

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise Planning and Infrastructure
DATE	21st January 2014
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Driveway Application Appeal – 12 Bervie Brow, Cove, Aberdeen
REPORT NUMBER:	EPI/13/223

1. PURPOSE OF REPORT

This report advises members of the details of the appeal against officer's decision to refuse the application to form a driveway at 12 Bervie Brow, Cove, Aberdeen.

2. RECOMMENDATION(S)

That the Committee:

1. rejects the application for a driveway at 12 Bervie Brow due to the proposed access being taken from a public parking area, which is against the approved policy for driveways, and the allowing of said driveway would be detrimental to the general parking provision for the area.

3. FINANCIAL IMPLICATIONS

Should the Committee choose to allow the application there would be no financial implications as the applicant would be liable for all costs involved in the construction of the driveway and associated footway crossing.

4. SERVICE AND COMMUNITY IMPACT

The creation of driveway at the front garden at 12 Bervie Brow has the potential to lead to additional road safety risks. Reduction of the available parking spaces may lead residents to park indiscriminately creating problems of obstruction and road safety. Parking on footways would create difficulties of access and safety issues for pedestrians.

5. OTHER IMPLICATIONS

There is a risk that by approving a driveway at 12 Bervie Brow a precedent will be set making it difficult to resist future similar applications.

6. BACKGROUND

At its meeting of 27 September 2005 the Policy & Strategy Committee resolved to approve a revised Roads Consent Policy for the assessment of driveway applications. The revised policy aims to provide scope for prospective applicants in areas which are currently affected by local parking capacity problems and which are constrained by the current policy. The revised sections are as follows –

- I. A driveway will not generally be allowed access from a parking lay-by if that lay-by is regularly used by parked vehicles, and locally available parking would be reduced detrimentally by creating a driveway access.
- II. Access to a driveway from a communal car park will generally not be allowed if car parking spaces are removed and the overall parking provision within the car park is reduced. However, consent may be considered if the following criteria can be fully satisfied –
 - If the number of spaces which would be removed as a result of creating a driveway can be replaced elsewhere in the area, and
 - Funding can be identified to construct the relocation of car parking spaces elsewhere, and also
 - The applicant(s) has the agreement of the Local Member to progress a scheme for the requisite amount of car parking spaces which would be lost in providing a driveway access.

In relation to point (II) above it is recognised that in most cases, parking problems will affect a local area and not just individual residents. In that regard the policy condition set out above states that the Local Member must grant their consent, and hence be directly consulted, in each case for area schemes which propose to provide the balance of parking lost from the installation of a driveway. But perhaps most importantly, funding has to be in place to create the replacement parking before the driveway application can be created.

6.1 APPLICATION FOR CONSIDERATION – 12 BERVIE BROW (see appendix 1, 2&3)

This application is within the ward of Councillor Andrew Finlayson, Councillor Neil Cooney and Councillor Callum McCaig and is a request from the resident of 12 Bervie Brow for a driveway to be installed within the front garden area. In this instance there is no requirement for a Planning Application but the driveway application needs Roads Consent. The application for the driveway was refused, as access would be from a public parking area and is against the policy for driveways as mentioned in 6.0. It may be of interest to member that permission was granted for a driveway at the rear of 12 Bervie Brow on the 22nd March 2006. The driveway access is to the rear of the property. It

should be noted that officers at that time were not aware of the severity of the resident disability.

The applicant is disabled and due to the nature of the disability has now requested the driveway to be installed within his front garden, where he uses a wheelchair to access from a communal car park. Officers do have sympathies with the applicants' current situation; however an access through the front garden was refused as it does not comply with the adopted council policy. The resident has appealed against the officers decision through Councillor Andrew Finlayson who supports the application and has requested that the application be presented to Committee for consideration, as he feels in this situation it can be justified.

The driveway, within the front garden would remove 2 public parking spaces to provide one private off-street parking space. The removal of spaces from this car park would further impact on the public parking provision within this area. For this reason the application has been refused. It should be noted that the communal car park outside 12 Bervie Brow provides a total of 8 possible vehicular parking spaces serving some 14 properties. Currently 4 of these spaces have been turned into disabled car parking spaces. Moreover the resident at 12 Bervie Brow has his own allocated disabled parking space within the car park. Currently this allocated space can be used by the resident, however under the new legislation this space can be used by anyone who has a valid disabled parking badge.

Officers carried out a survey and observed that the car park outside 12 Bervie Brow is well occupied and occasionally 1 free space would be found. Adjacent car park east side of Bervie Brow which serves the local shop is relatively free at all times. On-street parking at the rear side between numbers 11-14 Bervie Brow is generally free as the other side of the road between 22-30 Marchmont Street mostly has driveways.

The provision of a driveway at this location will:

- Require the relocation of the existing disabled parking spaces currently provided in the most appropriate locations.
- Reduce the amount of spaces available to the residents, possibly to three, and will lead to indiscriminate parking which will cause a road safety hazard. Footway parking puts pedestrians at risk, especially children and those with a disability.
- Generally have detrimental impact on the parking for the local area and on those residents who do not have exclusive off street parking available.

It is therefore not considered appropriate to create a driveway within the front garden which requires access to be formed through the communal parking area since it will remove two parking spaces and set a precedent making similar applications difficult to resist.

7. BACKGROUND PAPERS

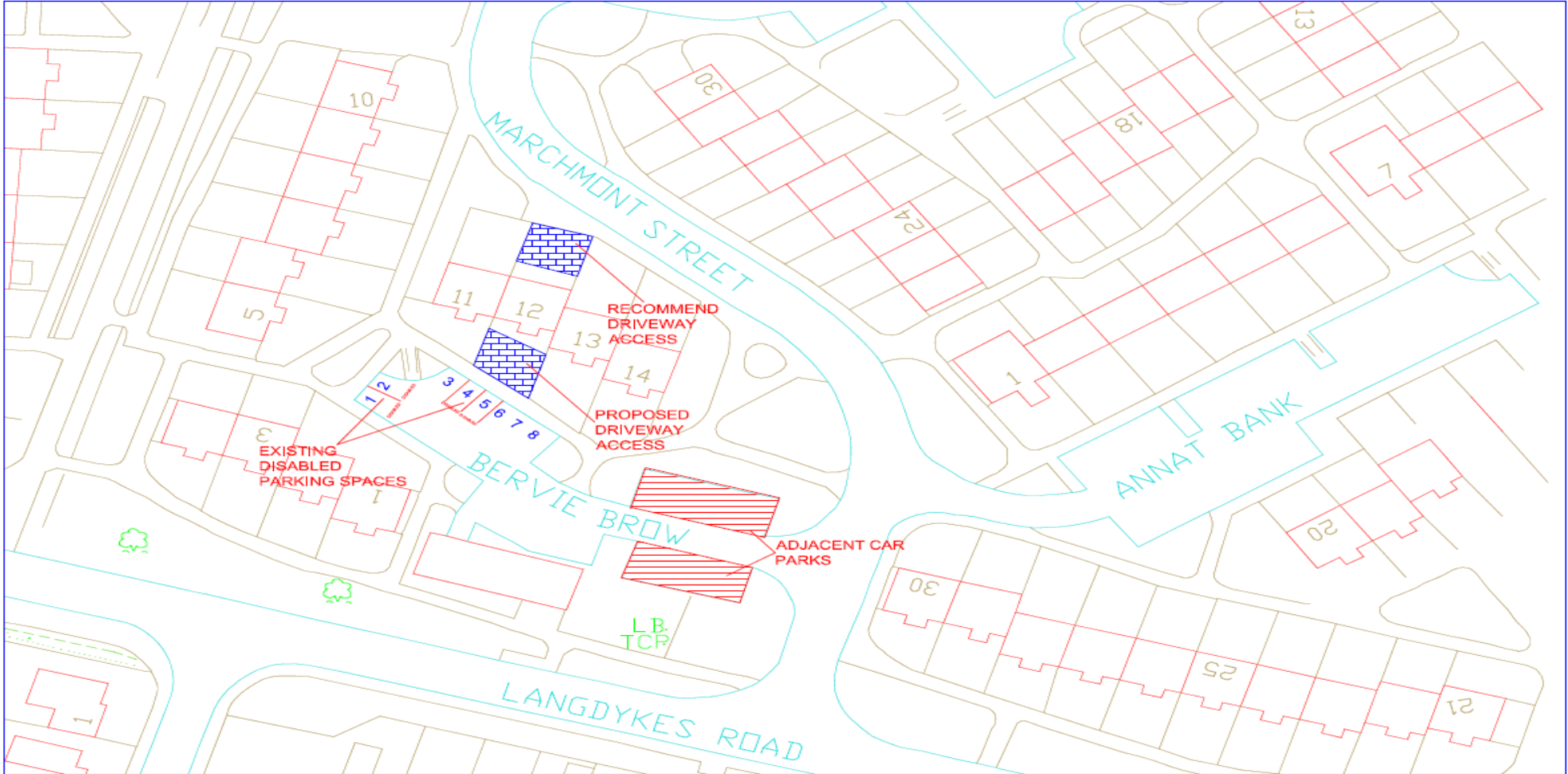
Appendix plan's 1, 2 and 3.

8. REPORT AUTHOR DETAILS

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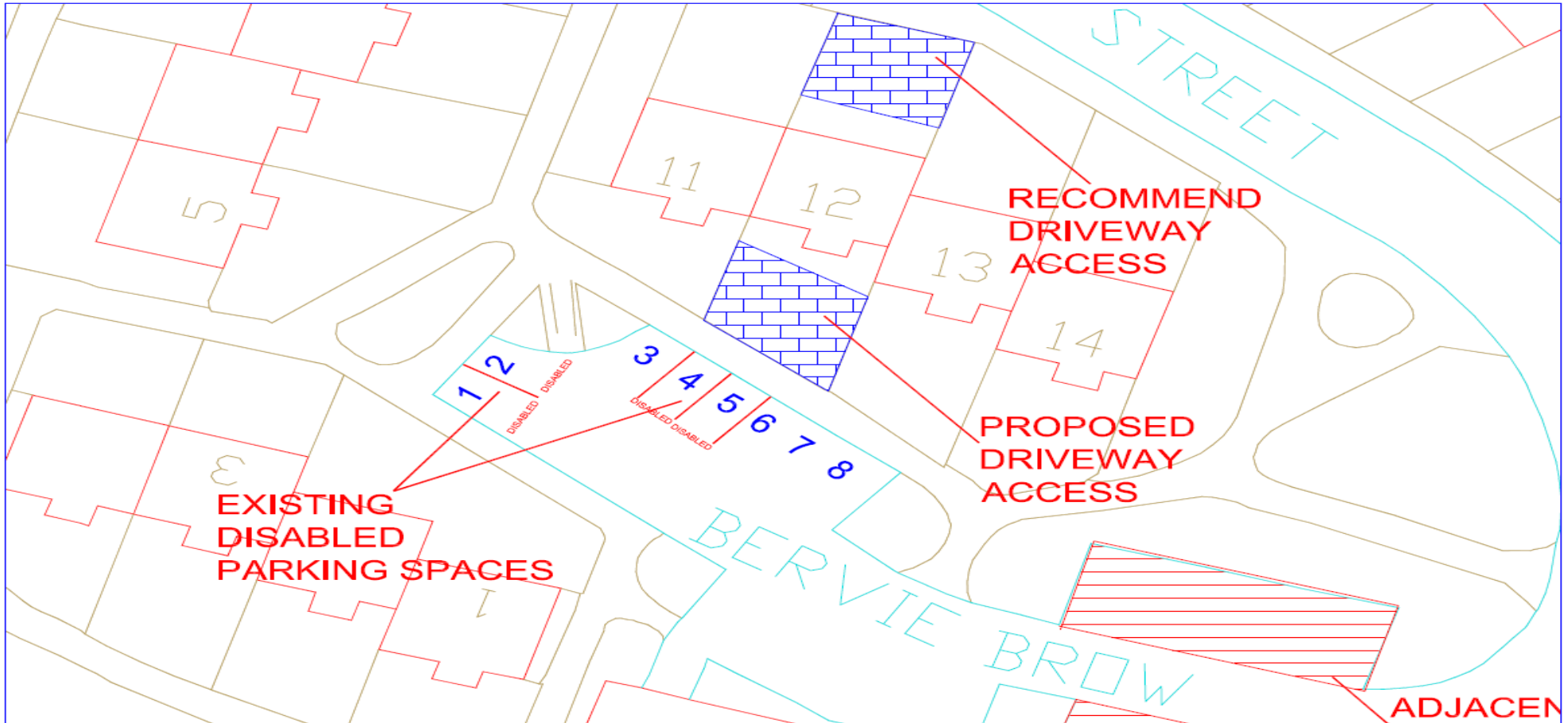
APPENDIX PLAN 1:

12 BERVIE BROW DRIVEWAY ACCESS



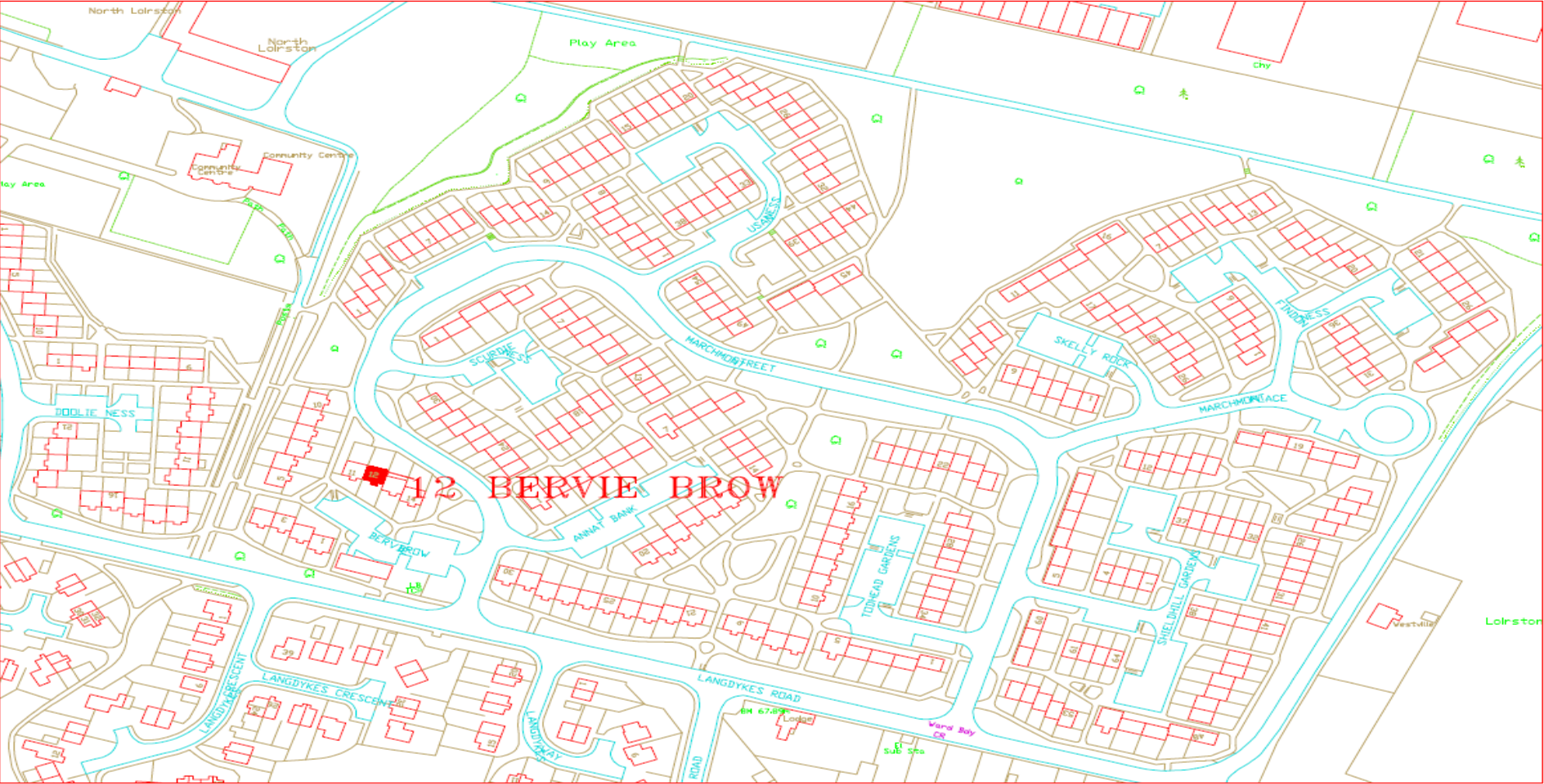
APPENDIX PLAN 2:

12 BERVIE BROW - DRIVEWAY ACCESS



APPENDIX PLAN 3:

12 BERVIE BROW – DRIVEWAY ACCESS



Consultees Comments

Enterprise, Strategic Planning and Infrastructure Committee

Convener: Councillor Barney Crockett – has been consulted

Vice Convenor: Councillor Ramsay Galloway Milne– has been consulted

Council Officers

Councillor Andrew Finlayson - **emailed 29 November 2013** and has requested officers to review the decision based on the below points and to grant his constituent permission for a driveway to be installed for easier and safer access to his property.

- Councillor Finlayson believes it is impracticable for a rear driveway access since the resident need to maintain security fencing as protection for himself and his neighbours. Moreover incorporating a gate in the fencing would be of little use as his disability would prevent him from opening and closing the gate.
- Moreover as the resident was severely injured in a road traffic accident suffering a broken neck which resulted in him being paralysed from the waist down. This means that he cannot walk unaided and even with the use of elbow crutches it requires great effort to cover a very short distance. It can take him of the order 10 minutes to reach his front door from his current parking space. In inclement windy or wintry weather it becomes extremely hazardous for him and he has fallen on a number of occasions which necessitated that the emergency services were called to provide assistance.
- Despite the resident disability he continues to work full time in a job that requires him to work shifts. This means he is leaving or returning home at varying time during the day and night often when the surface of the footpath is at its most dangerous.

Councillor Neil Cooney - **emailed 29 November 2013 and has no comments on this report**

Councillor Callum McCaig - **emailed 29 November 2013 and has no comments on this report**

Lorna Inglis, Secretary to Head of Finance – **emailed 29 November 2013 and has no comments on this report no comments**

Jane MacEachran, Head of Legal and Democratic Services, Corporate Governance - - **emailed 29 November 2013 and has no comments on this report**

Ciaran Monaghan, Head of Service, Office of Chief Executive – **emailed 29 November 2013 and has no comments on this report**

Gordon McIntosh, Director of Enterprise, Planning and Infrastructure - **emailed 29 November 2013 and has no comments on this report**

Hugh Murdoch, Head of Asset Management and Operations, Enterprise, Planning and Infrastructure - **has been consulted**

Margaret Bochel, Head of Planning & Sustainable Development, Enterprise, Planning and Infrastructure - **emailed 29 November 2013 and has no comments on this report**

Mike Cheyne, General Manager Operations, Enterprise, Planning and Infrastructure – **has been consulted**

Neil Carnegie, Community Safety Manager, Housing and Environment - **emailed and has no comments on this report**

Dave Young, Account Manager, Corporate Governance - **emailed and has no comments on this report**