



**NOTICE OF REVIEW
UNDER
S.43a(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

in respect of

DECISION TO REFUSE PLANNING APPLICATION REFERENCE 230969/DPP

for

**REDEVELOPMENT OF VACANT INDUSTRIAL SITE, INCLUDING ERECTION OF 4 DETACHED
HOUSES, ASSOCIATED GARAGING / CAR PARKING, PEDESTRIAN ACCESS PATHS,
INFRASTRUCTURE AND OPEN SPACE**

at

**SCOTSTOWN MOOR BASE
SHIELHILL ROAD
ABERDEEN
AB23 8NN**

STATEMENT OF REASONS

1 Introduction

1.1 Planning application reference 230969/DPP, for the *“redevelopment of vacant industrial site, including erection of 4 detached houses, associated garaging / car parking, pedestrian access paths, infrastructure and open space”*, at Scotstown Moor Base, Shielhill Road, Aberdeen, was refused under delegated powers on 13 February 2025 [Document 21]. A Review of that decision is now sought for the reasons set out in this Statement, as read alongside the other documents submitted with this, a list of which is provided at Appendix One. In particular, this includes:

- a Design Statement [Document 8] which explains how the proposed development responds to the application site context, including details of the key features of the proposed layout and house design, and the design benefits of what is proposed;
- a Planning Statement [Document 9] which sets out the policy context against which the application requires to be assessed, demonstrating how this complies with all relevant policy requirements, including those of the Fourth National Planning Framework (NPF4) [Document 23], the Aberdeen Local Development Plan 2023 (ALDP) [Document 24], and associated Planning Guidance documents [Documents 25 - 28; and
- a Supplementary Statement [Document 20] which responds to points raised by the planning service during its assessment of the application, demonstrating that these do not justify the application’s refusal, and that the application should instead be approved for the reasons given in the Supplementary Statement, read in conjunction with the Planning Statement.

1.2 The terms of those Statements are now incorporated herewith.

1.3 In summary, it is submitted that the proposed development complies with the Development Plan (comprising NPF4 and the ALDP) and is also supported by relevant material considerations, in that the proposed development:

- constitutes the sustainable re-use of a brownfield site as supported by Policy 9 (Brownfield, vacant and derelict land and empty buildings) of NPF4;
- delivers much needed new homes on an allocated site in accordance with Policy 16 (Quality homes) of NPF4 and Policy LR1 – Land Release Policy of the ALDP;

- has been designed to a high standard, demonstrating the 6 qualities of successful placemaking as required by Policy 14 (Design, quality and place) of NPF4 and Policy D1 - Quality Placemaking of the ALDP;
- complies with all other relevant Development Plan policies, namely Policies 13 (Sustainable transport), 15 (Local living and 20 minute neighbourhoods), 18 (Infrastructure first), 19 (Heating and cooling), and 22 (Flood risk and water management) of NPF4, and Policies WB1 - Healthy Developments, WB3 - Noise, D2 - Amenity, NE2 - Green & Blue Infrastructure, D4 - Landscape, D5 - Landscape Design, T2 - Sustainable Transport, T3 - Parking, R2 – Degraded and Contaminated Land, R5 - Waste Management Requirements for New Development, R6 - Low and Zero Carbon Buildings and Water Efficiency, NE4 - Our Water Environment, I1 - Infrastructure Delivery and Planning Obligations, and CI1 - Digital infrastructure of the ALDP, together with associated Planning Guidance documents; and
- is supported by relevant material planning considerations, most notably the Aberdeen City and Aberdeenshire Housing Land Audit 2024 (HLA) [Document 29], in which the site is identified as having capacity for 20 housing units.

1.4 With regards to the proposed development's merits, the Report of Handling for the application [Document 22] also makes it clear that:

- the ALDP identifies the main part of the site as an opportunity site for residential development, with all development to be located within this, and the principle of housing provision here is accepted;
- while the southern edge of the site extends onto land within the green space network and green belt, no development is proposed on this land;
- relevant planning history to be taken into account when assessing the application includes the granting of consent for major residential development within the Dubford Development Framework Area, directly to the east of the application site;
- redevelopment of the site offers potential for significant visual and landscape benefit by removing the existing visually incongruous industrial buildings and yard;
- the general height and materiality of the proposed buildings is considered to be appropriate; and
- there were no objections to the application from any members of the public or from any statutory consultees.

1.5 Where the Report of Handling does raise concerns with regards to the proposed development, these are addressed in detail in section 3 below, demonstrating how the application complies with the relevant policy requirements and is supported by other material planning considerations.

1.6 It should be noted that, since the application was determined, the site has ceased to be vacant. However, that does not alter the planning merits of the proposed development or how it should be assessed against the relevant Development Policies or other material considerations. And, as the application complies with the Development Plan and is supported by relevant material considerations, and no material considerations indicate otherwise, the Review should be allowed and the application approved.

2 Policy context

2.1 In considering this Notice of Review, it must be remembered that the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise, with the adopted Development Plan in this case comprising NPF4 and the ALDP.

2.2 Taking this into account, full details of relevant provisions of both NPF4 and the ALDP are set out in the Planning Statement, as supplemented by the Supplementary Statement, which together demonstrate why the proposed development should be supported in terms of these. At the same time, consideration has also been given to relevant material considerations, with these supporting approval of the application for the reasons given in those Statements. Thus, it is submitted that the Review should be upheld and the application approved for the reasons given in those Statements.

2.3



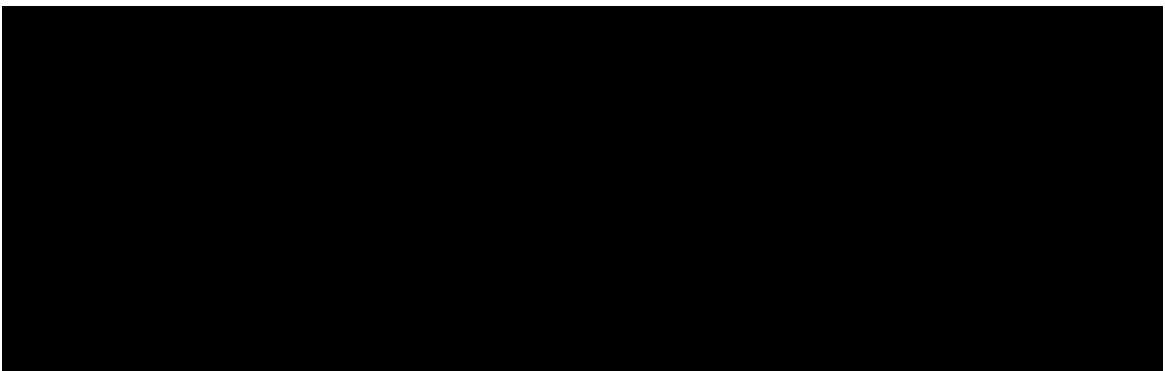
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- 2.4 Likewise, it is important to assess the potential visual impact of any proposed boundary treatments against the fallback position of the boundary treatment that would remain in the event of planning permission being refused – this being a double layer of chain link fence topped with barbed wire, measuring 2m high in total, with it also being possible to carry out alterations to this under permitted development rights subject only to there being no increase in the existing height.

3 Reasons for refusal

- 3.1 The reasons for refusal given in the Decision Notice are addressed in turn below.

(1) Due to the presence of protected species on and adjacent to the site, the nature of development and extent of groundworks / excavation, in the absence of a suitable survey and acceptable mitigation details or measures to avoid disturbance to protected species resulting from the development, the proposal is anticipated to have direct adverse effects on a Protected Species. Thus it has not been demonstrated that the development would accord with Policy 4 (Natural Places) part f) within National Planning Framework 4 (NPF4) and Policy NE3 (Our Natural Heritage) within the Aberdeen Local Development Plan 2023 (ALDP).

3.2



- the Report refers to survey competencies set out by the Chartered Institute of Ecology and Environmental Management (CIEEM), with this having been carried out by a CIEEM member;
- prior to carrying out a field survey, a desk study was undertaken, applying a standard search radius around the development site of 2km;
- while it is recognised that a buffer of 100m around the site is often applied, the area covered by the Ecological Report was informed by the surveyor's professional

experience, with this being consistent with what has typically been accepted by NatureScot elsewhere. In addition to which, it should be noted that neighbouring land was also surveyed as part of the planning process for the Dubford development to the east, [REDACTED]

- [REDACTED]

3.3 The Report also effectively incorporates a Species Protection Plan (see pages 13 and 14) so a separate species protection plan should not be required. However, if considered necessary, planning permission could be granted subject to a condition requiring a further survey to be carried out and the Species Protection Plan updated if any changes have taken place, with that to be submitted for approval prior to development commencing.

3.4 In light of the above, there is no justification for concluding that a suitable survey has not been provided, or for not accepting its conclusion that the proposed mitigation is appropriate, with that mitigation ensuring that the proposed development would not have any adverse impact on the identified protected specie [REDACTED]

3.5 It also needs to be remembered that all elements of built development/private garden areas would be located on previously developed land, with no development outwith the previously developed area, and:

- [REDACTED]
- [REDACTED]
- [REDACTED]

-
- as highlighted above, the existing buildings could be demolished under permitted development rights, i.e. without having to apply for planning permission for this, with there being no greater risk [REDACTED] being disturbed by the granting of this planning application than by demolition under permitted development rights (and indeed with the benefit of improved foraging); and

- [REDACTED] ns
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3.6 Lastly in this context, it is important to remember the generally accepted principle that planning should not seek to replicate other regulatory controls. Thus, whereas the Report of Handling seeks to place weight on an absence of evidence of the necessary licence to carry out works which may affect a protected species having been obtained from NatureScot, this is not something that should have any bearing on the outcome of this application. Indeed, Aberdeen City Council's own Planning Guidance (APG Natural Heritage) [Document 25] expressly states that "*Licences are usually only issued after full planning permission has been granted so that there is no conflict with planning*". The question now is therefore purely whether the information provided demonstrates that the application complies with relevant policy requirements for the purposes of granting planning permission. And, for the reasons given in this Statement, it is submitted that it does, with the required licence to be sought in order to implement the consent once granted.

3.7 Specifically, the Ecological Report makes it clear that the overall ecological value of the site is currently low due to the substantial amount of hardstanding within this, confirms that [REDACTED] will be destroyed, and sets out measures to be implemented during construction to avoid [REDACTED] being disturbed in any way. Taking this into account, along with the points raised above, the proposed development would clearly comply with Policy 4 Natural Places of NPF4 and Policy NE3 – Our Natural Heritage of the ALDP, in that natural heritage assets have been appropriately assessed (in accordance with good practice guidelines), and the proposal will have no detrimental effect on any relevant sites, habitats, ecosystems or species. There is therefore no requirement for the proposed development to deliver social or economic benefits and no reason to apply the precautionary principle. Rather, as also confirmed in the Ecological Report, the proposed development will deliver natural heritage enhancements which should be welcomed and supported, with scope for the

submission of a comprehensive landscape plan to be conditioned to control the details of the proposed planting and ensure the delivery of this positive benefit for natural heritage accordingly.

(2) As the proposed development would not relate well to the semi-rural context and its poor relationship to the public road, by reason of the proximity and orientation of the proposed detached buildings, the arrangement, positions and sizes of the houses, the prominence of proposed fencing and the location of the private gardens for Plots 1 and 4 next to Shielhill Road, it conflicts with the design quality aspirations of NPF4 Policy 14 (Design, Quality and Place) and ALDP Policies D1 (Quality Placemaking) and D4 (Landscape).

- 3.8 With regards first to the specific concerns raised in respect of the relationship with the public road, it is important to note that there is no policy requirement for either houses or gardens to be any specific distance from such a road. Rather, the key test is whether an appropriate level of amenity would be provided to residents, which there would be in this case, as set out in the Planning Statement. In particular in the context of the relationship with the road, it has been demonstrated that acceptable noise levels would not be exceeded, and all residents would benefit from good levels of privacy within their houses and gardens. Indeed, the Report of Handling confirms that residents of the proposed houses would enjoy a good level of amenity in accordance with relevant policy requirements in this respect, subject only to the delivery of additional greenspace enhancements and on-site noise attenuation measures.
- 3.9 Related to which, consideration has also been given to concerns raised with regards to the landscape and visual impact of the proposed noise barrier. However, it is important to assess any potential impact of that against the fallback position of the boundary treatment that would remain in the event of planning permission being refused (any such fallback position being a material consideration to which due weight must be given, as set out above) – this being a double layer of chain link fence topped with barbed wire, which is very much industrial in nature and a lot less sympathetic to the surrounding landscape than the proposed noise barrier would be.
- 3.10 In contrast, and while it is envisaged that final details of the proposed noise barrier would be conditioned, this is expected to be a wooden fence, similar to fence type C approved in connection with development pursuant to planning consent reference P141506 to the east [Document 32]. Thus, the proposed fence would be appropriate to the area, as well as being more sympathetic to the surrounding landscape than the existing fence is, and should be considered acceptable as a result (subject to final details being conditioned).

3.11 Turning then to how the proposed development relates to the surrounding site context more generally, the Report of Handling indicates that reconfiguration of the layout to form a housing cluster of a more tightly grouped building layout and of reduced footprint would be preferred. However, as set out in the Supplementary Statement, this ignores the fact that the immediate site context is not a purely rural one, but rather is characterised by the site's proximity to the Dubford development to the east. Notably:

- as recognised in the Report of Handling for planning application reference P141506 [Document 33] (in terms of which planning permission was granted for the part of the Dubford development directly to the east of the development proposed now), the layout of that development is suburban in nature, with relatively generic housing types, which were considered appropriate in this context; and
- the development proposed in terms of this application has been designed to represent a continuation of the development to the east, but with a vernacular approach taken to the design of the proposed houses as set out in the Design Statement, and changes made during the course of the application to further integrate these into the surrounding area as set out in the Supplementary Statement, such that these represent a sensitive transition between the suburban development at Dubford and the wider countryside beyond.

3.12 It should also again be noted that all elements of the proposed development would be on previously developed land, all of which is included in the OP6 allocation. And, while the Report of Handling gives the HLA little weight, it is important to recognise that the site is not just identified as having capacity for 20 housing units in the HLA, but also within the ALDP, with OP6 described as a proposal for 20 homes, and a small brownfield opportunity that should look to integrate with the neighbouring development at Dubford (see Table 3 New Housing Allocations for 2030 – 32). In line with which, the proposed development has specifically been designed to integrate with development at Dubford as set out in the Planning and Design Statements. And taking this into account, along with the fact that the proposed development satisfies all relevant policy requirement in respect of access to greenspace (as also set out in the Planning Statement and acknowledged in the Report of Handling), there is no reason for the footprint of the proposed development to be reduced.

3.13 Rather, this should be considered a good use of the previously developed area, demonstrating the six qualities of successful places as set out in the Planning Statement, and thus supported by both Policy 14 (Design, Quality and Plance) of NPF and Policy D1 (Quality Placemaking) of the ALDP. In addition to which, the Report of

Handling expressly acknowledges that “*the redevelopment of the site offers potential for significant visual and landscape benefit*”, with there thus being no reason to conclude that this does not comply with Policy D4 (Landscape) of the ALDP either, with scope for the submission of a detailed landscaping plan to be conditioned as set out above.

- 3.14 In addition, although not directly cited in the reasons for refusal, it is recognised that the Report of Handling raises concerns about the location of the sewage pumping station within the private garden ground of the north most house. It should though be noted that any private property matters associated with access to this are not material planning considerations and, in design terms, this would be located at the very north end of the garden, where this narrows to a point beneath two trees (i.e. the part of the garden that is least likely to be used for any other purpose). Thus, this does not affect the usable garden space that residents of this house would enjoy, with the garden area that they would enjoy being of a generous size overall, providing a design solution that makes good use of the land available, and provides residents of this house a good level of amenity in doing so.
- 3.15 Lastly, and while it is recognised that each application needs to be assessed on its own merits, consideration should be given to how the Scottish Ministers have dealt with similar appeals for the redevelopment of brownfield sites where questions around the level of development that would be appropriate have arisen. In terms of which it should be noted that, when assessing such proposals against the relevant provisions of NPF4, there is recent precedent to the effect that more intensive use of a site represents an efficient use of land, with the direction of development to a brownfield site within the settlement boundary (as would also be the case in this instance) described as “*inevitably minimising environmental impact elsewhere*”. (See the decision on planning appeal reference PPA-270-2294, dated 7 March 2024 [Document 34] Paragraph 9). Taking this into account, there should likewise be support for more intensive use of the land here, in the interest of making efficient use of the site and minimising environmental impacts elsewhere, with this again leading to the conclusion that there is no good reason for the extent of development to be reduced. Rather, the proposed level of development should be considered the minimum appropriate for the site and supported on this basis, and on the basis that it complies with all relevant policy requirements, as set out above.

4 Conclusion

- 4.1 For the reasons given in this statement, it is clear that the reasons for which this application was refused under delegated powers are not justified and that the proposed development:

- constitutes the sustainable re-use of a brownfield site as supported by Policy 9 (Brownfield, vacant and derelict land and empty buildings) of NPF4;
- delivers much needed new homes on an allocated site in accordance with Policy 16 (Quality homes) of NPF4 and Policy LR1 – Land Release Policy of the ALDP;
- has been designed to a high standard, demonstrating the 6 qualities of successful placemaking as required by Policy 14 (Design, quality and place) of NPF4 and Policy D1 - Quality Placemaking of the ALDP;
- complies with all other relevant Development Plan policies, namely Policies 13 (Sustainable transport), 15 (Local living and 20 minute neighbourhoods), 18 (Infrastructure first), 19 (Heating and cooling), and 22 (Flood risk and water management) of NPF4, and Policies WB1 - Healthy Developments, WB3 - Noise, D2 - Amenity, NE2 - Green & Blue Infrastructure, D4 - Landscape, D5 - Landscape Design, T2 - Sustainable Transport, T3 - Parking, R2 – Degraded and Contaminated Land, R5 - Waste Management Requirements for New Development, R6 - Low and Zero Carbon Buildings and Water Efficiency, NE4 - Our Water Environment, I1 - Infrastructure Delivery and Planning Obligations, and CI1 - Digital infrastructure of the ALDP, together with associated Planning Guidance documents; and
- is supported by relevant material planning considerations, most notably the HLA, in which the site is identified as having capacity for 20 housing units.

4.2 As the application complies with the Development Plan and is supported by relevant material considerations, and no material considerations indicate otherwise, the Review should be allowed and the application approved.

Aurora Planning Limited

28 April 2025

Appendix One – List of documents

Application documents

- 1 Application form
- 2 Existing Site and Location plan
- 3 Proposed Site Plan and Site Sections
- 4 Proposed Site Plan in Wider Context
- 5 Proposed Floor Plans and Elevations – Plots 1 & 2
- 6 Proposed Floor Plans and Elevations – Plot 3
- 7 Proposed Floor Plans and Elevations – Plot 4
- 8 Design Statement
- 9 Planning Statement
- 10 Drainage Assessment
- 11 Noise Impact Assessment
- 12 Speed Survey Report
- 13 Swept Path – SFRS fire truck
- 14 Swept Path – Refuse vehicle
- 15 Safe Route to School Assessment
- 16 Arboricultural Assessment
- 17 Tree Survey Report
- 18 Tree Protection and Management Plan
- 19 Ecological Report
- 20 Supplementary Statement
- 21 Decision notice
- 22 Report of Handling

Policy documents

- 23 Fourth National Planning Framework (NPF4)
- 24 Aberdeen Local Development Plan 2023 (ALDP)
- 25 Aberdeen Planning Guidance 2023: Natural Heritage
- 26 Aberdeen Planning Guidance 2023: Open Space and Green Infrastructure
- 27 Aberdeen Planning Guidance 2023: Landscape
- 28 Aberdeen Planning Guidance 2023: Transport and Accessibility

Other documents

- 29 Aberdeen City and Aberdeenshire Housing Land Audit 2024 (HLA)
- 30 Mansell v Tonbridge and Malling BC ([2017] EWCA Civ 1314)
- 31 Scottish Badgers' Surveying for Badgers Good Practice Guidelines
- 32 Approved plan reference 513-A_S(2-)052 for planning consent reference P141506, showing details of fence type C approved for installation to the east pursuant to that
- 33 Report of Handling for planning application reference P141506
- 34 Decision on planning appeal reference PPA-270-2294