

██████████
Binghill Grove,
Milltimber,
Aberdeenshire.
AB13 0HF

Aberdeen City Council
Planning and Sustainable Development
Marischal College
Broad Street
Aberdeen
AB10 1AB

FORMAL NOTICE OF OBJECTION

Ref: Planning Application 121679 The Lodge, 106 Tor Na Dee, North Deeside Road

Thank you for the Notifiable Neighbour Notice dated 10 December 2012 which I have received. Having referred to the Aberdeen City Council guidance, June 2010, I would like to make representation under the following headings.

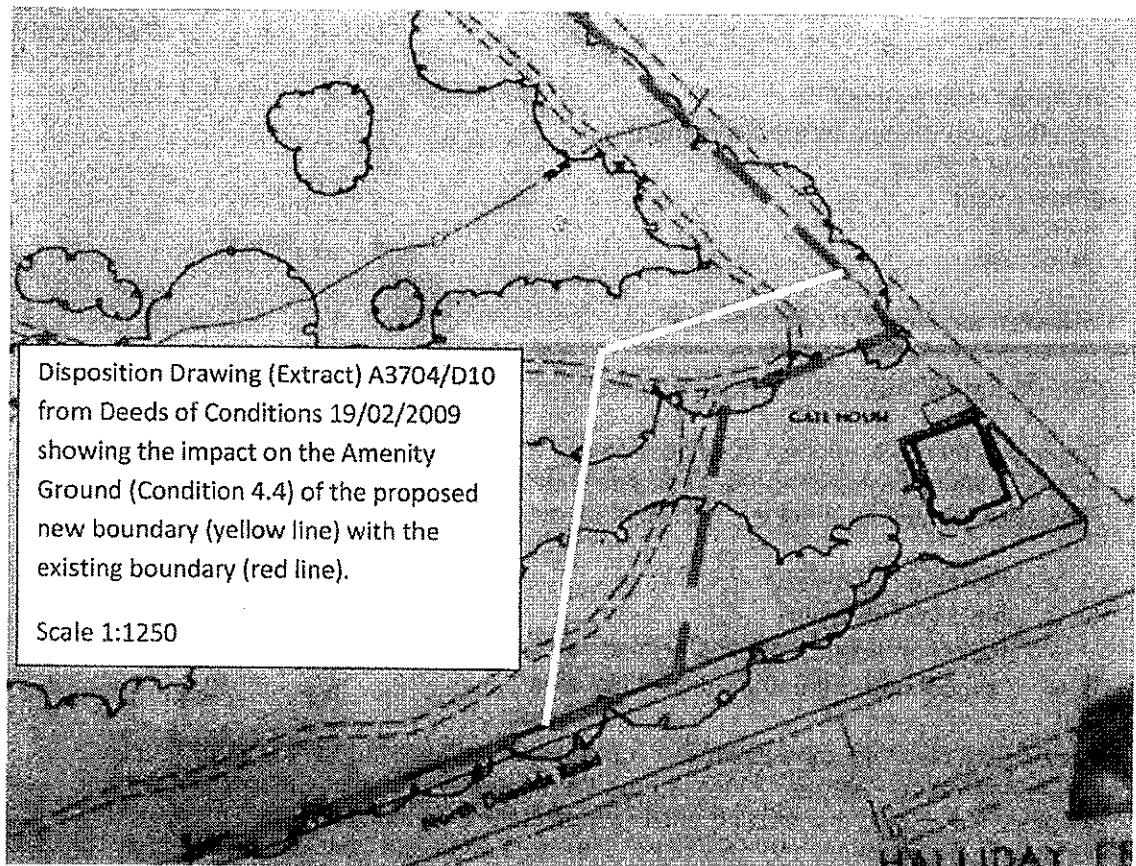
- Planning site history
- Impact on amenity
- Impact on access, parking or road safety
- Compatibility with other uses in the area

The original planning consent for the Tornadee Development (**A5/2033** with Legal Agreement on 16 February 2006) included a number of conditions placed upon the developer; including maintaining public access to the 'Amenity Ground', many of these conditions are historical and date back to the sale of the old Tornadee Hospital to Tornadee Ltd by Grampian NHS.

These conditions were included in the Deed of Conditions signed in Banchory on February 19th 2009 by Ian Sharp (Director) and K Berry (Witness) and served on all the purchasers of property at Tornadee. [Condition 4.4 The owners shall keep the Amenity Ground available for use in perpetuity solely as open amenity and recreational space, and shall comply with the requirements of the Planning Authority in relation hereto.]

As an owner of property within the Tornadee development, now referred to as Binghill Grove, Milltimber, Aberdeenshire AB13 0HF I am in possession of a disposition in my favour which grants me a 1/106 pro indiviso share of that amenity ground as defined by the **Disposition Plan A3704/D10** registered at the Land Register of Scotland under title No: **ABN89047**.

The Disposition Plan referred to above has a clearly defined boundary that goes round the existing cottage that is now the subject of **Planning Application 121679**. I note that the boundary shown on the planning application (the **YELLOW** line below) differs from that shown on the Disposition Plan (the **RED** line below) by some additional 14.5 metres west along the North Deeside Road boundary and some additional 9 metres north away from North Deeside Road. By definition this places the proposed development partly on the 'Amenity Ground' referred to above to which public access has to be maintained in accordance with the Deed of Conditions. There has been no approach made by the applicant, Tornadee Ltd, to me as a pro indiviso owner regarding a change to the boundary of the 'amenity ground' or to a change of the Deed of Conditions **Disposition Plan A3704/D10**.



The Aberdeen City Council Planning Brief prepared by Jenkins and Marr in 2004 makes specific reference to 'Open Space Trees and Boundaries' and notes in para. 4.5.1 and 4.5.2 the importance of retaining both trees and open space.

From the drawing (ACCPlanning 83689) associated with the **planning application 121679** I note that the proposed development includes a fence of 1.5 metres high around the entire perimeter with a new hedge planted inside. This would serve to deny public access to that part of the amenity ground that would be enclosed, in contravention of the original planning consent from 2006 and disposition in favour of Tornadee Ltd from the NHS Grampian sale. The location plan, and the site plan provided by the council on the Notifiable Neighbour Notice, clearly shows how the proposed boundary cuts off the public footpaths in that part of the Amenity Grounds. The Landscape Management Plan that formed part of the original approved planning application **A5/2033** included a requirement to reinstate the paths and planting in the Amenity Grounds within the first growing season after the development is completed. As yet the development hasn't been completed, nevertheless the requirement remains in force.

Accordingly I formally object to this planning application. However if the council sees fit to approve the application, then it should enforce the existing condition of 'public access' to that part of the ground defined as 'amenity ground' and require any perimeter fence to be in the position defined on the **Disposition Plan A3704/D10**.

I note that the application includes a tree survey and management plan for the proposed development. I also request that none of the protected trees are removed to facilitate construction, and would request that these measures are included in the planning conditions should the council see fit to approve the application.

I also have concerns about the access onto North Deeside Road, whilst I am sure that the Highway Authority will evaluate the proposals, I would like to make several points. I note the existing gateway to the property, however this has been unused for many years and in that period the traffic volumes on North Deeside Road have increased significantly. The entrance is also close to the lane leading to Oldfold Farm with traffic emerging onto North Deeside Road and only a short distance from the Bus Stop on the northern side of North Deeside Road. I also have some concerns about the line of sight for any vehicle emerging from the proposed access.

I hope that the council will take my concerns regarding the proposed development into account when determining the outcome of the application and any conditions it may choose to impose on the developer.

Yours faithfully,

Signed:

[Redacted Signature]

Name:

[Redacted Name]

Date:

21/12/12