing the orientation against the amount of the site affected by the ZOIs, 912m<sup>2</sup> of the site is covered by the ZOI, which leaves 469m<sup>2</sup> of the site unaffected by the ZOIs, precisely 1/3 of the site. The application as submitted provides 331m<sup>2</sup> out with the ZOI, which when considered against neighbouring development, the gardens provided there are considerably less than 200m<sup>2</sup>, many of which are predominantly north facing, it stands to reason that 331m<sup>2</sup> is a large area of external amenity space. Secondly, the policy context in place to protect the trees has changed since the permission in principle. This leaves the site in a bit of no man's land between policies, permission in principle was given one year before the new policies came into place and leads me to believe that, as discussed in paragraph 4.4 that:

*'Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness'*

In this instance we have a site whereby there is an agreement that development is permitted and acceptable, the site is heavily influenced by a bank of mature trees which under new policy would make the site somewhat undevelopable due to the site coverage, and the site applicant who is seeking to develop the site has aspirations which accord with numerous policy details and intents. It therefore stands to reason that the implementation of Policy NE5 is being imposed on this application disproportionately and without just reason. The applicant has outlined their reasons for the orientation of the dwelling, given zero indication of intent to remove or disrupt the woodland.

5.16 In the Report of Handling accompanying application 220746/MS (See Appendix 9). The planning officer at the time had the below to comment with regards to the trees on the site following receipt of the tree report;

*'In terms of the zone of influence (ZOI) of the trees to the west, the house would sit within their ZOI. However as discussed at planning permission in principle stage, whilst it is desirable for buildings and garden ground to sit out with the ZOI, it is not always possible if a site is to be developed. In this case the large garden ground and orientation of the trees relative to the house and track of the sun would result in large areas of the garden receiving direct sunlight throughout the day. The trees to the west would only cast a shadow over part of the site in the evening, so the pressure to have trees removed or pruned in this regard is likely to be minimal. In relation to tree matters the application is considered acceptable.'*

The above is far more in keeping with the spirit of Policy NE5 and acknowledges the position of the trees in relation to the site and the fact that the trees would on shadow the site for a portion of the day. The applicant purchased the site with the above statement as a matter of fact in their mind and with zero interest in removing or pruning the woodland which they do not own and with the knowledge that the woodland is deciduous and ever changing throughout the seasons. The woodland does not form the 18m high sun blocking barrier all year round the Planning Officer seems to suggest it does in their interpretation of Policy NE5 and APG Trees and Woodlands.

5.15 The trees in question are neither in a conservation area or covered by a Tree Protection Order (TPO). It is completely within the Councils power to place a protection order upon the trees or to include a condition with in the planning permission to safeguard against their removal at a later date without the Councils knowledge. Discussions with Astell Associates highlights their disagreement with the nature of the ZOIs and the Councils implementation of Policy NE5 as it could be seen to encourage any potential applicants to remove unprotected trees from their curtilage or proximity to ensure a smoother application process. Also worth highlighting is that a very high proportion of dwellings in Aberdeen City would not have been built if ZOIs were such a key consideration with regards to safety and amenity. The proportional and reasonable understanding is that enough people enjoy being in the vicinity of woodland and trees as more often than not the emotional and psychological benefits in peoples understanding far outweighs their concerns regarding a trees ZOI.

5.10 In light of the considerations outlined in this section we do not accept the reasons for the refusal of the application and as such it is respectfully requested that planning permission be granted for the proposal as applied for.

## 6. Summary and Conclusions

6.1 Having considered the proposed development against the terms of both the development plan and other material considerations as required under the terms of the Town and Country Planning (Scotland) Act 1997 (as amended) we have demonstrated and are very firmly of the opinion that the review request should be upheld, and planning permission granted for the proposal. Our position on this appeal can be summarised as follows:

- The application site, which measures 0.138ha, is located in an enclosed plot to the west of and adjoining Oldfold Farmhouse which lies approximately 8km to the west of Aberdeen. It is accessed by an adopted road off the northern side of North Deeside Road. The access is shared with Oldfold Farmhouse and Tor-Na-Dee Care Home, albeit the care home access is not the primary access to the home. The application site historically formed part of Oldfold Farm when the farm occupied a great swathe of land to the north & west before the Hydropathic Establishment, later the Tor-Na-Dee Hospital, were established and later more the Oldfold Village housing development. The site is within an area zoned as part of Opportunity Site 48 (Oldfold), which is allocated for 550 homes and 5 hectares of employment land and holds an extant planning permission in principle for the erection of a dwelling house on the site.
- Our clients acquired the plot in 2023 shortly after the birth of their second child with the sole desire to build their family home in line with their wish to be closer to nature and in a well-connected yet noncity area to raise their young family and reside for many years to come in a dwelling designed to adapt to their changing needs both spatially and practically. The application site has been lying vacant since our clients acquired the property in 2023 and is not presently used for agricultural purposes and was previously used as a track for construction traffic during the implementation of the Oldfold Village development.
- It is proposed to erect a single dwellinghouse with a built footprint of approximately 211m<sup>2</sup> positioned approximately 2m from the north-eastern boundary shared with Oldfold

Farmhouse with the majority of outdoor amenity space located around the south, west and north of the house. The proposal consists of two forms adjoining lengthways north-west to south-east. A gabled 2-storey form finished in granite blocks and white silicone render on the ground floor and vertical timber cladding and dark grey metal corrugate on the first-floor walls and roof. The second form is a single-storey flat-roof clad in white silicone render and accommodating at its southern end an attached double garage.

An asphalt driveway including turning circle is to be laid in the south-east of the site leading up to the garage and to the front door of the house set on the south-west elevation under an overhang of the first floor. Along the western boundaries, where there is an existing stone wall, this would be retained and made good in places where it has fallen into disrepair. Foul water drainage would be connected to the mains and surface water drainage would be managed via a soakaway in the south-east of the site.

- The reasons for the refusal of the application and a summary of our responses to those reasons for refusal are noted below:

01. *'It would visually intrude upon the existing Oldfold Farmhouse, to the detriment of its historic character and that of the wider setting of the area;*

*On account of points 1 and 2, the development would fail to be distinctive and pleasant and would be contrary to Policy 7 (Historic Assets and Places) ... of National Planning Framework 4 (NPF4) ... and Policy D6 (Our Historic Environment) of the Aberdeen Local development Plan 2023 (ALDP).'*

Response - The farmhouse is neither listed nor registered on any historic record and as such we strongly feel the Council has placed a very surprising level of historic significance on Oldfold Farmhouse. The proposal makes no move to remove or demolish any buildings that have been previously deemed suitable for recording by Historic Environment Scotland. The neighbouring Oldfold Farmhouse is noted a contemporary farmhouse on the site, the original historic farm buildings on the site of Oldfold Farm were permitted to be demolished as part of the application 150260 by Aberdeen City Council. It is now unfeasible to view the farmhouse without a prominent back drop of a pastiche mass housing development which has completely overwhelmed the setting of the farmhouse from all viewpoints publicly accessible, the only views the low-level single storey garage will block are when viewed from within the application boundary. Material changes and/or inclusion of windows on the south garage wall were offered, however, advice received during application discussions were that they would be inconsequential to the application. There is no mention of a 'preference against white and off-white renders' in APG Materials (Appendix 7) document under the heading Render. With the above in mind the Planning Officer decision to give such substantial weight to the historical significance is over precious, the proposed dwelling does not contravene Policy 7 (NPF4) and Policy D6 (ALDP), instead the proposal offers a distinctive and modern dwelling combining traditional and modern forms detailed to reflect the vernacular with a focus on robustness and longevity.

02. *'by erecting a dwellinghouse where the majority of habitable rooms were excessively overshadowed by neighbouring woodland, it would provide inadequate amenity to the*

*residential development and;*

*On account of points 1 and 2, the development would fail to be distinctive and pleasant and would be contrary to ... Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4) and Policy D1 (Quality Placemaking), Policy D5 (Landscape Design) ... of the Aberdeen Local development Plan 2023 (ALDP). It would further be contrary to ALDP Policy D2 (Amenity), by failing to fully promote and provide adequate residential amenity for the proposed development.'*

Response – Fiddes Architects are an award-winning design led Architecture practice in Aberdeenshire with a proven track record in delivering high quality modern architecture, to state the proposed dwelling is neither distinctive nor pleasant is a purely subjective statement and one which we strongly feel the planning officer is not fully qualified to make. The design is a direct response to the intimate nature of the site and the applicants wants and needs from the dwelling and its position on the site. The landscape design has been intentionally simplified as a cost exercise and to permit the applicant time to live on site before making key decisions on planting and habitat creation, there was plenty of time during the application process in which the Planning Officer was provided opportunity to request a more detailed landscape plan, however, due to the time allowed to pass by the Planning Officer between correspondence it was never raised as an issue in discussions and would gladly have been resolved with a revised design submitted. The size of the application site is 1381m<sup>2</sup>, the house occupies 211m<sup>2</sup>, to suggest that within the remaining 1,170m<sup>2</sup> and all rooms of the house the occupant will be unable to find adequate residential amenity throughout the year is both laughable and wrong. Only 15% of the site is occupied, by the dwelling, 43% (590m<sup>2</sup>) of the site is covered by the garden ground to the north and a further 42% (543m<sup>2</sup>) of the site is made up of garden and driveway to the south. The dwelling is a 236m<sup>2</sup>, spacious 4-bedroom house with a separate snug, study & utility room with an additional 38m<sup>2</sup> of garage space attached. To call into question the amenity of the dwelling and the pleasantness of the outlooks and spaces is unmerited and illogical. Information available from Scottish Forestry directly links access and proximity to woodland as beneficial to health and a key amenity.

*03. thereby place undue pressure on woodland, in particular to the south-west of the site.*

*On account of point 3, it would be contrary to NPF4 Policy 6 (Forestry, Woodland and Trees) and ALDP Policy NE5 (Trees and Woodland).*

Response – An unduly pedantic interpretation and enforcing of the relevant policies have been implied by refusing the proposed development on a site which received planning permission in principle in March 2022. No healthy trees are proposed to be felled as a result of this application and the dwelling design is located out with the root protection zones and within the developable area on the site, therefore, the woodland trees can be considered protected. The trees in question are neither in a conservation area or covered by a Tree Protection Order (TPO), a point which would be very easily rectified by placing a protection order upon the trees or including a condition in the planning permission to safeguard against their removal at a later date without the Councils knowledge/approval. The site has a live approval in principle for development under previous policy, if any concern regarding the proximity of the trees to the development were of such issue, then they would have been

raised during the planning permission in principle approval. However, the fact that the planning officer deemed the development acceptable, that the ZOIs were unavoidable and should not restrict development and that the trees only partially restricted the sites access to sunlight meant that the trees would be under minimal pressure.

- We are firmly and unequivocally of the opinion that our client's application for the erection of a single dwelling house proposed should not have been refused planning permission.

6.2 In view of the considerations outlined it is respectfully suggested that this appeal be upheld, and that planning permission is granted for the proposal as applied for. We reserve the right to respond to any submissions on the appeal from the Appointed Officer, Consultees or Third Parties prior to its determination.

A handwritten signature in black ink, appearing to read 'E Ashcroft', with a long horizontal stroke extending to the right.

Eddie Ashcroft

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14<sup>th</sup> October 2024