

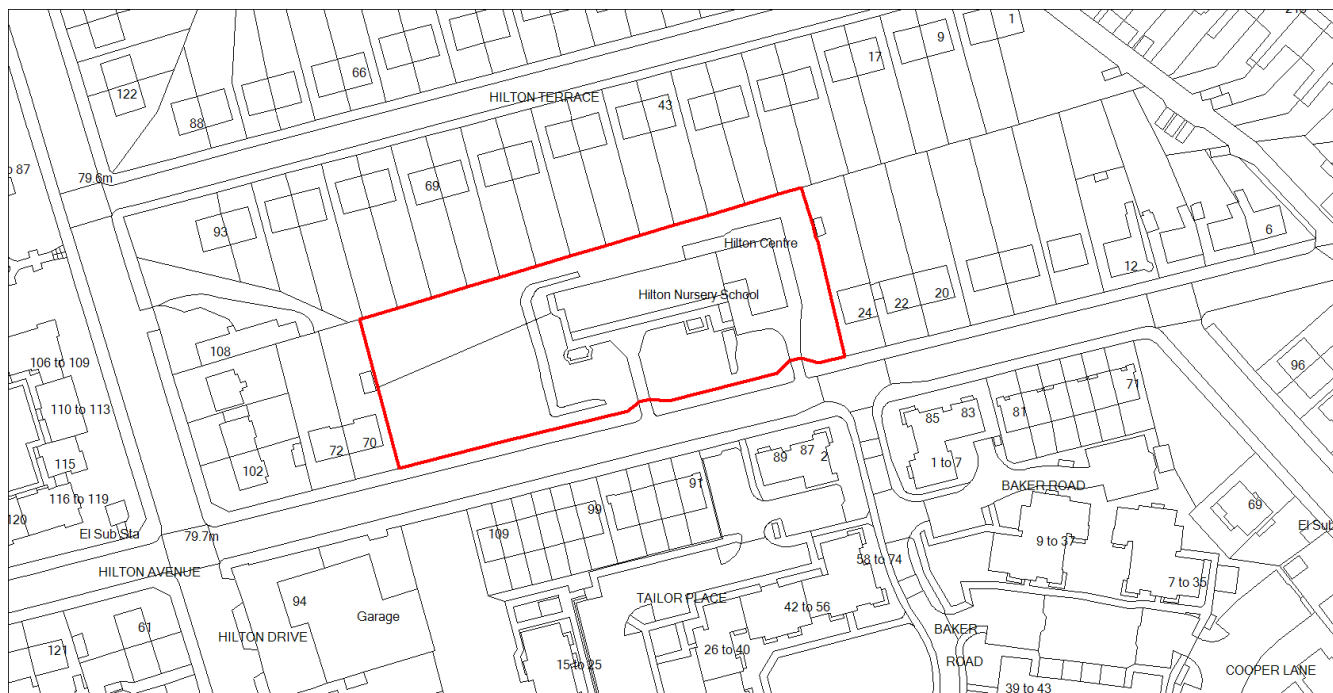
FORMER HILTON NURSERY SCHOOL,  
HILTON AVENUE, ABERDEEN

PROPOSED DEMOLITION OF FORMER  
NURSERY SCHOOL TO BE REPLACED WITH  
NEW RESIDENTIAL ACCOMMODATION  
COMPRISING OF 18 UNITS OFFERING A MIX  
OF SEMI-DETACHED HOUSES AND COTTAGE  
APARTMENTS WITH ASSOCIATED PARKING

For: CALA Homes (East) Ltd

Application Type : Detailed Planning Permission  
Application Ref. : P130224  
Application Date: 21/02/2013  
Officer: Matthew Easton  
Ward : Hilton/Woodside/Stockethill (G Adam/K  
Blackman/L Dunbar)

Advert :  
Advertised on:  
Committee Date: 18 July 2013  
Community Council : No response  
received



### RECOMMENDATION:

- (a) Willingness to approve subject to conditions, but to withhold the issue of the consent document until either the applicant has entered into a section 75 legal agreement with the Council to secure the identified developer contributions; or payment of the identified developer contributions has been made.
- (b) To instruct officers to utilise powers under Section 160(1) of the Town and Country Planning (Scotland) Act 1997 to make a tree preservation order to cover (i) the trees to be retained within the application site and (ii) those trees which also form part of the same group which are located along the boundary of 6-24 Hilton Avenue and 1-31 Hilton Terrace.

## **DESCRIPTION**

The site comprises the former Hilton Nursery site situated on the north side of Hilton Avenue, opposite the junction with Baker Road which forms part of the recently completed Campus Development by CALA Homes.

The site extends to 0.61 hectares and is rectangular in shape. It has a frontage 130m long onto Hilton Avenue and is between 43m and 49m wide. The site slopes with Hilton Avenue from east to west with a difference of nearly 7m between either end.

The building dates from the 1950's, is single storey and constructed in granite and harled walls under a pitched tile roof. It is located towards the north east portion of the site and situated parallel to the street and rear boundaries. The west end of the site comprises overgrown grass.

The site is enclosed by a low granite wall along the street frontage and post and wire and timber fencing around the remainder. There is two vehicular accesses to the site, both from Hilton Avenue which are approximately 113m apart.

### **Surrounding Context**

Beyond the eastern boundary is 24 Hilton Avenue, a traditional 1½ storey granite built detached dwellinghouse. The boundary comprises a hedge approximately 2m high and there is a timber fence in parts. There is a single storey garage just over the boundary of the north east corner of the application site.

To the north of the site is the rear gardens of 'four-in-a-block' dwellings at 29 – 79 Hilton Terrace, which themselves are around 25m away from the site boundary, which largely comprises of a metal railing fence approximately 1.5m high.

To the west is 70 Hilton Avenue which is a traditional 1½ storey granite semi-detached dwellinghouse, typical of the Hilton area. The boundary is a timber fence approximately 1.8m high. There are garages and sheds on the opposite side of the boundary.

To the south, across Hilton Avenue, are 3 storey townhouses and two storey flats which form part of CALA's Campus Development which were completed approximately 5 years ago.

### **Trees**

There are sixty trees present on the site, many of which are of a significant height. They are comprised predominately of following species – whitebeam, elm, beech, ash, and sycamore. Cherry, lime and golden holly are also present in smaller numbers.

Along the eastern boundary are ten mature and semi-mature trees (numbers 1-10 in the tree report) which vary in height between 7m and 18m. They are

categorised as a mixture of high, moderate and low quality with several being identified as being in such a condition that they cannot realistically be retained as living trees within the context of the proposed land use.

The northern boundary features nineteen mature deciduous trees (no.11-29), varying in height between 14m and 20m high with most being around 18-19m. Again the trees are in a variety of conditions with most being either of high or moderate quality, but several being either poor quality or suffering from health problems.

There are eleven trees (no. 30-41) at the western end of the site. These are considerably smaller than others on the site and vary in height between 6m and 10m. Seven of these trees are considered to be in poor condition with the remainder moderate.

Along the street frontage there are 19 largely semi-mature trees (no.41-59), varying between 6m and 9m in height, with most being 8m. They are generally in poor or moderate condition with a couple of high quality examples. There is an avenue of six golden hollies (7m) from the street to the main entrance of the building.

There are four Council maintained street trees on Hilton Avenue outside the site boundary.

## **RELEVANT HISTORY**

Once a nursery school, the building was last occupied by the Great Northern Partnership and NHS Grampian for use as a dental clinic. It was declared surplus to requirements by the Council's Education, Culture and Sport Committee in November 2010. Thereafter officers within the Asset Management Service were instructed to market the site to developers as an opportunity for residential development.

## **PROPOSAL**

It is proposed to demolish the existing building on site and erect a residential development of twelve flats and six semi-detached dwellinghouses.

### **Flats**

The twelve flats would be split between two blocks, one at each end of the development. Both would be arranged in an L-shape and accommodate six flats each.

The design features and materials proposed would be similar to buildings within the nearby Campus Development, which consists of grey Fyfestone Elite split blockwork, textured buttermilk render, grey concrete roof tiles and timber cladding. Windows would be Anthracite grey (RAL 7016) uPVC and rainwater goods would be black uPVC.

The blocks would be 19.5m long and 22m wide. The blocks would be two storeys high with a pitched roof (35°) achieving an overall height of 9m. There would be a two storey flat roofed wrap around feature on the outward facing corners which would be finished in timber cladding. They would feature galvanized metal balconies at first floor level which would be supported by metal legs below. A further balcony would be included on each block overlooking the car park access.

The flats would each be accessed independently from each other either through a door directly into the flat at ground level or via a private internal stair to flats on the second floor. Each flat would feature a hall, living room, kitchen, bathroom and two bedrooms, one of which would be en-suite. Two of the flats in each block would include a third bedroom/study.

Ten parking spaces (including two accessible spaces) would be provided at the rear of each block and would be accessed from private access roads into the development which would be 25m long.

### **Townhouses**

Three sets of semi-detached townhouses (six units) would be constructed between the two blocks of flats. They would be set back from the street by 10m and have a public face to the street and rear face to a private garden. They would be two storeys high with a pitched roof (35°) achieving an overall height of 9m. Each house would feature an integral garage, hall, living room, kitchen, dining room, toilet and utility room at ground floor and four bedrooms (one en-suite) and a bathroom at first floor level. The houses would be finished in the same materials as the flats.

Each house would have a driveway 10m long which could accommodate two vehicles and a private back garden of between 24m and 26m in length and 11m wide.

### **Trees**

It is proposed to fell a total of 45 trees, 33 in order to accommodate development and a further 12 for health and safety reasons. The trees to be felled are –

- Two whitebeam (7m tall) on the eastern boundary alongside 24 Hilton Avenue and close to the road would be removed to create vehicular access into the block B.
- An elm (14m) and beech (18m) adjacent to the east boundary would be removed to accommodate the car park access for block B. An elm (13m) would be felled for safety due to a substantial lean.
- A beech (17m), elm (8m), ash (17m) and sycamore (14m) in the north east corner would be felled for health and safety reasons either due to the trees already dying, experiencing basal rot or being in general poor condition.

- Two sycamores (15m and 18m) located along the northern boundary would be felled for health and safety reasons due to the presence of rot and dead wood.
- A group of four beech (15m and 16m) located in the north west corner would be felled. One tree is showing signs of canopy dieback and some physiological problems and therefore would be felled for health and safety. The remaining trees appear healthy however would be felled to allow the car park for block B to be constructed.
- Six trees (sycamores and a cherry between 6m and 10m) would be felled along the west boundary to allow access into the block A car park.
- Twenty one trees (17 for development and 4 for health and safety) along the front of the site would be felled to allow for development. These trees are smaller than those at the back of the site and are between 7m and 10m in height.
- Three trees (18m, 19m and 8m) within the middle of the site would be felled for development.

Nine of the trees which it is proposed to fell are of high quality, thirteen of moderate quality and eighteen are poor quality. The remainder are dead, have serious structural defects or are in serious decline.

### **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130224>. On accepting the disclaimer enter the application reference quoted on the first page of this report.

A tree survey and bat survey have been submitted in support of the application.

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

The application has been referred to the Sub-committee because (a) more than five letters of objection have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

#### **Roads Project Team –**

- In accordance with the Council's parking guidelines, two and three bedroom flats should provide two car parking spaces per flat. It is noted that there is a slight shortfall of parking on this site; however this is acceptable on this occasion.

- A condition should be attached to any consent requiring cycle and motorcycle parking to be provided.
- Parking adhering to the parking guidelines is provided at each of the houses.
- The access points to the two blocks of flats will require to be constructed to adoptable standards.
- Visibility splays of 2.4m x 25m in the horizontal plane should be shown at each access and each driveway. Within the vertical plane the visibility splay extends from a point 1.05m above the carriageway at the driveway and access, to a point 0.26m above the carriageway at either end of the horizontal plane. Within this space there should be no obstruction. These visibility splays are not shown on the current drawings, however drawings have been seen showing them, and it is noted that they can be achieved. A condition requiring their submission is requested.
- Each driveway will require a footway crossing. I note that at each access point there are two driveways together. The combined width of this must not exceed 6m. The new footway crossing must be constructed by a contractor appointed by Aberdeen City Council and at the applicants cost. The disused access points will require to be reinstated as footway by a contractor appointed by Aberdeen City Council and at the applicant's expense.
- I note and accept the location of the bin stores for the flats.
- As the proposed development is within an area allocated for residential use within the Aberdeen City Local Development Plan a contribution will be required to the Strategic Transport Fund (STF). The granting of planning approval should be conditional on an appropriate legal agreement with the applicant being in place with regard to the payment of the STF contribution.
- A drainage impact assessment should be submitted.

**Environmental Health** – No response received.

**Developer Contributions Team** – The developer should make contributions towards –

- affordable housing in the form of a commuted sum payment;
- improvements to community, sports and recreation facilities such as Hilton Community Centre, Westburn Park, Stewart Park and Hilton Outdoor Sports Centre;
- the library at Woodside; and
- the core path network.

Kittybrewster Primary School and St. Machar Academy are both operating within capacity and therefore no education contributions are required.

**Enterprise, Planning & Infrastructure (Flooding)** – Full surface water drainage proposals for the development, outlining in full detail the proposed method of discharge of surface water. Any proposed SUDS facilities should include design calculations and drawings to be submitted for approval.

## **REPRESENTATIONS**

Eleven of letters of representation have been received. These are predominately from occupiers of surrounding residential properties. In summary the following matters are raised –

### **Trees**

- Established trees along the north, east and west boundaries should be retained.
- New planting within front gardens should be proposed to compensate for the loss of trees there at present.
- Street trees should be retained.

### **Design**

- The design is not site specific
- The flats are too high and should be restricted to 1.5 storeys.
- The materials are inappropriate.
- Corner blocks not appropriate for the site
- Bungalows should be considered.

### **Amenity**

- Overlooking of 24 and 70 Hilton Avenue
- Overshadowing and loss of daylight for 24 and 70 Hilton Avenue.
- Loss of privacy for 24 and 70 Hilton Avenue
- Loss of privacy to back and front gardens of 22 Hilton Avenue.

### **Transportation**

- The applicant should re-surface Hilton Avenue.
- The position of the access to plots 13-18 is hazardous due to the proximity of the opposite junction.

### **Other**

- The site is being over developed.
- Loss of a sea view from 70 Hilton Avenue.
- Measures should be taken to compensate neighbouring properties for disruption during construction (dust).
- The hedge between the site and 24 Hilton Avenue should be maintained.

## **PLANNING POLICY**

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

The ALDP identifies the site as Opportunity Site 106 (OP106) which is considered suitable for residential development.

Policy I1 (Infrastructure Delivery and Developer Contributions) – Development must be accompanied by the infrastructure, services and facilities required to support new or expanded communities and the scale and type of developments proposed.

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

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 D2 (Design and Amenity) – In order to ensure the provision of appropriate levels of amenity the following principles will be applied: Privacy shall be designed into higher density housing; residential development shall have a public face to a street and a private face to an enclosed garden or court; all residents shall have access to sitting-out areas, this can be provided by balconies, private gardens, terraces or communal gardens or other means acceptable to the Council; when it is necessary to accommodate car parking within a private court, the parking must not dominate the space: as a guideline no more than 50% of any court should be taken up by parking spaces and access roads; individual flats or houses within a development shall be designed to make the most of opportunities offered by the site for views and sunlight. Repeated standard units laid out with no regard for location or orientation are not acceptable; development proposals shall include measures to design out crime and design in safety; and external lighting shall take into account residential amenity and minimise light spillage into adjoining areas and the sky.

Policy D3 (Sustainable and Active Transport) – New development will be designed in order to minimise travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel. Development will maintain and enhance permeability, ensuring that opportunities for sustainable and active travel are both protected and improved. Access to, and movement within and between, new and existing developments will prioritise transport modes in the following order - walking, cycling, public transport, car and other motorised vehicles. Street layouts will reflect the principles of Designing Streets and will meet the minimum distances to services as set out in Supplementary



Guidance on Transport and Accessibility, helping to achieve maximum levels of accessibility for communities to employment, essential services and areas of recreation.

Policy H1 (Residential Areas) Within existing residential areas (H1 on the proposals maps) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

- does not constitute over development;
- does not have an unacceptable impact on the character or amenity of the surrounding area;
- does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010;
- complies with Supplementary Guidance on Curtilage Splits; and
- complies with Supplementary Guidance on House Extensions.

Policy H5 (Affordable Housing) – Housing developments of 5 units or more are required to contribute no less than 25% of the total number of units as affordable housing.

Policy NE4 (Open Space Provision in New Development) – The City Council will require the provision of at least 2.8 hectares per 1000 people of meaningful and useful public open space in new residential development. The nature of the provision is set out in Supplementary Guidance on Open Space. Communal or public open space should be provided in all residential developments, including those on brownfield sites.

Policy NE5 - Trees and Woodlands – 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.

Native trees and woodlands should be planted in new development.

Where trees are affected by a development proposal the City Council may make Tree Preservation Orders.

A tree protection plan for the long term retention of trees should be submitted and agreed with the Council before development commences on site.

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. Connection to the public sewer will be a pre-requisite of all development where this is not already provided.

Policy NE8 (Natural Heritage) – Applicants should submit supporting evidence for any development that may have an adverse effect on a protected species demonstrating both the need for the development and that a full range of possible alternative courses of action has been properly examined and none found to acceptably meet the need identified.

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

### **Principle of the Proposed Use**

The site is within an area zoned for residential use where Policy H1 (Residential Areas) applies. The immediate surroundings and wider area is dominated by residential use, with the recent Campus development by CALA Homes reinforcing this character. Therefore in principle it is accepted that the site would be suitable for residential development and that such as use would not generally adversely affect the surrounding area.

Policy H1 also requires development not to constitute overdevelopment, have an unacceptable impact upon the character and amenity of the surrounding area and comply with relevant supplementary guidance. These matters are examined in the following sections.

### **Layout and Design**

The proposed layout presents a public face to the street and a private face to either back gardens or enclosed outdoor space for the flats, which is typical of the surrounding area.

There is an existing building line at this part of Hilton Avenue which is approximately 7m back from the pavement on the north side of the site and 9m back on the south side. On initial submission, the closest part of the proposed blocks of flats was to be 3m back from the rear of the pavement. Given that the flats would be more substantial structures than the neighbouring 1½ storey dwellings, concern was raised that this would have an adverse impact upon the character of the streetscape and that the flats would be unduly prominent, especially when travelling up Hilton Avenue in a westerly direction. Efforts were therefore made by the developer to look at adjusting the layout in order to allow the blocks to be pushed back into the site, but at the same time ensuring that important trees at the back of the site remained unaffected. By reducing the number of car parking spaces associated with each block by two, the car parks were rearranged which allowed the blocks to be pushed back by a further 2.5m. Therefore the closest part of the blocks of flats are now proposed to be 6.5m back from the rear of the pavement, with the feature corners being 7.26m back,

which is still beyond the existing building. However, this is considered to broadly align with the building line along this part of Hilton Avenue and would maintain the character of the streetscape.

The layout of the townhouses is considered acceptable, with gardens of between 24m and 26m in length and 11m wide which is generous for modern housing developments but fairly typical of the area.

Each of the blocks of flats would have a useable outside space of around 10m x 12m at the rear of the buildings which would be sheltered and private, but would be unlikely to receive much sunlight. Each of the first floor flats would also have a small balcony. The amenity of future occupiers within two of the ground floor flats in block A would be somewhat compromised due to the close proximity of the access road into the car park, which would be within 1m of the windows and doors of these flats. The small area of useable private outdoor space and tight layout of the blocks of flats are indicative of a proposal which is approaching overdevelopment. In this instance however it is considered not to be of such significance to indicate a recommendation of refusal.

The design features and appearance of the buildings would match those within the existing CALA Campus Development on the opposite side of the road. The Campus is a substantial development which has altered the character of this section of Hilton Avenue. Therefore although the buildings directly on each side of the site boundaries are traditional granite dwellings, it is considered that the use of more modern materials and design features would not be incongruous with the character of the street. Indeed their use would help to integrate the Campus Development into the wider area.

The proposed layout and design is considered to acceptable and complement the surrounding area. Although the potential amenity of residents of the flats would be compromised somewhat due to the tight layout it is not considered to be of significant concern. The proposed design and materials are considered acceptable for the area and the proposal has taken account of the provisions of Policies D1 (Architecture and Placemaking) and D2 (Design and Amenity).

### **Amenity**

Concern has been raised by the occupiers of neighbouring properties in terms of the impact upon amenity in terms of privacy, daylight and overshadowing.

With regards to available daylight and the potential for overshadowing, due to the distance of new buildings from the boundaries of all surrounding properties and their orientation in relation to each other, there would be no impact upon existing properties in terms of loss of daylight or overshadowing.

In relation to implications for privacy, each of the surrounding properties are taken in turn –

- Beyond the eastern boundary is 24 Hilton Avenue, a traditional 1½ storey granite built detached dwellinghouse. The boundary comprises a hedge approximately 2m high and there is a timber fence in parts. There is a single storey garage just over the boundary of the north east corner of the

application site. There would be windows and a small balcony on block B of the flats which would be 11m away from the boundary with 24 Hilton Avenue and looking towards the rear garden ground associated with the property. There are existing trees and a hedge along the boundary. The occupiers have indicated their desire for the hedge along the boundary to be retained and the developer has advised that it is the intention to keep the hedge. The developer has also confirmed that they will plant additional planting to ensure privacy is maintained. A condition has been attached requiring this planting and it the expectation is that such planting will be of a suitable height when planted to ensure privacy is maintained by the time the development is occupied. This will be agreed a landscaping scheme approved by through a condition.

Overlooking of front gardens is not regarded as being a significant issue given that front gardens are by their nature generally open to the street and public view.

22 Hilton Avenue is to the east, beyond 24 Hilton Avenue. However it is of sufficient distance away for there to be no unreasonable impact upon privacy.

- To the west is 70 Hilton Avenue which is a traditional 1½ storey granite semi-detached dwellinghouse. The boundary is a timber fence approximately 1.8m high. There are garages and sheds on the opposite side of the boundary. Windows associated with block A would be 10m away from the boundary with 70 Hilton Avenue and looking towards the rear garden. With suitable planting privacy would be maintained.

The potential loss of a sea view from the property is not a material planning consideration.

- To the north are the 'four-in-a-block' dwellings at 29-79 Hilton Terrace which are around 25m away from the rear boundary of the site. Although there would be windows within the new buildings facing towards Hilton Terrace, these windows would be 50m away from the closest window opposite, well in excess of the 18-20m recommended to ensure adequate privacy.
- Similarly the flats and town houses which form part of the CALA Campus Development are of a sufficient distance (24m at their closest) across Hilton Avenue to ensure privacy is maintained.

In accordance with Policy H1 (Residential Areas) the impact upon the amenity of surrounding properties is considered to be minimal and can be maintained through the use of additional planting which is proposed as part of the development.

### **Access, Traffic and Car Parking**

There is a slight shortfall in the parking to be provided for the flats when compared to the adopted parking guidelines (20 spaces rather than 24). However on this occasion this has been accepted by the Roads Projects Team. The surrounding streets are capable of accommodating on-street parking so any

overspill can be accommodated. Satisfactory parking has been provided for the townhouses.

Concern has been raised with the proposed access to the car park of block B due to its proximity with the junction at between Hilton Avenue and Baker Avenue. The car park would attract a low number of movements and provided that 'give way' markings are provided at the junction the Roads Projects Team do not have an issue with this aspect of the proposal.

The position of refuse store for the flats has been agreed by the roads service and Council's Waste Strategy Manager. A condition has been attached requiring details of the enclosure to be submitted prior to work commencing.

## **Trees**

The site accommodates several mature trees, with the largest trees concentrated along the rear boundary of the site. Smaller trees are located towards the front of the site. It is proposed to fell 33 trees in order to accommodate development and a further 12 for health and safety reasons, bringing the total to 45.

The removal of the smaller trees at the front of the site is inevitable if the site is to be development in this manner. Whilst their removal is something which ideally would be avoided, it would be difficult to create a satisfactory layout or provide the necessary access into the site if they were retained. One street tree would be removed to allow access into the eastern most town house.

What is considered to more important is the retention of the larger mature trees at the rear of the site. They provide a green backdrop for the area and create a boundary between the site and the residential properties beyond. Several trees would however be removed in the north west and east corners to allow car parking to be constructed. Due to the ground levels within the site it is not possible to retain many of these trees. Whilst it is regrettable that several large trees would be removed, a sufficient number would remain to maintain the green corridor which runs from west to east along the mutual boundaries of Hilton Avenue and Hilton Terrace.

It is unfortunate that mature trees need to be removed and there is clearly tension with Policy NE5 (Trees and Woodland) which has a presumption against development that will lead to the loss of established trees. However tree removal has been kept to a minimum to allow a development of a reasonable scale to be implemented. The majority of trees would be removed for health and safety and tree management reasons rather than directly for development.

New planting would be proposed within the communal grounds around the flats and within the gardens of the townhouses. Replacement planting is normally expected on a 2 for 1 basis to assist in the Council's aim of doubling tree cover in the city. The site is tight and it is likely that the level of planting expected could not be fully accommodated on site. Indicative planting is shown on the layout plans and it is thought around 30 trees could be planted on site. The remaining

replacement trees which cannot be accommodated on site could be planted either on Council owned land in the vicinity or at the nearby CALA Campus development. Conditions have been attached requiring detailed schemes to be submitted and agreed prior to development commencing.

### **Tree Preservation Order**

The Council as planning authority has a duty when granting planning permission to consider making a tree preservation order (TPO) in order to protect trees which may exist on a site. The existing site is Council owned and therefore once ownership is relinquished there would be no protection for the trees which are to be retained on site. There is the risk that future home owners remove the trees or that trees are removed during construction without consent.

The trees make a valuable contribution to visual amenity and provide a wildlife corridor through the area. Therefore in order to ensure retention of the trees into the future it is recommended that a TPO is made to cover the trees which are to be retained on the site and the trees which are located to the east and form part of the same group and are between the mutual boundaries of 6-24 Hilton Avenue and 1-31 Hilton Terrace. The effect of the TPO would be to make it an offence for any person to cut down, uproot, wilfully destroy a tree or wilfully damage, top or lop a tree in such manner as to be likely to destroy it without the consent of the planning authority.

Once the TPO has been made the TPO would be published and interested parties notified and representations invited. A future report to the Development Management Sub-Committee would recommend whether the TPO should be confirmed.

### **Protected Species (Bats)**

Bats are a European protected species under the Conservation (Natural Habitats, &c.) Regulations 1994 and as such it is illegal to amongst other things either deliberately or recklessly capture, injure or kill a wild bat or deny it the use of its roost.

A bat survey of the trees within the site has been undertaken the conclusion of which was that none of the trees which are to be felled showed signs of being used as a bat habitat.

Although there was no evidence of bats using the trees with cavities there still remains a possibility that these trees could be used by bats. Due to this possibility, trees will be soft felled to avoid disturbance to bats. A Bat Surveyor will be present during the felling. The trees will have each cavity inspected before felling, using a torch or an endoscope when necessary. Branches with cracks, which are unable to be accessed, will be lowered to the ground with ropes. Bat boxes will be positioned in neighbouring retained trees, and if any bats are found, they will be relocated to these roosting areas.

This is considered acceptable and in accordance with the Policy NE8 (Natural Heritage) 'Bats and Development' Supplementary Guidance no further action is required.

### **Affordable Housing / Developer Contributions**

In accordance with Policy H5 and I1 the developer has confirmed that contributions will be made towards affordable housing, improvements to community, sports and recreation facilities, library provision, the core path network and strategic transport fund.

Kittybrewster Primary School and St. Machar Academy are both operating within capacity and therefore no education contributions are required.

### **Relevant Planning Matters Raised in Written Representations**

Matters relating to design, impact upon residential amenity, trees, access, traffic and car parking have been addressed in the relevant sections earlier in this report. Other matters raised in letters of representation are addressed below –

- It has been suggested that measures should be taken to compensate neighbouring properties for disruption during construction, with particular reference to dust nuisance. There is no mechanism through this planning application to allow neighbouring residents to be compensated for disruption during construction work. Should dust be a particular problem then the Council's Environmental Health service have powers to address the matter through control of pollution legislation.
- The current condition of the road surface on Hilton Avenue is not a matter which can be addressed through this planning application as suggested in a letter of representation. The maintenance of what is an adopted road is the responsibility of the Council as roads authority, rather than the responsibility of the applicant.

### **RECOMMENDATION**

- (a) Willingness to approve subject to conditions, but to withhold the issue of the consent document until either the applicant has entered into a section 75 legal agreement with the Council to secure the identified developer contributions; or payment of the identified developer contributions has been made.**
- (b) To instruct officers to utilise powers under Section 160(1) of the Town and Country Planning (Scotland) Act 1997 to make a tree preservation order to cover (i) the trees to be retained within the application site and (ii) those trees which also form part of the same group which are located along the boundary of 6-24 Hilton Avenue and 1-31 Hilton Terrace.**

## **REASONS FOR RECOMMENDATION**

In principle it is accepted that the site would be suitable for residential development and that such a use would not generally adversely affect the surrounding area, in accordance with Policy H1 (Residential Areas).

The proposed layout and design is considered to be generally acceptable and complement the surrounding area. Although the potential amenity of residents of the flats would be compromised somewhat due to the tight layout it is not considered to be of significant concern. The proposed design and materials are considered acceptable for the area and the proposal has taken account of the provisions of Policies D1 (Architecture and Placemaking) and D2 (Design and Amenity).

In accordance with Policy H1 (Residential Areas) the impact upon the amenity and privacy of surrounding properties is considered to be minimal and can be maintained through the use of additional planting which is proposed as part of the development.

There is a slight shortfall in the parking to be provided for the flats, however on this occasion this has been accepted by the Roads Projects Team. Satisfactory parking has been provided for the townhouses. The car park for block B would attract a low number of movements and provided that give way markings are provided at the junction the Roads Projects Team do not have concern with the proximity of the car park access with the junction of Hilton Avenue and Baker Avenue. The proposal is in accordance with Policy T2 (Managing the Transport Impact of Development).

It is unfortunate that mature trees need to be removed and there is clearly tension with Policy NE5 (Trees and Woodland) which has a presumption against development that will lead to the loss of established trees. However tree removal has been kept to a minimum to allow a development of a reasonable scale to be implemented and significant trees along the northern boundary of the site would be retained to ensure a green backdrop to the site remains. A suitable level of compensatory planting will be provided to reinforce the trees which are to be retained. The proposal is also in accordance with the Policy NE8 (Natural Heritage) 'Bats and Development' Supplementary Guidance.

In order to ensure retention of the trees into the future it is recommended that a tree preservation order is made to cover the trees which are to be retained on the site and the trees which are located to the east and form part of the same group and are between the mutual boundaries of 6-24 Hilton Avenue and 1-31 Hilton Terrace.

There is no mechanism to allow neighbouring residents to be compensated for disruption during construction work. Should dust be a particular problem then the Council's Environmental Health service have powers to address the matter. The maintenance of Hilton Avenue is the responsibility of the Council as roads authority rather than the applicant.



## **CONDITIONS**

**it is recommended that approval is granted subject to the following conditions:-**

(1) that no buildings on the development site shall be occupied unless the remedial measures identified in the approved Phase II Site Investigation Report have been carried out. These measures comprise (a) provision of 600mm inert cap within soft landscaped areas in the west of the site and (b) provision of gas protection measures to include a radon barrier membrane and sub-floor venting. Thereafter a report shall be submitted to and approved in writing by the planning authority that verifies that completion of the remedial works for the entire application site, unless the planning authority has given written consent for a variation – in order to ensure that the site is fit for human occupation.

(2) 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 quality and to ensure that the development can be adequately drained.

(3) that no development shall take place unless further details of the proposed refuse stores have been submitted to and approved in writing by the planning authority. Granite from the demolition of the existing building or boundary wall shall be utilised for creation of the refuse stores. Thereafter none of the flats shall be occupied unless the refuse stores have been provided - in order to ensure that adequate refuse storage facilities are provided.

(4) that no development shall take place unless further details of the proposed cycle stores have been submitted to and approved in writing by the planning authority. Thereafter none of the flats shall be occupied unless the cycle stores have been provided - in order to encourage use of sustainable modes of transport.

(5) that no development 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. Granite from the demolition of the existing building or boundary wall shall be utilised for the front boundary of the site with Hilton Avenue. None of the buildings hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety - in order to ensure that suitable boundary enclosures are provided.

(6) that the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, laid-out and demarcated in accordance with drawing No. PL-00B of the plans hereby approved or such other drawing as may subsequently be submitted and

approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars ancillary to the development and use thereby granted approval - in the interests of public safety and the free flow of traffic.

(7) 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 order to integrate the development into the surrounding area.

(8) that all planting, seeding and turfing comprised in the approved schemes 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.

(9) that no development pursuant to this planning permission shall take place unless the tree protection fencing detailed in the Tree Report by Astell Associates dated 11th June 2013 and shown on drawing HNH-1206-TP has been erected. Thereafter the tree protection fencing shall remain in place until the completion of development - in order to ensure adequate protection for the trees on site during the construction of the development.

(10) that any tree work which appears to become necessary during the implementation of the development which has not been identified on the Tree Report by Astell Associates dated 11th June 2013 and shown on drawing HNH-1206-TP 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.

(11) 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: 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.

(12) No development shall take place unless the planning authority has approved in writing a scheme for the supervision of the arboricultural protection measures

and works that have been approved by the planning authority for the construction phase of the development. Such a scheme shall include the timing and method of site supervision and record keeping. Supervision shall be carried out by a qualified arboriculturalist approved in writing by the Planning Authority but instructed by the applicant - in order to ensure adequate protection for the trees on site during the construction of the development.

(13) that no development shall take place unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority. Thereafter no building shall be occupied unless the recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full - to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.