

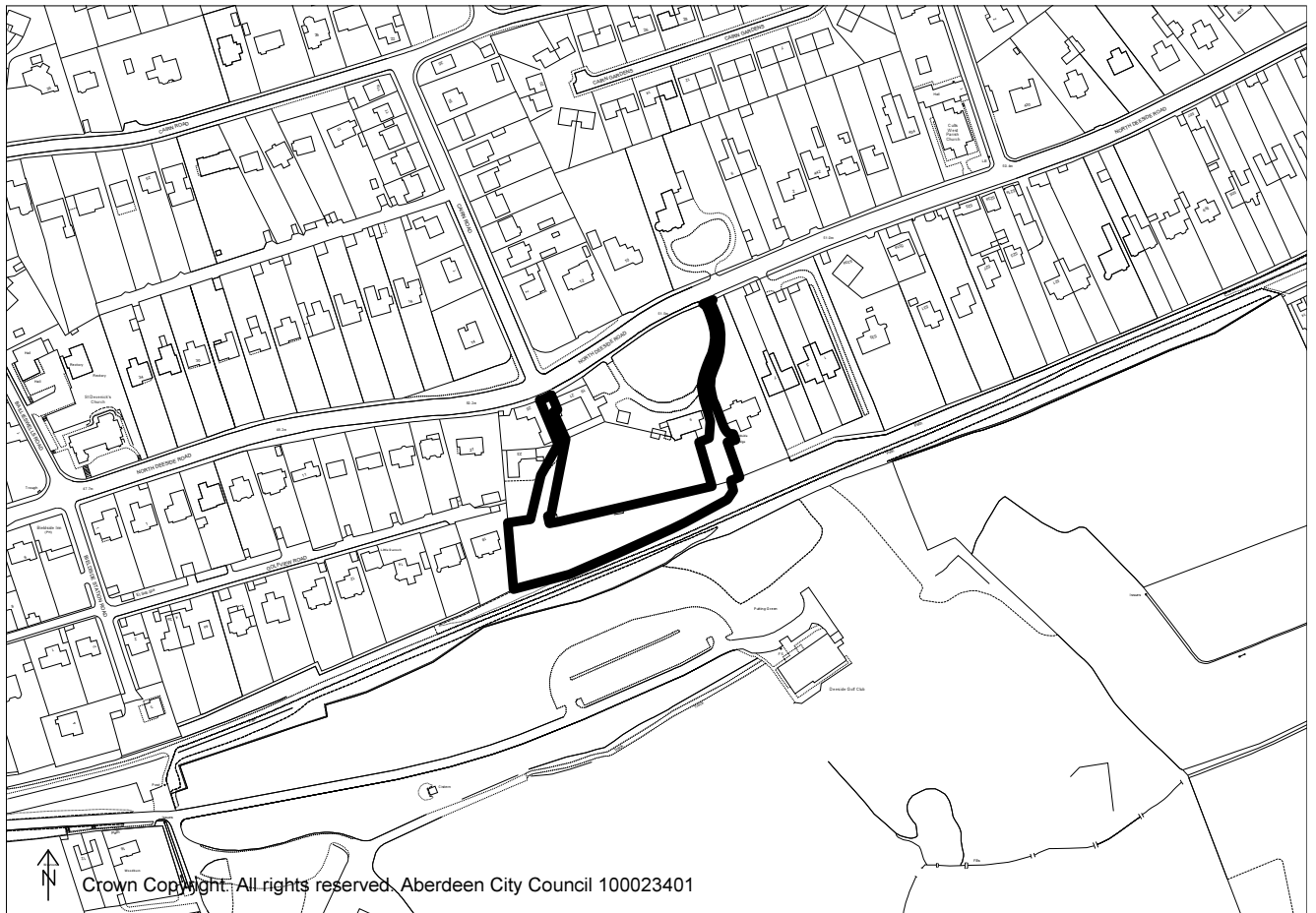
BIELDSIDE LODGE, NORTH DEESIDE  
ROAD, BIELDSIDE, ABERDEEN

ERECTION OF DWELLINGHOUSE

For: Mr Iain Hawthorne

Application Ref. : P120491  
Application Date : 05/04/2012  
Officer : Lucy Greene  
Ward: Lower Deeside (M Boulton/A  
Malone/M Malik)

Advert : Section 60/65 - Dev  
aff LB/CA  
Advertised on : 25/04/2012  
Committee Date : 14<sup>th</sup> June 2012  
Community Council : Comments



**RECOMMENDATION: Approve conditionally, with the permission being withheld until the applicant has entered into a legally binding agreement preventing vehicular access being taken further into the site.**

## **DESCRIPTION**

The application site extends to 0.33 hectares and consists of garden ground associated with Bielside Lodge, although it wraps around the walled garden to the Category B listed Bielside House and would originally have formed part of the grounds of Bielside House.

The site consists of a 'U' shaped piece of land, with the main part of the site forming the bottom of the 'U' and being an average of approximately 120m in length, whilst varying between approximately 35m and 7m in width. The two sides of the 'U', link the main part of the site to North Deeside Road. On the western side the site includes a steep woodland strip, linked to North Deeside Road by an existing drive that serves two houses (nos 21 & 23) and emerges opposite Cairn Road. On the eastern side the site takes in a strip of the garden ground to the rear of Bielside Lodge and the existing driveway, linking it with North Deeside Road.

On three sides the site bounded by the walled garden to the listed Bielside House. The wall forms part of the listing. An elevated 2-storey summer house/gazebo, forms a distinctive corner feature within the boundary wall. There is a metal gate within the walled garden wall providing access, via the application site and a further gate, onto the Deeside Walkway. The southern boundary of the site runs along the boundary of the former Deeside Railway line, now a public walk and cycle way, part of the Core Path Network and a Local Nature Conservation Site. To all other sides the area is residential.

The application site is wooded and the trees are protected by two Tree Preservation Orders. The main southern area of the site has a cross fall of approximately 4m. The eastern 'leg', has a fall of 12m between North Deeside Road and the southern end of the garden to the rear of Bielside Lodge. There is a further fall east/west across the site of 10m between the southern corner of the garden to the rear of Bielside Lodge and the main site to the south of the Bielside House gazebo. The western strip falls 9m between the shared driveway and the main part of the site.

## **HISTORY**

Conditional planning permission was granted in 1991 for the erection of the applicants' house (Bielside Lodge) to the east of Bielside House. Condition 7 of that planning consent specifically prohibits the further sub-division of the site pertaining to Bielside Lodge (i.e. prohibiting the house proposed by the current application). This condition was imposed in order to preserve the amenity of the neighbourhood in general and the amenity and character of the adjacent Bielside House in particular because of its Category B listed status. A subsequent application for a Section 28A Variation application to delete the condition was refused.

Outline planning permission for a feu split of Bielside Lodge to erect a dwelling-house on the site which is the subject of the current application, was refused in 1996. The grounds of refusal were that the proposal was contrary to the R3 policy by reason of over-development, tree loss, road safety hazard (the design and location of the access drive, which was different to that proposed more recently and under the current application) and the setting of a precedent - all to

the detriment of the character of the area. The subsequent planning appeal was dismissed by the Scottish Office in February 1997. The Reporter concluded that the problems of visual impact, tree loss and relationship of the site to the listed building were very serious in themselves but the technical shortcomings of the access route (different to that currently proposed) were a very sound and decisive basis for refusal on their own. He was of the opinion that the loss of trees and the suburbanisation of the enclosing landscape would have a significant adverse impact on the setting of the listed building, its wall and gazebo. He also shared objectors' concerns that the structural integrity of the listed wall would be put under significant threat by the weight of construction traffic and the new access drive. He found no basis for exceptional approval in relation to the R3 policy and agreed that participation in a local plan review would be a more appropriate means of challenging the R3 policy. He also considered that severe practical and aesthetic problems with erecting a house on the site seemed likely to persist regardless of whether the site was re-zoned or not.

In January 2006 an application (ref. A5/1478) for outline planning permission for the erection of a house similar to that currently indicated, was considered by the Planning Committee. The application was recommended for refusal by officers on the grounds that it

- (1) would result in a road safety hazard by reason of the design and location of the access drive onto a classified primary distributor road and intensification of use of the access;
- (2) would result in the loss of trees which in turn would be detrimental to the amenity and landscape character of the area and to the setting of Bielside House; and
- (3) would adversely affect the setting of Bielside House by reason of the location and scale of the house in close proximity to the listed boundary wall and gazebo contrary to Policies R3 and 10.2.6 in the Aberdeen City-District Wide Local Plan, Policies 30, 31 and 36 of the emerging Finalised Aberdeen Local Plan, Section 10.1.0 of Historic Scotland's Memorandum of Guidance and para. 38 of NPPG 18.

However, the application was refused by the Visiting Sub-Committee of 26 January 2006 solely on the the grounds of road safety (see wording at (1) above).

In September 2007, an application (ref. A6/2114) for full planning permission was refused by Planning Committee, following an interim vote for approval by a visiting Sub-Committee, for reasons similar to those above.

There were some differences in the width and gradient of access between applications A5/1478 and A6/2114.

In March 2010 an application (ref. 100444) was submitted for planning permission in principle to erect a three storey detached dwellinghouse on the site. Access was as proposed in this current application. The house proposed under this previous application was just under 11m at the highest point of the roof and 4m from the Deeside Walkway at the closest point.

The application was recommended for approval by officers but refused by the Development Management Sub-Committee for the following reasons:

(1) That the proposal does not comply with Local Plan Policies 40 (Residential Areas) and 33 (Protecting Trees and Woodlands), in that the location of a house as proposed would represent overdevelopment on the site to the detriment of existing levels of residential amenity, by reason of the scale and design of the building to be erected, the loss of trees that would result and the change that would occur in the character of the area.

(2) That the proposal would be contrary to Policies 29 (Green Space Network) and 31 (Landscape Protection) by reason of the impact the new building would have on the level of amenity enjoyed by users of the Deeside Walkway and on the landscaped character of the area generally.

(3) That the proposals for access to the new house do not comply with the Council's guidance in respect of the Sub-Division and Redevelopment of Residential Curtilages by reason of the contrived nature of the arrangements which will involve a steeply sloping driveway and a parking area some distance from the house itself.

(4) Approval of the application would be inconsistent with the Council's duty under Section 60 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, to have special regard to the desirability of preserving the listed buildings at Bielside House, their setting or any features of special architectural or historic interest that exist, because of the modern design and appearance of the new dwellinghouse proposed and its proximity to the listed property.

(5) The proposal, if approved, would set a dangerous precedent for future similar applications involving the many other houses with large feus which abut the Deeside Walkway.

A subsequent appeal (ref. PPA-100-2022) was dismissed, with the Reporter finding that the siting, scale, layout, design and landscape impacts of the proposed house are at odds with the terms of 2 policies that support the overarching local plan policy R40: residential Areas, namely, Policy 1: Design and Policy 31: Landscape Protection. The proposal does not accord with guidance set out in the council's SPG on sub-division and redevelopment of residential curtilages. It is also contrary to local plan policy policy 29: Green Space Network because of its adverse impact on the character and amenity of the Deeside Walkway. It was equally found that the proposal would have an unacceptable impact on the setting of a listed building, contrary to advice in the Scottish Historic Environment policy document (SHEP) and the supporting advice contained in the Managing Change in the Historic Environment guidance note on Setting published in January 2011.

The Reporter also considered that the degree of separation of the house from the parking area would be impractical and unsatisfactory and that it would be difficult to resist proposals in the future to alter this sub-standard layout.

The Reporter found road safety not be a reason for refusing the proposal; replacement tree planting could compensate for tree loss.

**Summary:**

1991 – conditional approval for Bielside Lodge

1996 – refusal of outline permission for house on current application site, reasons were road safety, overdevelopment in terms of R3 policy, tree loss, precedent.

1997 – Appeal dismissed – road safety reasons, also found visual impact, tree loss and relationship of the site to the listed building were very serious

January 2006 – refusal of outline permission on road safety grounds.

September 2007 – refusal of full permission on grounds of road safety, tree loss and setting of listed building

March 2010 – refusal of planning permission in principle for house on grounds of tree loss, over development, landscape impact, amenity of Deeside Walkway, setting of listed building, access arrangements and precedent.

January 2011 – appeal dismissed on grounds of design, landscape impact, impact on setting of listed building, ‘tandem’ development, access arrangements and amenity of Deeside Walkway.

**PROPOSAL**

The application is for planning permission in principle for a single storey detached house, that is described as ‘semi-subterranean’. The house would take advantage of the north – south slope of the land so that it’s single aspect south facing elevation would be approximately at the level of the Deeside Walkway, whilst the accommodation would be built into the slope, with varying proportions being under what is the current ground level. The plans indicate that the footprint of the house would be irregular in shape being a maximum of approximately 14m at its widest point, with a meandering front elevation extending approximately 42m across the site and that the roof of the house would be grassed / planted. The applicant’s agent has submitted cross sections indicating how the ground behind the house, ie that containing the listed walls and garden to Bielside House, would be retained by sheet piling close to the rear wall of the proposed house.

Various trees would be removed, proposed to be transplanted or felled for health reasons. In total 11no. trees would be removed, the tree survey reports that 2no. of these should be removed for health and safety reasons and attempts would be made to transplant two of the smaller trees, so that 7no. trees would be removed purely for development.

The house is of a completely different design to that refused permission previously. The most significant difference is in terms of its height above ground, plans indicate that it would be 3.3m to the lawn level on the roof. The house is also of a different shape on plan and would involve the removal of two trees more than the previous application – the additional trees are a 16m high lime and a 6m high holly.

## **REASON FOR REFERRAL TO SUB-COMMITTEE**

The application falls outwith the scheme of delegation to officers due to the objection from the Community Council and the number of objections.

## **CONSULTATIONS**

**ROADS SECTION** – Agree in principle to the proposal. Number of parking spaces complies with standard, additional comments on layout to be made on the detailed layout; visibility splays are sub-standard, however, additional traffic from the proposal would have no significant impact on safety at the existing access. Details of drainage and servicing are required.

**ENVIRONMENTAL HEALTH** – No comments received.

**COMMUNITY COUNCIL** – Object on the grounds that: the house would be too close and therefore would have a significant negative visual impact on the railway line; would set a precedent for further development close to the railway line; the principle of splitting the curtilage of Bielside Lodge and landscape impact of over development. The Community Council is opposed, in principle, to development within the outlook of Bielside House, as the house and its amenity should be protected. Also have concerns over the preservation of the listed gazebo and wall. The removal of 7no. healthy trees would also be to the detriment of the character of the area.

## **REPRESENTATIONS**

Twenty four letters of representation have been received. These include one letter of support and letters from the Civic Trust and Architectural Heritage Society of Scotland – North East Group. The following issues were raised:

- the Civic Trust notes the significant advances made since the last proposal, to bed the proposal into the landscape mitigating some of the impact on the listed house and its setting, however, concerns remain regarding the potential impact on the setting of the listed building. It is futher stated that the design is striking and contemporary which sits well in the terraced landform, however, there are concerns relating to the proposal in relation to the plot splitting guidelines, relating to the impact on the setting of the listed walls and summerhouse and impact on the structural integrity of the walls and summerhouse as described further below.
- That the application site is within the curtilage of Bielside House;
- As much will depend on the detail of the design an application for full planning permission should be required;
- Although the height has been reduced, the frontage visible from the public path has been expanded, which will result in the view of the the listed garden wall and gazebo being blocked;
- The proposed roof would not be as indicated on the plans as there would need to be rooflights and there would be unlikely to be relatively developed trees on the roof;

- that this is one of a series of refusals on the site, including 2 appeals;
- grounds for refusal have not been changed by the new Local Development Plan (LDP); the proposal is contrary to a number of policies and the SPG
- The proposal is backland development and impacts adversely on the Deeside Walkway, it is therefore contrary to the supplementary guidance on curtilage splits;
- Loss of trees some of which are protected, this will impact adversely on the environment;
- Access is contrived and the applicant will seek to alter this;
- Construction access: taking this along the Deeside Walkway is unacceptable and contrary to policy – the Green Space Network.
- Impact on the Category B listed Bielside House; setting is formed by views from and to the House and the proposal is within its curtilage
- The building of the lodge was allowed on condition that there was no further development and national planning policy affords this protection; there is no reason to lift the restrictions and the Council should continue to follow this approach;
- Site ownership issues including relating to the mill lade run off; and that the driveway is owned by another party and does not allow access to the site of the proposed house;
- That the applicant would in the future seek to take access down the narrow strip of land under his ownership to the west of Bielside House, with the result that vehicles would be extremely close to the listed summerhouse and to its structural detriment; this access would be dangerous;
- Plans are insufficient to make judgement that the design is of a positive nature and therefore must be regarded as negative;
- Access from North Deeside Road to proposed property is dangerous, there have been a number of accidents (4 reported to have happened within the last year); it is questioned whether the Council's Roads Officer has researched this properly. One objector states that his wife was badly injured in an accident at the junction of Cairn Road and North Deeside Road;
- In relation to the letter of support from the applicant's agent, Ryden, it is stated that there are inaccuracies and a lack of clarity on issues such as levels and that this letter refers to a prior report of dubious merit;
- That photomontages, images and visuals submitted are inaccurate in terms of the taking of photographs and the representation of scale and layout of the site;
- The arboriculturalists report requires careful scrutiny as the trees required to be felled for health are in full leaf;
- That the report on setting, submitted by the applicant's agent is misleading in its illustrations and misrepresentative and deliberately attempts to mask the tandem nature of the proposed development;
- The proposal is not designed with consideration for its setting and is contrary to Policy D1 of the LDP;
- That the proposal would not have a public face and is therefore contrary to Policy D2;

- In terms of Policy D5: Built Heritage, the proposal affects a listed building and should only be permitted if it complies with Scottish Planning Policy (SPP). The application does not comply, and this is confirmed in the appeal decision, SHEP, the Planning Act and the Listed Buildings Act;
- That the proposal would be contrary to Policy D6: Landscape and Supplementary Guidance (SG) on Trees and Woodlands in terms of loss of trees and SG on Natural Heritage.
- That Deeside Walkway is a local nature Conservation Site and the application site is home to bats;
- That the proposal does not comply with Policy H1: Residential Areas as it would have an unacceptable impact on the character and amenity of the surrounding area;
- That the proposal would erode the character of the Green Space Network and is therefore contrary to Policy NE1;
- That the site is subject to flooding from the outflow from the old mill lade and it is not within the applicant's control to divert this. The proposed house would therefore be at risk of flooding
- That the proposal would not comply with the SG on Splitting Residential Curtilages for reasons including over development, lack of a public face, its lack of detail to be assessed in terms of elements of this policy, it is tandem development, loss of trees and contrived and over used access;
- That the LDP allocates areas for new residential development and there is no reason to suggest that this site is appropriate.

The letter of support states that the applicants have addressed all previous concerns by the use of innovative, interesting and clever design. The use of topography allows views to be maintained and the house makes a positive contribution to its setting.

## **PLANNING POLICY**

### **The Aberdeen City and Shire Structure Plan – August 2009**

Quality of the environment – Objective: To ensure that new development maintains and improves the region's important built assets.

Paragraph 4.24 draws attention to the sites and area valued for their contribution to the built and historic environment and the need to protect these from the negative effects of development.

Population growth – Objective: to increase the population of the region.

Paragraph 4.14 describes how if the aimed for population growth occurs the number of houses built will need to increase. Para. 4.17 links this to the Scottish government's desire to see a 40% increase in new house building across Scotland.

### **The Aberdeen Local Development Plan 2012**

Policy H1 - Residential Areas: Proposals for new residential development will be approved in principle if they, amongst other things,:

- do not constitute over development;
- do not have an unacceptable impact on the character or amenity of the area;
- comply with SG on Curtilage Splits.



Development is expected to be designed with regard to the City Council's published supplementary guidance. The Council has published guidance entitled 'The Sub-division and Redevelopment of Residential Curtilages'. This includes the following guidance:

- new development should not adversely affect privacy, daylighting, overlooking or sunlighting;
- rear gardens should be at least 11m in lengths for this size of house, these should not be excessively shaded by trees, and should be enclosed by 1.8m enclosures to ensure security and privacy;
- new dwellings should be designed and orientated to make the most of opportunities for views and sunlight;
- design and external features should complement those of the surrounding area. High quality contemporary design that enhances the appearance of the area, or that provides an attractive contrast to surrounding buildings, will be encouraged where appropriate;
- New dwellings must be designed to respect the intricate relationship between buildings and their surrounding spaces that forms the character of the area;
- No more than a third of the site should be built upon;
- Where the predominant pattern of development is one of dwellings in a formal or semi-formal building line fronting a road and having gardens to the back, then the construction of dwellings in rear gardens and areas that do not front roads is alien to the established character, and this type of tandem or backland development can set a precedent;
- New dwellings should front onto an existing publicly maintained roadway, there are exceptions to this, including: in the case of redevelopment of an exceptionally large site, where it may be possible for detached houses to be built which gain access from a new private driveway;
- Scale and massing should complement the scale of the surrounding properties;
- Presumption in favour of retaining semi-mature or mature trees. If trees are lost, replacement planting will be required;
- Pedestrian and vehicular access to existing and new dwellings from the public road, is essential, this should be safe and convenient, avoiding contrived solutions

Policy D1 – Architecture and Placemaking: New development must be designed with due consideration for its context and make a positive contribution to its setting, considering factors such as scale, massing, colour, materials, details, proportions and landscaping

Policy D2 – Design and Amenity: To ensure amenity principles will be applied in terms of: privacy, public and private faces, design in relation to views and sunlight.

Policy NE5 -Trees and Woodlands: presumption against all activities that result in the loss of or damage to established trees or woodland that contribute significantly to the landscape character or local amenity. New planting should be of native species. Existing trees must be protected during construction. Refers to SG on Protecting Trees and Woodlands and Trees and Woodland Strategy.

The site bounds an area zoned as green belt green space network.

Policy NE1 - Green Space Network: The Council will protect and enhance the wildlife, recreational, landscape and access value of the network.

Policy D5 – Built Heritage: Proposals affecting listed buildings will only be permitted if they comply with SPP.

Policy D6 - Landscape: seeks to ensure that development does not adversely affect landscape character, including respecting the quality of local landscape character.; or disturbs or damages wildlife resources.

Under Section 60 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, the planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Scottish Planning Policy states in paragraph 113 that the layout, design, materials scale and siting of any development that would affect the setting of a listed building should be appropriate to the character and appearance of the building and setting. For further guidance it refers to the Scottish Historic Environment Policy (SHEP)2011. SHEP requires having regard to retaining or enhancing the setting of listed buildings and where change is proposed it should be carefully considered, including effective arrangements for monitoring the condition and safety of the historic asset

Managing Change in the Historic Environment ‘Setting’: Setting often extends beyond the property boundary, or ‘curtilage’, of an individual historic asset into a broader landscape context. Guidance is given on assessing and enhancing setting.

## **EVALUATION**

The application shall be determined in accordance with the development plan unless material considerations indicate otherwise. The planning history is a material consideration, in so far as it is relevant, in particular the Reporter’s appeal most recent appeal decision.

### **Residential Use**

The proposed residential use is acceptable in principle as the site lies within an area zoned for residential use. This is subject, however, to whether the proposal is over development of the site; the impact on the character and amenity of the surrounding area and the SG on Curtilage Splits remain to be considered

The issues of impact on the setting of the listed building, loss of and potential for damage to trees, impact on the Deeside Walkway and other issues raised by objectors and the Reporter in respect of the previous appeals also require to be given careful consideration.

In terms of its plot size and density, the proposed house would not constitute over development. This issue will be discussed further in the context of the SG on Curtilage Splits.

### **Sub-division of residential curtilage - SG**

The proposed house would not adversely affect privacy, daylighting, sunlighting or overlooking in terms of the occupiers of neighbouring houses, and would create a satisfactory level of amenity for any future occupiers. The area of garden ground would also comply with the requirements of the supplementary guidance (SG) and the building would occupy a proportion of the site well below the guideline one third. The garden would contain a number of trees, including those that would be planted, it would be significantly larger than is required by the SG and it is considered that the size and nature of the proposed garden would provide an adequate level of amenity within the outdoor space. The indicative plans show large elements of south facing glazing, although with boundary treatment along the southern boundary, views would be limited. Given the constraints of the site, the use of views and sunlight have been maximised. It is considered that the plans indicate the potential for a high quality contemporary design that would contrast in a positive way with the more traditional buildings in the surrounding area. Conditions could be attached requiring further permissions in respect of the detailed design and materials.

Considering the pattern of development within the area and the application proposal in relation to this: there are a significant number of houses in the surrounding area that do not front onto a public road with a private area of garden ground to the rear, in the typical conventional layout. In the immediate area of the application site, Bielside Mill is accessed via a driveway, with no frontage onto a public road. Between the Deeside Walkway and North Deeside Road to the east of the application site, are a number of houses that both front south onto the Deeside Walkway, and consist of 'backland' development in the sense that they do not have frontages onto public road. A large number of houses have a 'front' elevation facing south onto the Deeside Walkway and this is part of the nature of the area. The proposed house would also follow this local convention. The recent Reporter's decision found that the proposal would be a form of 'tandem' development and this led the Reporter to the conclusion that the siting of a house so far forward of Bielside House, would have a detrimental effect on the character of the appeal site and the wider local area contrary to guidance in the SG. It is acknowledged that the proposal is a form of 'tandem' development, however, this it is considered that this is not out of character with the layout of development in the surrounding area. In the case of the current application, the proposed house would be significantly less visible being at a height of approximately 3.5m above ground level (rather than the 11m height previously proposed) and therefore, although it would be in front of Bielside House it would not be seen as such, not obscuring views at all. It is therefore considered that being 'tandem' development does not result in a negative impact on the surrounding area and the proposal would not be unduly out of keeping with the pattern of development in the surrounding area. It is considered that this does not constitute a reason for refusal. Due to the unique characteristics of the site and surrounding area, it is considered that this would not set a precedent.

There are a range of styles and designs of house within the surrounding, one common theme is that due to the south facing slope of the land, the south elevations often contain large elements of glazing. Large detached houses, many of which have been significantly extended, also predominate. The proposed

house is set at a lower level than many of the houses along the Deeside Walkway, the proposal has been specifically designed so that it does not disrupt views of the listed structures and house to the north and north east.

There are trees along the side of the Deeside Walkway, outside the application site as well as a fence that currently screens views into the site. The proposal includes the planting of a beech hedge, with the intention that this would be allowed to grow to 2m in height. This would almost entirely screen views of the house when in leaf. The length of the elevation would extend alongside the Deeside Walkway for approximately 42m, being between 6m and 12m from the site boundary (approximately 10m at its closest from the edge of the walkway itself). This aspect of the proposal is discussed further below.

**Access:** The Council's Roads Section is satisfied with the proposal. Pedestrian access is provided to the proposed house and this is considered acceptable. Direct vehicular access is not provided, this is because in order to construct a driveway providing vehicular access from the area to the rear of Bielside Lodge, through the gap at the south east corner of the site would result in further tree loss and substantial earth retaining work that would be awkward and be highly likely to have a significant visual impact within the wider area. The access arrangements are somewhat contrived due to the difficulties of the site gradients and boundaries. The access arrangements do not create any safety issues, although they do not strictly comply with the SG. The Reporter's recent appeal decision found that the access arrangements would be sub-standard and that future applications to correct this situation would be difficult to resist once the house has been approved. The applicant is willing to enter into a legally binding agreement to prevent access being taken up to the proposed house and it is considered that on this basis the proposal should not be refused on this basis. It is also recommended that a condition be attached to any permission granted removing permitted development rights, including for the laying of hard surfaces.

### **Trees**

The proposal has been designed to allow the Category A grand fir to be retained. This does not have branches a low level that would directly block light and it is therefore considered reasonable to assume that there would not be a high degree of pressure for its removal if the house were to be built and occupied. The construction of a house close to its root protection area would need to be very carefully managed so as to avoid damage and this is the subject of conditions recommended to be attached. The proposal would, however, involve the loss of 7no. trees for the house, in addition to the immediate loss of the large Elm tree that is close to the proposed house and is suspected of being diseased. 2no. trees would be relocated within the site – a 6m high Holly and 12m Cherry, there is some doubt that this transplantation would be successful, especially for the Cherry, due to its size and as its roots are likely to be intertwined with those of other trees. All of the nine trees that would be felled or transplanted are of moderate quality and value and judged to make a significant contribution. The trees to be removed are:

6m Norway Maple – Cat. B/C

13m Cherry – Cat. B

2no. 9m Cypress – Cat. B  
17m Sycamore – Cat. B  
16m Lime – Cat. B  
6m Holly – Cat. B

6m Holly – to be transplanted

12m Cherry – to be transplanted

A small Norway Maple is also recommended to be removed for health and management reasons.

A Category A grand fir and a Category B wych elm would remain with canopy spreads close to the house.

Replacement planting of 34no. trees is proposed, as detailed in the 'Proposal' section above. In terms of compliance with the SG it is considered that the proposal would be acceptable in terms of tree loss and replacement. The recent appeal decision did not find that tree loss for the house would be a reason for refusal, however, because of the different footprint of the house two more trees are proposed to be removed under the current proposal. One of these is a 16m high lime tree and with the other being a relatively small holly. On balance it is considered that the loss of these trees would be adequately mitigated by replacement planting of a greater number of trees.

## **Design**

The proposals indicate an attractive, high quality contemporary architecture for the proposed house. Set down into its sloping landscape setting the new development would present only one single aspect towards the former railway. Being single storey and with a grass roof are all attempts to make the building as visibly unobtrusive as possible and not obstruct views of the listed walls and gazebos. It is noted that the glass on the south elevation is to be clear whereas tinted glass may make the internal use of the building less visible to passers by, however, this has to be weighed against the fact that the southerly elevation would be the only source of natural light in the building.

Conditions could be attached that would require further application(s) providing details of design and materials.

The proposed house would be unlikely to be particularly visible in long views along the Walkway, neither would it be highly visible and dominant from the Walkway within the immediate area. The artists impressions indicate that only the upper edge of the elevation and roof would be visible over a boundary consisting of a 2m hedge. In winter there would be an obscured view of the house through the hedge, however, views of Bielside House and the listed wall and summerhouse would remain unobscured by the proposed house. The current impression at this point of the Walkway is of a wooded area, with glimpses of the the listed summerhouse and wall amongst the trees and very small glimpses of the listed Bielside House and its terraced garden at a much higher level. The proposed house would be significantly closer than other houses on Golfview Road and North Deeside Road. There are two houses at Bielside Station that are located closer to the Walkway, with one of these being less than 12m from the path itself, with small trees alongside the Walkway.

The Deeside Walkway is a popular and well used leisure facility, however, it is not within a Conservation Area and the trees, shrubs and other planting in the 5m strip alongside the path would remain. This application involves the loss of trees and these are currently visible from the Walkway to varying degrees. As the proposed house would be set at a low level, along this short stretch of the walkway views of Bielside House would be opened up and the listed building would be seen through less of a veil of trees than is currently the case. It is considered that the proposal would alter the character of the Walkway within this immediate area, however, this is considered not to be a negative impact. However, as the replacement trees become established, the proposed house would be within more of a semi wooded setting.

The recent appeal considered a house of very different proportions, with a resulting different impact on the walkway. In terms of this issue, it is considered that the Reporter's comments, whilst informative in terms of the issues to be addressed, are not highly relevant.

### **Impact on setting of the listed Bielside House**

As acknowledged above, it is considered that the proposal, due mainly to its affect on the landscape setting would impact upon the setting of the listed Bielside House.

Previous applications and the recent Reporter's decision, have considered the application site to fall outside the curtilage of the listed building, yet affecting its setting. The application site was part of the same ownership at the time of listing and prior to that. The site has never been part of the walled garden, however, windows in the summerhouse look out over the application site and beyond.

In terms of setting the following comments are made:

The setting of Bielside House has changed over time. Originally built in 1805 the listed building would have been largely surrounded by woodland on three sides. This was significantly altered however by the coming of the railway branch line from Aberdeen to Ballater, constructed between 1853 and 1856 by the Deeside Railway Company. The site to the south of the walls is likely to have been subject to frequent firing from the steam locomotives particularly in the main area of the proposed dwellinghouse, closest to the railway line. To a depth of several meters this would have prevented the woodland growth seen today. Up until the branch line closure in 1966 the setting of Bielside House would have been more open to the south with the house and gardens clearly visible from the railway. The current setting has reverted to one of greater woodland, providing Bielside House with a secluded, leafy setting.

The changing nature of Bielside House's setting over time makes the assessment of the impact of the proposed development difficult. There is no direct relationship between the listed building, both as constructed and as later remodeled, with the railway. Historically the wider landscape setting has always been one of woodland albeit one that was influenced by the impact of an operational railway for over a hundred years.

The current proposed design attempts to address earlier concerns about the setting of the adjacent listed building. Setting was one of the reasons cited in the Reporter's Appeal Decision Notice. Hunkered down into its sloping landscape setting the new development would present only one single aspect towards the former railway. Being single storey and with a grass roof are all attempts to make the building as visibly unobtrusive as possible and not obstruct views of the listed walls and gazebos. The glass on the south elevation is to be clear whereas tinted glass may make the internal use of the building less visible to passers by however this has to be weighed against the fact that the southerly elevation would be the only source of natural light in the building.

In common with all residential developments it can often be the domestic arrangements outside that can have more of a visual impact on the wider setting than the building itself – cars, access road, washing lines, bins, play equipment etc. All of this would be more noticeable from the walkway because of the reduction in the number of trees required to develop the site. If the development is to proceed some of these concerns can be mitigated through the use of appropriate conditions to remove permitted development rights.

The setting of the category B listed Bielside House would undoubtedly be affected by the proposed development, but it is a question of degree. The scheme has tried to address this issue and it is hard to see how much more could be done in terms of the design of the main dwellinghouse in order to reduce its visual impact. If residential use on this site is acceptable in principle then the adverse impact on the setting of a listed building is not considered sufficient to warrant refusal of this application on these grounds alone.

### **Access**

The house is closer to the access than was previously proposed, however, it remains at some distance from the parking area. As stated above, the access is contrived and this is a function of its location. The location of the access is dictated by safety concerns on the public road. There are several aspects to the access issue: access for construction, access for deliveries and residents use and the impact of the parking area and access driveway itself.

The Council has control over access along the Walkway for construction purposes. Access would be permitted for limited periods whereby the gate off Golf Road would be opened for a limited period to allow materials and construction vehicles to be delivered to the application site. These would not be kept on the Walkway, nor the Walkway be closed. Construction would undoubtedly be awkward due to this restriction, and would be likely to require the use of smaller vehicles. A method statement could be required as a condition of this application, in order to ensure that this is planned to avoid damage to trees.

Access for emergency vehicles: the house could have a self contained fire alarm and sprinkler system and this would fulfill the requirements of the fire service.

The access arrangements are not particularly practical in terms of deliveries and residents use, however, these are matters to be managed by the residents themselves.

The parking area would be located to the east of the side wall of the walled garden to Bielside House and directly to the south of Bielside House itself. The existing trees would remain in this area and would help to screen the parking

area. The hard surfaced area would be at least 1.5m from the listed garden wall and the construction of this could be the subject of conditions to ensure that it does not damage trees. It is considered acceptable in its impact on the setting of Bieldside House and the wall, and on visual amenity. It is also recommended that conditions are attached to remove permitted development rights.

### **Wildlife**

The application site is not within the Local Nature Conservation Site (LNCS) and the application proposal would not impact directly on the LNCS. In terms of bats in the area in general, the trees to be removed are not those with holes and other features typically used as roosts by bats. We have not previously requested a bat survey on the site and would not do so as a rule unless there were vacant buildings or trees of a nature typically used as roosts.

### **Previous Appeal decisions**

There have been two appeals on the site. The Reporter's decision on the appeal (1996 application) is also a material consideration. The policy zoning has changed since the appeal, with the current residential policy being less onerous in terms of its requirements for the size of site and emphasis on the treed landscape. The proposal has altered, mainly in respect of the design and access, which is no longer considered unsafe and no longer involves the loss of trees for the driveway and the significant risk of damage to a number of other mature trees. This latter factor reduces the extent to which the proposal would affect the treed landscape character of the area and removes the concern relating to the potential of the access driveway on the integrity of the listed wall.

The Reporter's decision on the appeal (2010 application) is a material consideration. The application proposal has changed, with the height, massing and footprint being significantly different. A comparison with the most recent Reporter's decision has been included in the paragraphs above. The Reporter's concerns have been addressed by the conditions, the legal agreement and as the proposed house differs significantly in its design, as described in the report above.

### **Objections**

Additional issues raised by objectors:

The following is stated in relation to the points raised by objectors:

- the issue of construction access and the Deeside Walkway is dealt with above, and is an issue in as much as it may impact upon protected trees;
- the issue of loss of trees affecting the setting of the listed building, is dealt with above;
- land ownership issues are not a material planning consideration. There is no reason to consider that the correct certificates have not been served on owners of land within the application site;
- that a full planning permission is not required as the application contains sufficient detail to allow an assessment to be made, and conditions are recommended to be attached to cover additional matters;
- in terms of pressure to remove trees in future due to overshadowing, the trees within the site are protected by Tree Preservation Order, and those along the Walkway are on Council land. The house is south facing and is



- considered that there would be sufficient light through the trees taking into account that the elevations are predominantly glazed;
- the house is designed so that views of the listed Bielside House and summerhouse would not be interrupted. The issues of curtilage and impact on the setting are dealt with above.
  - The visual impact on and proximity to the Walkway are dealt with above;
  - Access arrangements have been dealt with above;
  - The removal of trees has been dealt with above.
  - In terms of working close to trees, tree protection fences are shown on the submitted plans. The construction of the house would be likely to require scaffolding to be erected close to trees and conditions will require that permission must be sought for any work to trees.
  - With regard to the former lade from Bielside Mill crossing the site. A condition could be attached to any permission granted requiring approval of details of work across the application site;
  - There are no rooflights proposed as the habitable rooms are located so that they have windows, it is acknowledged that it will not be easily possible to have trees on the roof and these have been removed from amended plans;
  - The issues that have changed since the previous application have been highlighted above. The condition on the planning permission does not prevent the granting of planning permission for the application proposal, nor the implementation of the proposal.

Other issues raised by objectors have been dealt with in the Evaluation section of this report and by the comments of the Roads Section.

The proposed house would comply in principle with the residential zoning of the site within the adopted local plan, it would not constitute over development. Due to its design it would not have an adverse impact on the surrounding area, although would affect the setting of the listed Bielside House. In terms of the SG on Curtilage Splits, the access is somewhat contrived, however, further development of a vehicular access would have a negative impact on the site and can be prevented by legal agreement and conditions. The proposed is 'tandem' development, however, it is not uncharacteristic of the layout of the area and would not have an overbearing presence from outwith the site. The level of tree loss and replacement planting are such that the impact of the proposal on the treed landscape setting of the site and the adjacent listed Bielside House, its summerhouse and walled garden are acceptable. There are no trees proposed to be lost for the access and the access arrangements are satisfactory in public road safety terms. The impact on visual amenity on the Deeside Walkway would be acceptable due to the design and massing of the proposed house.

It is considered that although there is some tension with the SG on Curtilage Splits, and therefore some tension with Policy H1, the proposal is not contrary to the overall aim of the policy and guidance.

For the reasons stated in the evaluation above the proposal also complies with policies in relation to design, the green space network

The proposal affects the setting of the Category B listed Bielside House, however, with conditions restricting the dimensions of the building and permitted development rights, this impact is not considered sufficient reason to warrant refusal of the application.

**RECOMMENDATION: Approve conditionally, with the permission being withheld until the applicant has entered into a legally binding agreement preventing vehicular access being taken further into the site.**

**Reason:**

The proposed house would comply in principle with the residential zoning of the site within the adopted local plan, it would not constitute over development. Due to its design it would not have an adverse impact on the surrounding area, although would affect the setting of the listed Bielside House. In terms of the SG on Curtilage Splits, the access is somewhat contrived, however, further development of a vehicular access would have a negative impact on the site and can be prevented by legal agreement and conditions. The proposed is 'tandem' development, however, it is not uncharacteristic of the layout of the area and would not have an overbearing presence from outwith the site. The level of tree loss and replacement planting are such that the impact of the proposal on the treed landscape setting of the site and the adjacent listed Bielside House, its summerhouse and walled garden are acceptable. There are no trees proposed to be lost for the access and the access arrangements are satisfactory in public road safety terms. The impact on visual amenity on the Deeside Walkway would be acceptable due to the design and massing of the proposed house.

It is considered that although there is some tension with the SG on Curtilage Splits, and therefore some tension with Policy H1, the proposal is not contrary to the overall aim of the policy and guidance.

The proposal affects the setting of the Category B listed Bielside House, however, with conditions restricting the dimensions of the building and permitted development rights, this impact is not considered sufficient reason to warrant refusal of the application.

**It is recommended that the application is approved with the following conditions:**

- (1) that no development pursuant to the planning permission in principle hereby approved shall be carried out until such time as a further application has been made to the planning authority for approval of the matters specified in this condition and such approval has been granted; these matters being details of the
  - (i) detailed design and external appearance of the building(s) the highest point of which shall be no more than 37.5m AOD and shall be planted with grass or other plants in accordance with a scheme to be agreed as required by other conditions;
  - (ii) the landscaping of the site, including construction and laying out of the access and the installation of a swale or other measures in order to handle water from the former mill lade;
  - (iii) details of the boundary treatment, including the hedge and temporary treatment to the boundary in the period before the hedge reaches its intended height;
  - (iv) a construction method statement including details of how construction of the house and any retaining structures shall take place avoiding damage to the listed structures near to the site, including the garden wall and summerhouse; and, how construction vehicles and materials will be brought to and stored upon the site,

including how these will be transferred onto the site taking into account the need to protect trees.

- in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

(2) that this planning permission in principle shall lapse unless a further application for approval of the matters specified in condition(s) attached to this grant of planning permission in principle has been made before whichever is the latest of the following;

(i) the expiration of 3 years from the date of this grant of planning permission in principle;

(ii) the expiration of 6 months from the date on which an earlier application for the requisite approval of matters specified in conditions was refused;

(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed;

- in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

(3) that this planning permission in principle shall lapse on the expiration of 2 years from the approval of matters specified in conditions being obtained (or, in the case of approval of different matters on different dates, from the requisite approval for the last such matter being obtained) unless the development to which the permission relates is begun before that expiration - - in order to comply with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

(4) that, except as the Planning Authority may otherwise agree in writing, no construction or demolition work shall take place:

(a) outwith the hours of 7.00 am to 7.00 pm Mondays to Fridays;

(b) outwith the hours of 9.00 am to 4.00 pm Saturdays; or

(c) at any time on Sundays,

except (on all days) for works inaudible outwith the application site boundary. [For the avoidance of doubt, this would generally allow internal finishing work, but not the use of machinery] - in the interests of residential amenity.

(5) that notwithstanding the provisions of Article 3 and Schedule 1, Parts 1, 2 and 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 no extensions, alterations or improvements which materially affect the external appearance of the dwellinghouse, nor any means of enclosure shall be erected or carried out either on, or in the curtilage, of the dwelling houses hereby approved without a further grant of planning permission from the planning authority - in the interests of visual amenity.

(6) that no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has

been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed - in the interests of visual amenity.

(7) that no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

(8) that the dwellinghouse hereby granted planning permission shall not be occupied unless a scheme for the provision of foul sewerage and wholesome water facilities has been submitted to and approved in writing by the Planning Authority and that the said scheme has been implemented - in the interests of public health.

(9) that the developer shall afford access at all reasonable times to any archaeologists nominated by the planning authority and shall allow them to observe work in progress and record items of interest and finds. No development pursuant to this planning permission shall take place unless written notification of the commencement date has been given to the Keeper of Archaeology, Aberdeen City Council not less than 14 days before development commences - in the interests of recording and /or preserving such items of historical importance as may exist within the application site.

(10) that no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting - in the interests of the amenity of the area.

(11) that all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority - in the interests of the amenity of the area.

(12) that no development shall take place unless a plan showing those trees to be removed and those to be retained and a scheme for the protection of all trees to be retained on the site during construction works has been submitted to, and

approved in writing by, the Planning Authority and any such scheme as may have been approved has been implemented - in order to ensure adequate protection for the trees on site during the construction of the development.

(13) that no part of the development hereby approved shall be occupied unless a plan and report illustrating appropriate management proposals for the care and maintenance of all trees to be retained and any new areas of planting (to include timing of works and inspections) has been submitted to and approved in writing by the Planning Authority.

The proposals shall be carried out in complete accordance with such plan and report as may be so approved, unless the planning authority has given prior written approval for a variation - in order to preserve the character and visual amenity of the area.

(14) that any tree work which appears to become necessary during the implementation of the development shall not be undertaken without the prior written consent of the Planning Authority; any damage caused to trees growing on the site shall be remedied in accordance with British Standard 3998: 1989 "Recommendation for Tree Works" before the building hereby approved is first occupied - in order to preserve the character and visual amenity of the area.

(15) that no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the Planning Authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks - in order to ensure adequate protection for the trees on site during the construction of the development.

(16) that notwithstanding the provisions of Article 3 and Schedule 1, Parts 1, 2 and 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended no extensions, alterations or improvements which materially affect the external appearance of the dwellinghouse, nor any hard surface be laid, nor any means of enclosure shall be erected or carried out either on, or in the curtilage, of the dwelling house, hereby approved without a further grant of planning permission from the planning authority – in the interests of visual amenity.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.