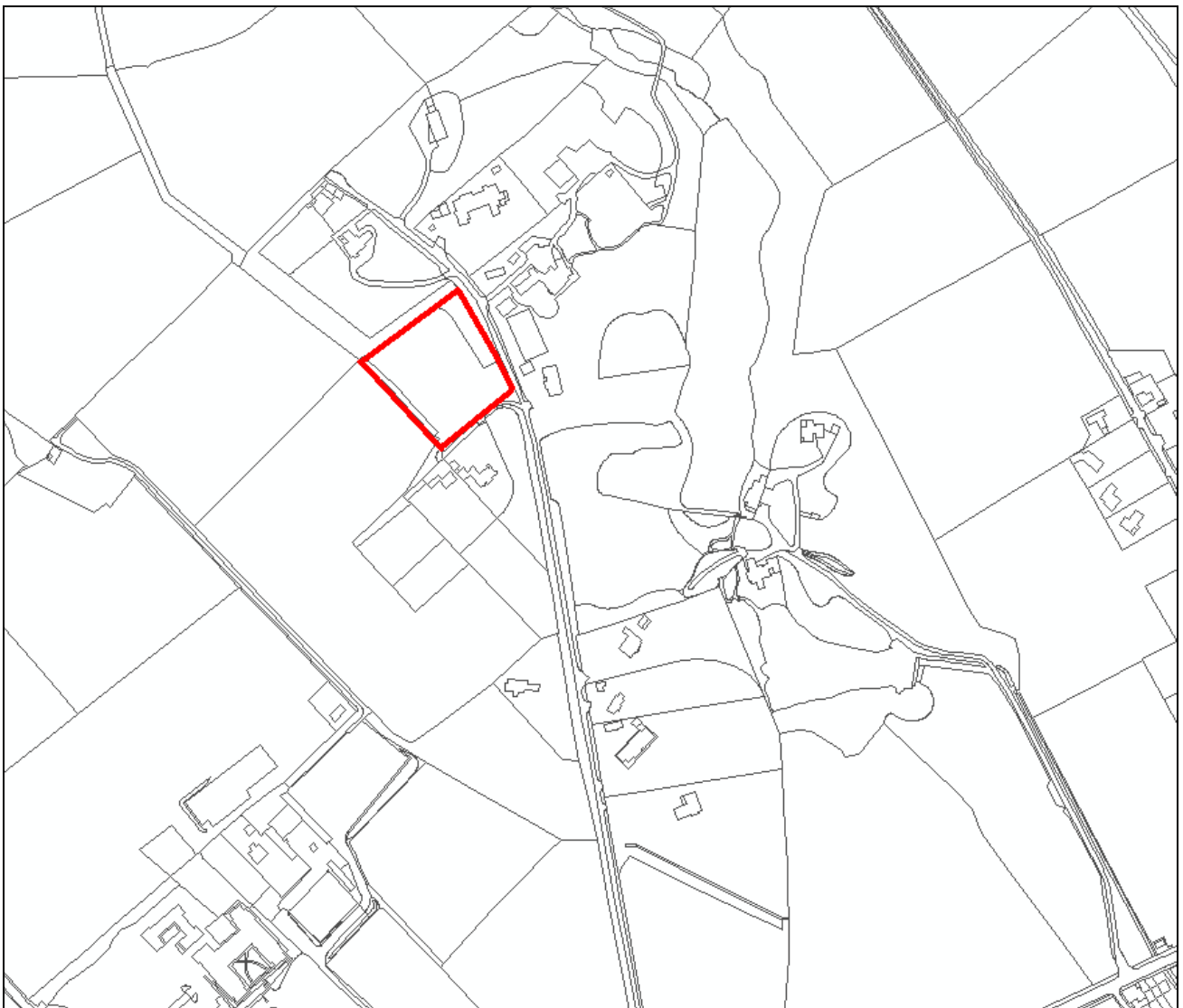


INCHYRA, MURTLE DEN ROAD,
MILLTIMBER

ERECTION OF 2 NO. DWELLING HOUSES

For: JPR Services Ltd

Application Ref.	: P120919	Advert	: Full Notify not poss.
Application Date	: 26/06/2012	(neighbours)	
Officer	: Matthew Easton	Advertised on	: 28/11/2012
Ward: Lower Deeside (M Boulton/A Malone/M Malik)		Committee Date	: 17 January 2013
		Community Council	: No Comments received.



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

The application site is an open field which is located on the west side of Murtle Den Road, which is a private road, situated to the north of North Deeside Road (A93) between the Milltimber and Bielside.

Murtle Den Road is characterised by large detached dwellinghouses set within generous plots in a mature woodland setting. It is a no-through road and can only be accessed from North Deeside Road.

The field itself extends to approximately 0.65 hectares. It does not appear to have been used for agriculture for some time and now suffers from poor drainage.

To the south west of the site is open farmland. The remaining three boundaries comprise coniferous and deciduous tree belts with 122 trees present. These trees are generally around 15 – 20m in height; however there are larger trees, the highest of which is 36m high. Access to the site is currently via a gate within a dry stone wall.

To the south of the site beyond the trees and an access track are the dwellings known as 'Altmore' and 'Sunhoney'. To the east across Murtle Den Road is 'Pinelands' and 'Murtle Den House' a category B listed building.

HISTORY

There is no planning history associated with the site. It was last used for agricultural purposes.

PROPOSAL

It is proposed to erect two detached dwellinghouses on the site.

Each dwelling would be predominately two storeys in height and feature an integral triple garage. The ground floors would comprise a porch, reception hall, lounge, study, family room, two dining rooms, kitchen and utility room. The first floor includes large landing, five bedrooms four of which are en-suite, a box room and home office / games room.

Externally the buildings would be finished in wet dash render with granite features, natural slate roof, timber fascias and soffits and black PVCu rainwater goods. The windows and doors would be timber double glazed.

The dwellinghouses would each have their own driveway accessed from Murtle Den Road. Plot 2 would utilise the existing access and Plot 1 would require a new access to be created through the wall, approximately 7m wide.

Six trees would be removed to allow development, all in order to create suitable accesses to the plots. Thirty one further trees are recommended for removal because they are dead, for health and safety reasons, or for woodland management purposes.

Foul drainage for both plots would be discharged to individual soakaways via treatment units. Surface water run-off from the roof and driveway would be

treated and stored in attenuation trenches located in each garden. A supply of fresh water would be taken from the water main located on Murtle Den Road.

A supporting statement, walkover habitat survey, a tree report and drainage impact assessment have been submitted in support of the application.

The initial proposal was for three dwellinghouses however this was reduced to two houses after concerns were raised by planning officers with various aspects of the proposal.

REASON FOR REFERRAL TO SUB-COMMITTEE

The application is before the sub-committee because more than five letters of representation have been received.

CONSULTATIONS

ROADS SECTION –

- Satisfied that adequate car parking spaces have been provided, that adequate visibility for the access would be provided, that the drainage proposals are acceptable and that the site could be adequately serviced in terms of refuse collection.
- Have concerns that the proposed development would not have access to a frequent bus service facility and that pedestrian accessibility would be non-existent due to a lack of segregated footway. However do not object to the progression of the application due to its size.

ENVIRONMENTAL HEALTH –

- As this site has a history of agricultural use, suggest that the potential for contaminated land be considered. Given the apparent former use of the site, it may be that a desk top study looking at past process would be sufficient.
- Refuse disposal from the development will be by wheeled bin then suitable and sufficient storage facilities for wheeled bins will require to be provided within the development.
- Construction work should be restricted to certain hours.

COMMUNITY COUNCIL – No response received.

FLOOD PREVENTION UNIT – Proposals are acceptable.

REPRESENTATIONS

Fourteen letters of objection have been received. They are predominately from residents living on Murtle Den Road, those with other interests in the properties on Murtle Den and one from the Seven Incorporated Trades of Aberdeen Widows Fund Trustees who own the Oldfold site.

The following matters are raised –

- Privacy with ‘Sunhoney’ and ‘Altmore’.
- Disturbance and noise during construction period
- The proposal is out of character with the surrounding area and density of development too high.
- The green buffer between Murtle Den Road and the proposed Oldfold development should be retained.
- The site should be included within the Oldfold Development Framework and Masterplan.
- The site does not comply with the Oldfold Development Framework and Masterplan.
- Infrastructure constraints. This application, plus an anticipated new house at Pinelands and the proposed 7 – 9 houses proposed would add pressure to what is a small unadopted road.
- The applicant does not have legal rights with regards to access.
- A shared driveway is inappropriate.
- The design is inappropriate
- The proposed houses would generate noise and light pollution.

A re-notification and re-advertisement was carried out in late November 2012 because of the change in the proposed development from three dwellings to two and revised access arrangements. In response to this, five further letters were received from residents who had previously submitted representations. Each reiterated their initial concerns and maintained their objection to the two dwelling proposal.

PLANNING POLICY

Aberdeen Local Development Plan (2012)

Policy LR1 (Land Release Policy) – Housing and employment development on sites allocated in phase 1 will be approved in principle within areas designated for housing or employment. Development on an allocated site or in close proximity to an allocation that jeopardises the full provision of the allocation will be refused.

The application site and the agricultural land predominately to the west is identified as Opportunity Site 62 (OP62) and is known as ‘Oldfold’ and extends to 48.9 hectares. It is allocated for 550 residential units and 5 hectares of employment land to the site in the period between 2007 and 2026 and must be subject of a masterplan document.

Policy T2 (Managing the Transport Impact of Development) – New developments will need to demonstrate that sufficient measures have been taken to minimize traffic generated.

Policy D2 (Design and Amenity) – Privacy shall be designed into higher density housing, residential development will have a public face to the street and private face to an enclosed garden or court, residents shall have access to sitting out areas, car parking should not dominate, opportunities should be made of views and sunlight, measures should be included to design out crime and external lighting shall take into account amenity and the effects of light spillage.

Policy D1 (Architecture and Placemaking) – To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

Policy D6 (Landscape) – Development will not be acceptable unless it avoids:

- significantly adversely affecting landscape character and elements which contribute to, or provide, a distinct 'sense of place' which point to being either in or around Aberdeen or a particular part of it;
- obstructing important views of the City's townscape, landmarks and features when seen from busy and important publicly accessible vantage points such as roads, railways, recreation areas and pathways and particularly from the main city approaches;
- disturbance, loss or damage to important recreation, wildlife or woodland resources or to the physical links between them;
- sprawling onto important or necessary green spaces or buffers between places or communities with individual identities, and those which can provide opportunities for countryside activities.
- Development should avoid significant adverse impacts upon existing landscape elements, including linear and boundary features or other components, which contribute to local amenity, and provide opportunities for conserving, restoring or enhancing them

Policy NE5 (Trees and Woodland) – There is a presumption against all activities and development that will result in the loss of, or damage to, established trees and woodlands that contribute significantly to nature conservation, landscape character or local amenity, including ancient and semi-natural woodland which is irreplaceable.

Appropriate measures should be taken for the protection and long term management of existing trees and new planting both during and after construction. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees and tree cover.

Policy NE6 (Flooding and Drainage) – Surface water drainage associated with development must be the most appropriate available in terms of SUDS and avoid flooding and pollution both during and after construction.

In areas not served by the public sewer, a private sewer treatment system for individual properties will be permitted provided that the developer demonstrates that there will be no adverse effects on the environment, amenity and public health.

Policy R6 (Waste Management Requirements for New Development) – Housing developments should have sufficient space for the storage of residual, recyclable and compostable wastes. Flatted developments will

require communal facilities that allow for the separate storage and collection of the materials.

Policy R7 (Low and Zero Carbon Buildings) – All new buildings, in meeting building regulations energy requirements, must install low and zero carbon generating technology to reduce the predicted CO2 emissions by at least 15% below building standards.

Oldfold Development Framework and Masterplan

The area to the north of Murtle Den Road is specifically identified as being suitable for further residential development, which would be distinct from the rest of the Oldfold development and would in essence be an extension to Murtle Den Road. Housing in this area should be developed to be in keeping with the character of existing properties. Large detached homes should be located within large gardens and accessed via individual drives off Murtle Den Road. Tree planting should align the road with further planting in gardens to maintain the character of Murtle Den.

EVALUATION

Legal Challenge to the Aberdeen Local Development Plan

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be specifically affected by the terms of Tesco's challenge.

However in order to take account of the possibility of the adopted local development plan being quashed, it is necessary to consider whether the application would have been determined with the same recommendation under the policy framework of the old 2008 Local Plan and draft local development plan.

In terms of assessing this proposal, under the previous 2008 local plan the site was located within the green belt. However in the draft local development plan, as is the case in the adopted plan, the site was zoned as Policy LR1

(Land Release) which would allow residential development. This would be a significant material consideration in the determination of the application, particularly given that the draft local development plan has been through the Scottish Government's examination process. Given that the subject of the legal challenge does not specifically relate to Policy LR1 it is considered that the recommendation of approval would remain should the application be considered against the 2008 local plan and draft local development plan.

Principle of Residential Development

The site is located within an area zoned for the expansion of Milltimber which will be known as Oldfold. Although the principle of residential development within this zoning has been established through adoption of local development plan in February 2012, Policy LR1 requires such sites to be covered by a development framework and masterplan ('the masterplan'), in order to guide their future development.

The masterplan covering OP62 (Oldfold) has been through public consultation and will be presented to the Enterprise, Planning and Infrastructure Committee on 22nd January 2013. Should committee agree, the document will be submitted to the Scottish Ministers for final approval.

Although within the OP62 (Oldfold) zoning, the site of this application was not included within the masterplan boundary. This is understood to be due the ownership differences between the application site and the wider Oldfold land allocation, which is being carried forward by CALA Homes and the Seven Incorporated Trades of Aberdeen Widows Fund.

The absence of the application site from the masterplan document would not however affect the ability of the wider Oldfold allocation to be realised. No vehicular access is proposed between the Oldfold development and Murtle Den and the site has not been identified as being necessary to allow any other aspect of the Oldfold development to progress.

To summarise, the principle of residential development on the site has been established through the allocation in the local development plan. There is no failure to comply with the Oldfold masterplan, because the site is not included within the masterplan boundary, however the site's absence from the masterplan would not prejudice development of the Oldfold site.

Layout, Access and Design

The character of Murtle Den, which comprises large homes in sizeable grounds within a high quality woodland setting, is recognised in the Oldfold masterplan. It explains that the proposed extension to Murtle Den should *'replicate the existing housing to the south, enclosed by woodland distinct from the wider development area. Very large detached plots set within mixed woodland and accessed from an extension to the existing driveway.'*

Therefore it is clear that the future development of Murtle Den will be in a similar character to that which already exists. Although the Oldfold masterplan does not specifically apply to this site, the principles which it applies to the extension of Murtle Den are considered appropriate to apply to this infill site.

The proposal for two houses generally reflects the character of Murtle Den. Plot ratios of existing properties in the street have been calculated to vary between 2.3% and 16%, with an average of 7.1%. The proposed properties would be detached and sit comfortably in large plots which have a plot ratio which generally matches that of the surrounding properties (9% for plot 1 and 10% for plot 2). Although slightly higher than the average, given that the plot ratios are well within the range for Murtle Den, it is considered that the density of development is acceptable.

The dwellings would be accessed from individual driveways and would be orientated to have a public face towards Murtle Den (albeit behind a bank of trees) and would have a private face to generous gardens.

Each of the properties would be an ample distance away from existing properties to ensure that there would be no implications in terms of daylight, overshadowing or privacy. Concern has specifically been raised with the implications on the neighbouring dwellings at 'Sunhoney' and 'Altmore'. The normal window to window distance in terms of privacy for properties directly facing each other is 20m. The approximate distance to the each of the buildings is at least 50m. Moreover, the properties are at an angle and behind a bank of mature trees which further reduces any potential impact.

It is considered that two dwellings are unlikely to create levels of noise or light which would be considered unreasonable or different than would be experienced with any normal residential dwelling.

In summary, the means of access, layout and design and density of development are considered to be suitable for the site and its context the proposal therefore complies with Policy D1 (Architecture and Placemaking) and Policy D2 (Design and Amenity).

Trees

A total of thirty seven trees would be removed, comprising six trees to allow development and thirty one further trees for health and safety, woodland management purposes or because they are dead.

A group of four sycamore trees are proposed for removal to allow for the creation of the access for plot 1. These are all mature trees in a fair condition and have the potential to be long lived. A further two trees (a sycamore and a horse chestnut), are identified for removal adjacent to the existing access gate into the site and in the location of the proposed access to plot 2. Whilst it is regrettable that healthy trees are removed, the routes for the access have been selected in order to keep tree loss to a minimum and without removing these trees access to the site would not be possible. Although one access could be utilised for both houses, which would reduce the number of trees that would need to be removed, this would be at odds with the character of Murtle Den where each house has its own driveway. Shared driveways may risk introducing an urban appearance to the area and would also begin to encroach on front gardens.

The proposed driveways for both plots would pass through the root protection areas of trees being retained. In order to ensure tree protection and retention

in the long term, the driveways should be constructed using a no-dig technique. Typically this will incorporate the use of a three dimensional load spreader, laid onto a geotextile membrane finished with a porous surface. A condition has been attached requiring specific details of the driveways' construction. Several other conditions are attached to ensure the protection of trees during construction.

The dwellinghouses themselves would have very little impact upon the existing trees around the perimeter of the site. Indeed the proposed development would facilitate woodland management of the site which is much needed. A great deal of Murtle Den's character is derived from its woodland setting and every opportunity should be taken to enhance it. A condition requiring the submission of a landscaping plan which would include new tree planting to reinforce the existing woodland has been attached.

It is considered therefore that the minimum number of trees necessary would be removed and that appropriate measures would be taken for the protection and long term management of existing trees in accordance with Policy NE5 (Trees and Woodland) and Policy D6 (Landscape).

Finally, although not part of this development, it is proposed as part of the Oldfold development for the area immediately to the west of the application site to be planted with structural planting to reinforce the existing woodlands and protect the setting and privacy of the properties on Murtle Den. The development of the application site would not prejudice the planting of this woodland.

Drainage

In terms of foul drainage, the closest Scottish Water sewer is located at the junction of North Deeside Road and Binghill Road, some 850m away. All existing properties on Murtle Den Road would appear to utilise private waste systems.

Advice from SEPA states that 'outwith sewerred areas, the principle of private foul drainage systems are generally acceptable unless they fall within the consultative areas of cumulative drainage impact'. Murtle Den is not an area of cumulative drainage impact and therefore the principle of a private soakaway to deal with foul drainage is considered acceptable. A condition has been attached requiring specific details of the treatment system to be employed.

Surface water drainage has been identified as an issue by neighbours and it is apparent that the field has become marshy due to a lack of maintenance of the field drainage. As part of the finished development it is proposed that water from the roof and driveways would be treated and stored in attenuation trenches located in the garden of each plot before discharge to the surface water pipe on Murtle Den Road. The attenuation trenches would provide one level of treatment and restrict discharge to a suitable rate. Greenfield run off during a 50 year return period storm would be restricted to 2.07L/s. No property would be affected by 200-year return period storm. In terms of water quality, the required level of treatment would be provided.

The drainage proposals are considered acceptable to the roads service and flood prevention unit.

Transport

The traffic generated by two dwellinghouses would be very minor and would not justify any improvements to junctions on roads in the area. No concerns have been raised by the Council's roads service in this regard.

Concern is however raised with the cumulative traffic effect of this development, the dwellings proposed as part of the Oldfold development and an anticipated new dwelling at Pinelands on Murtle Den Road. Any traffic implications of the Oldfold development, including the 8 – 9 homes proposed on Murtle Den Road, would be taken into account as part of the transport assessment for the Oldfold development. There is no planning permission for an additional dwelling at Pinelands.

Ample parking has been provided within each plot for the size of the property and the proposed means of access to each site is acceptable.

Protected Species

A walkover habitat survey has been carried out which examined the potential for protected species to be present on the site. However no evidence was found of bats or red squirrels in the trees surrounding the site or of badger setts within 30m of the site. Therefore no measures are required in order to mitigate any impact on protected species and the proposal would comply with Policy NE8 (Natural Heritage).

Low and Zero Carbon

All new buildings, in meeting building regulations energy requirements, must install low and zero carbon generating technology to reduce the predicted CO2 emissions by at least 15% below building standards requirements. A condition has been attached requiring details to be submitted to satisfy Policy R7 (Low and Zero Carbon Buildings).

Waste Management

In accordance with Policy R6 (Waste Management Requirements for New Development) there is sufficient space for bins within the boundaries of each plot.

Other Matters

- Disturbance and inconvenience during construction of a development is inevitable. However a condition has been attached restricting the hours of work to prevent work at unreasonable times.
- Although the applicant may not have access rights into the field, this would not be a material planning consideration and would be a legal matter between the applicants other parties involved.

RECOMMENDATION

Approve subject to conditions

REASONS FOR RECOMMENDATION

The principle of residential development on the site has been established through the allocation in the ADLP 2012. There is no failure to comply with the Oldfold masterplan because the site is not included within the masterplan boundary, however the site's absence from the masterplan would not prejudice development of the Oldfold site.

The means of access, layout and design and density of development is deemed suitable for the site and its context and therefore considered to comply with Policy D1 (Architecture and Placemaking) and Policy D2 (Design and Amenity).

It is considered that the minimum number of trees necessary would be removed and that appropriate measures would be taken for the protection and long term management of existing trees in accordance with Policy NE5 (Trees and Woodland) and Policy D6 (Landscape). The proposed development would facilitate woodland management of the site which would enhance the setting of Murtle Den.

Foul and surface water drainage would be dealt with in an appropriate manner in accordance with Policy NE6 (Drainage and Flooding). Two dwellinghouses would generate very little additional traffic and there are no concerns with regards to transportation issues.

All other matters raised are regarded as having been addressed satisfactorily.

it is recommended that approval is granted with the following condition(s):

(1) that no development shall take place unless further details of the proposed waste water treatment units and soakaways have been submitted to and approved in writing by the planning authority. Thereafter no part of the development shall be occupied unless the drainage scheme has been installed in complete accordance with the approved details and Drainage Impact Assessment B8599 (Nov. 2012) by Ramsay & Chalmers - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

(2) that no development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the Planning Authority, a detailed scheme of site and plot boundary enclosures for the entire development hereby granted planning permission. None of the buildings hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety - in order to preserve the amenity of the neighbourhood.

(3) 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.

(4) 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.

(5) that no development shall take place unless construction details and method of construction of both the proposed driveways has been submitted to and approved in writing by the planning authority. The construction method should utilise the principles described in Arboricultural Practice Note 12 (Through the Trees to Development) by the Tree Advice Trust. Thereafter construction shall take place in accordance with the agreed details - in order to ensure adequate protection for the trees on site during the construction of the development.

(6) that no development shall take place unless the tree protection fencing shown in Appendix F of Tree Report MDM-1211-TR (6th December 2012) and on drawing MDR-1211-TP (6th December 2012) of the plans hereby approved has been erected. Thereafter the tree protection fencing shall remain in place until the completion of development unless the planning authority give written consent for a variation - in order to ensure adequate protection for the trees on site during the construction of the development.

(7) that no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the approved scheme of tree protection (drawing MDR-1211-TP (6th December 2012)) 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.

(8) that the dwellinghouses hereby approved shall not be occupied unless all tree work and woodland management on the site has been completed in accordance with Tree Report MDM-1211-TR (6th December 2012) - in order to preserve the character and visual amenity of the area.

(9) that any tree work which appears to become necessary during the implementation of the development and which is not already identified within Tree Report MDM-1211-TR (6th December 2012) 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: 2010 "Recommendations for Tree Work" before the building hereby approved is first occupied - in order to preserve the character and visual amenity of the area.

(10) that the dwellinghouses hereby approved shall not be occupied unless provision has been made within the application site for refuse storage and disposal in accordance with a scheme which has been submitted to and approved in writing by the planning authority – in order to preserve the amenity of the neighbourhood and in the interests of public health.

(11) that the building(s) hereby approved shall not be brought into use unless details of the zero and low carbon equipment to be incorporated into the development and predicted carbon emissions, using SAP or SBEM calculations, have been approved in writing by the planning authority and unless the equipment has been installed in accordance with those approved details - to ensure this development complies with requirement for on-site carbon emissions contained in Scottish Planning Policy (SPP) and specified in the the City Council's relevant published Supplementary Planning Guidance 'Low and Zero Carbon Buildings'.

(12) 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.

Dr Margaret Bochel

Head of Planning and Sustainable Development.