

## ABERDEEN CITY COUNCIL

---

COMMITTEE	<b>Communities, Housing &amp; Infrastructure</b>
DATE	<b>18 March 2015</b>
DIRECTOR	<b>Pete Leonard</b>
TITLE OF REPORT	<b>Garthdee – Proposed Controlled Parking Zone – Initial Statutory Consultation</b>
REPORT NUMBER	<b>CHI/15/109</b>
CHECKLIST RECEIVED	<b>Yes/No</b>

---

### 1. PURPOSE OF REPORT

This report deals with the comments received during the initial statutory consultation period in relation to the proposed introduction of a controlled parking zone in Garthdee in the area shown in blue of Appendix 1 of this report.

### 2. RECOMMENDATION(S)

It is recommended this Committee:

- (i) acknowledges the contents of this report
- (ii) notes the concerns of the Community Council
- (iii) instructs Officers to progress to the public advertisement stage and report the results to a future committee.

### 3. FINANCIAL IMPLICATIONS

The implementation of the CPZ is to be financed by the Robert Gordon University (RGU) as per the legal agreement associated with the consent for the new Riverside East building at the Garthdee Campus.

The legal agreement associated with the planning permission requires the University to pay for all costs incurred by the council in relation to the implementation of a controlled parking zone in the presently uncontrolled area bounded by Auchinyell Road, Garthdee Road and the A90 South Anderson Drive. Following implementation, and annually thereafter for a period of ten years, the University has agreed to make payments of; a maximum of £2000 contribution for the administration of resident's permits, a maximum of £2000 contribution for the administration of non-residents permits and an annual payment of £13,000 in relation to the costs of enforcing the controlled parking scheme.

#### 4. OTHER IMPLICATIONS

The current legal agreement states that implementation of the scheme (if finally approved) is required before the end of November 2015. If it is not agreed to proceed to public consultation at this time there is a concern that the implementation of the CPZ will not meet this tight deadline.

#### 5. BACKGROUND/MAIN ISSUES

- 5.1 The Urgent Business Committee, on 27 November 2014, considered a report on a proposed Controlled Parking Zone (CPZ) for the Garthdee and Kaimhill area. This area is not currently covered by any formal parking restrictions. After consideration of the report, it was resolved to instruct officers to commence the initial statutory consultation process.
- 5.2 The initial statutory consultation process was carried out from the 11 December 2014 to the 19 January 2015. The list of statutory bodies, who were consulted during this process, is shown in Appendix 2 of this report.
- 5.3 Two responses to the initial statutory consultation were received. One from the Scottish Fire and Rescue Service, who had no objection to the proposals, and the other, was received from Garthdee Community Council.
- 5.4 The response from Garthdee Community Council is shown in Appendix 3 of this report. The letter is not a formal objection to the proposed scheme but a request for clarification in relation to the public consultation. The letter states that the “provision of permits free of charge should be made clear in the Draft Order and in the Public Notices for the Statutory Consultation.”
- 5.5 At this time there is no decision to cover the cost of ‘free residents permits’, it is proposed that the public advertisement states that the cost of the permits would be advertised as £60 for a first permit and £120 for the second permit. Business permits would be advertised as £500 per permit, up to a maximum of two permits. This is in-line with the rates to be charged in all other CPZ’s throughout the city from 1 April 2015. Disabled ‘Blue Badge’ holders would be exempt from purchasing and displaying a permit, as long as a valid ‘Blue Badge’ was displayed in the vehicle and that the parked vehicle is for their own use. Likewise, residents who have their own driveway and choose to utilise it, will not have to display a voucher or parking permit unless parked on-street.
- 5.6 The Planning and Sustainable Development Service response to the comments submitted by Garthdee Community Council is as follows;

*“In response to the points raised in the submission by Garthdee Community Council dated 15 January 2015, the following points seek to outline the relationship to the relevant developments which have resulted in the consolidation of the RGU Campus at Garthdee.*

*Two separate planning applications have resulted in planning permission being issued at the Garthdee Campus, with both the subject of legal agreements, and planning conditions.*

*The first application (Ref: 98/0900) for the erection of the Faculty for Health and Food of some 13,200 square metres was granted in January 2001. It outlined the requirement for a Green Travel Plan, and contributions towards the introduction of the controlled parking zone in Garthdee. The associated legal agreement also set out that the associated time period for measuring/monitoring/reviewing the Green Travel Plan would last for a period of ten years. Further contributions towards the establishment, construction and administration of the Controlled Parking Zone were also set out within the legal agreement which would also apply for a period of ten years.*

*A subsequent application (Ref:091761) for the erection of a further faculty development of 35,000 square metres was granted planning permission in July 2010. Similar to the previous application, there was an identified requirement for a revised Green Travel Plan, and the new controlled parking zone, among other contributions. Again contributions towards the establishment, construction and administration of the proposed Controlled Parking Zone were also set out within the legal agreement, with a ten year period applicable.*

*No reference was made in either application (in either the conditions or clauses of the relevant legal agreement) that the permits would be provided free of charge. The respective planning applications set the requirements for the creation of the existing CPZ, and the proposed new CPZ. As such, the respective applications have resulted in negotiated legal agreements with ACC that meet with the requirements of planning legislation in order to mitigate against the impact of development. However, the formal arrangement for the promotion of the necessary orders, and any associated applicable charges, is a matter for the consideration of the appropriate Committee.”*

- 5.7 Given the aforementioned, it is proposed that this scheme should proceed to full public advertisement. This will provide any party with the opportunity to consider the detailed design and methods of operation associated with the CPZ.

## 6. IMPACT

- 6.1 Within the Local Development Plan (LDP) the existing Garthdee and Kaimhill areas are zoned as residential. The land upon which the RGU expansion has taken place is zoned as an existing community facility.

The Local Transport Strategy (LTS) and the Supplementary Guidance to the LDP aim to minimise single occupancy use of the private car in favour of more sustainable modes of travel. The aim of introducing a CPZ is to protect on-street residential parking, to discourage patrons of the RGU from using private vehicles and to reduce the volume of traffic on the distributor roads leading to the campus and on the residential streets surrounding the campus. The implementation of the proposed CPZ is considered to adhere to these policies.

- 6.2 The content of the report meets with the Local Community Plan objectives to continually improve road safety and maximize accessibility for pedestrians and all modes of transport.
- 6.3 The proposals are in line with the Council's Transportation Strategy to improve safety for all road users by continuing to reduce the number of casualties in traffic collisions.
- 6.4 The contents of this report link to the Community Plan vision of creating a "sustainable City with an integrated transport system that is accessible to all".

The projects will contribute to the delivery of the Smarter Mobility aims of Aberdeen – *The Smarter City*: "We will develop, maintain and promote road, rail, ferry and air links from the city to the UK and the rest of the world. We will encourage cycling and walking", and "We will provide and promote a sustainable transport system, including cycling, which reduces our carbon emissions."

- 6.5 This project supports the 5 year Corporate Business Plan which includes an aim of delivering a fully integrated transport network to support movement and economic growth.

## 7. MANAGEMENT OF RISK

Where the recommendations of this report are not accepted there is the risk that road safety levels and traffic management could be compromised, thereby resulting in on-going public concern, negative media reporting, and reputational damage.

If it is not agreed for the implementation of the CPZ to go ahead at this time, there would be a point in the future that it could not be realistically expected that the Robert Gordon University cover the cost of a CPZ scheme. If at this point the issue of parking becomes a greater problem for the residents, any work carried out would become a burden on the council's budget. To implement the scheme would also take a minimum of nine months, due to the legal processes involved.

This proposal however could prove contentious and it is therefore possible that it could be subject to negative feedback and/or

comments. In this respect, concerned parties would be provided with a thorough rationale as to the necessity of the proposal.

## 8. BACKGROUND PAPERS

Report presented to the Urgent Business Committee 27 November 2014

<http://committees.aberdeencity.gov.uk/documents/s42585/Garthdee%20CPZ.pdf>

Minute of Urgent Business Committee 27 November 2014

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=334&MId=3576&Ver=4>

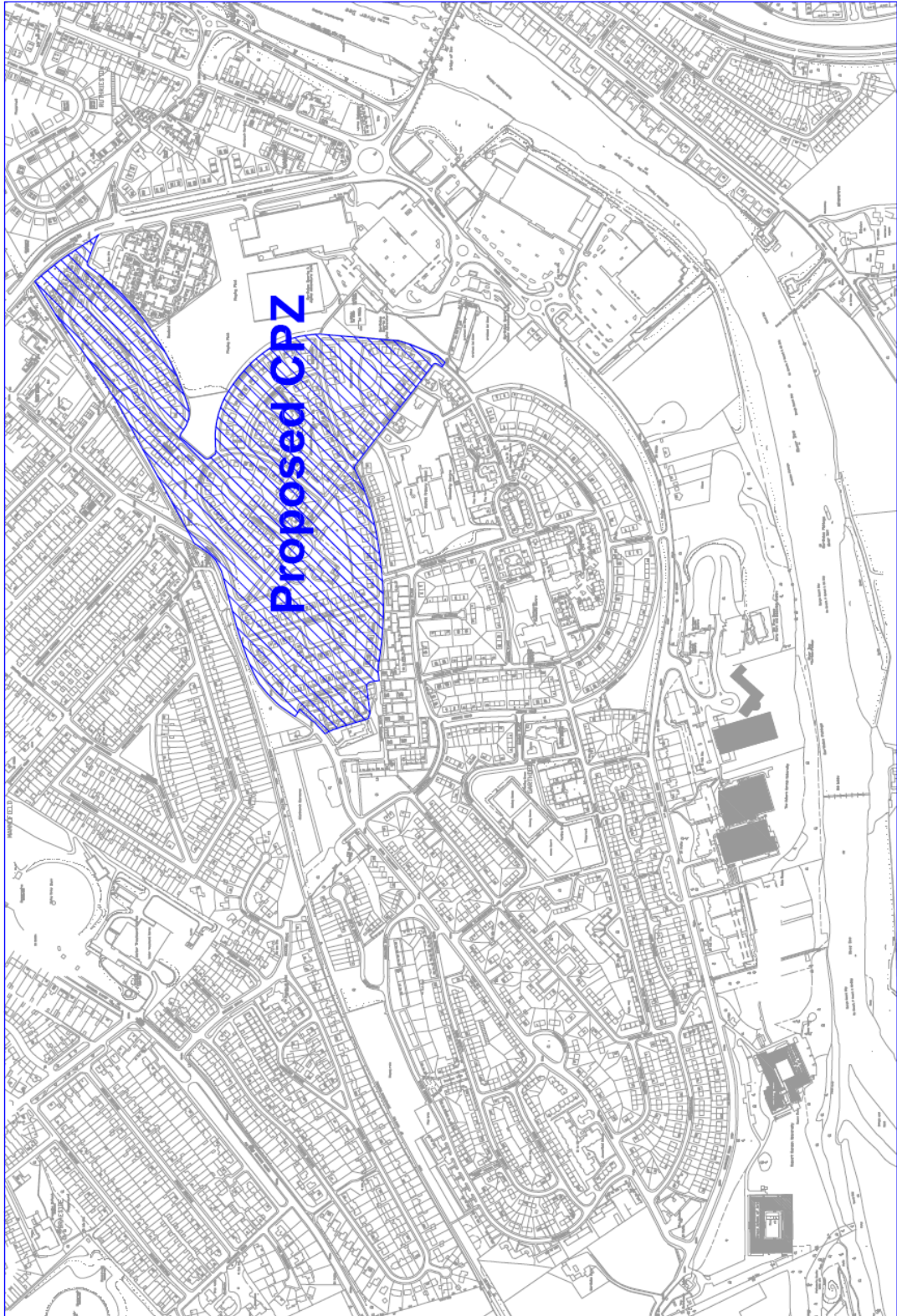
Legal agreement dated 23 July 2010 between Aberdeen City Council and Robert Gordon University in relation to the consent to planning application P091761.

## 9. REPORT AUTHOR DETAILS

Katherine Duncan  
Technical Officer  
Traffic Management Team  
Communities, Housing and Infrastructure  
Tel. (01224) 522319  
E-mail [kathduncan@aberdeencity.gov.uk](mailto:kathduncan@aberdeencity.gov.uk)

## Appendix 1

Garthdee / Kaimhill Proposed Controlled Parking Zone



## Appendix 2

<u>Consultee</u>	<u>Response</u>
Police Scotland	Consulted 11 December 2014. No response.
Garthdee Community Council	Consulted 11 December 2014. Response 15 January 2015
Scottish Ambulance Service	Consulted 11 December 2014. No response
Stagecoach Bluebird	Consulted 11 December 2014. No response.
Public Transport Unit	Consulted 11 December 2014. No response.
Disability Action Panel	Consulted 11 December 2014. No response.
Scottish Fire & Rescue Service	Consulted 11 December 2014. No objection.
First Aberdeen Ltd	Consulted 11 December 2014. No response.
NESTRANS	Consulted 11 December 2014. No response.
Aberdeen Business Association	Consulted 11 December 2014. No response.
Road Haulage Association	Consulted 11 December 2014. No response.
Aberdeen Cycle Forum	Consulted 11 December 2014. No response.
Grampian Cyclists Touring Club	Consulted 11 December 2014. No response.
Councillor Neil Cooney	Consulted 11 December 2014. No response.
Councillor Gordon Townson	Consulted 11 December 2014. No response.
Councillor Ian Yuill	Consulted 11 December 2014. No response.
Councillor Angela Taylor	Consulted 11 December 2014. No response.

## Appendix 3

GARTHDEE COMMUNITY COUNCIL,  
C/O 81, Inchbrae Drive,  
ABERDEEN  
AB10 7AJ

15 January 2015

Katherine Duncan  
Traffic Management and Road Safety  
Business Hub 10  
Second Floor South  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Dear Ms Duncan,

Thank you for the invitation of 11 December 2014 for Garthdee Community Council to submit comments on the proposal to extend the existing Controlled Parking Zone in the Garthdee/Kaimhill area of Aberdeen. At the meeting of 13 January 2015 I was mandated to submit this response on behalf of the Community Council.

Community Council note that this is a proposal for the amendment of the Garthdee/Kaimhill Controlled Parking Zone (Zone Y) to extend it to cover the whole of that area bounded by Auchinyell Road, Garthdee Road and the A90 (South Anderson Drive) and NOT a proposal for a new Controlled Parking Zone.

The Community Council offer support in principle to this long overdue proposal, which should have been implemented before the Riverside East Buildings of RGU were occupied, but subject to Exemption Permits being made available to Residents free of charge. This provision of Permits free of charge should be made clear in the Draft Order and in the Public Notices for the Statutory Consultation.

The basis for free of charge permits is as follows:-

- The Garthdee/Kaimhill CPZ was first proposed in an insert of 30 March 2000 to a Report of 4 November 1999 on the Planning Application 98/0900 for the original development of the Garthdee Campus of RGU. It proposed a phased development of the CPZ to be implemented as evidence suggested the need for extensions. The phases were to be funded by RGU as the generator of parking pressures which necessitated the CPZ. This current proposal appears to be the next phase of the originally presented commitment.
- A memorandum from Roads Section, dated 12 March 2010, in response to consultation on Planning Application P091761 for RGU's Riverside East development says: *"I would ask that a condition be attached to any approval, if given, that the existing CPZ be extended to include the uncontrolled road area bounded by Auchinyell Road, Garthdee Road and the A90 Anderson Drive. The applicant would be required to fund the CPZ extension, including all associated costs, and this would require to be included within a legal agreement."*



- Development Management Sub-Committee of 18 March 2010 resolved to approve the application subject to Condition 27 *“That the development hereby approved shall not be occupied unless a scheme for the extension of the Garthdee Controlled Parking Zone (CPZ), to include the uncontrolled area bounded by Auchinyell Road, Garthdee Road and the A90 (South Anderson Drive), has been submitted to and approved in writing by the local planning authority. The agreed (CPZ) scheme shall thereafter be implemented in full prior to the occupation of the development and with all costs borne by the applicant unless otherwise agreed in writing with the planning authority.”* The same sub-Committee resolved to *“authorise the Head of Planning and Sustainable Development to withhold release of the approval Notice pending the conclusion of a binding legal agreement in terms satisfactory to the Head of Legal and Democratic Services and under which the applicants will agree to meet the costs of an extension of the existing Controlled Parking Zone arrangements for Garthdee in order to extend over the whole of the area bounded by Garthdee Road, South Anderson Drive and Auchinyell Road, which extended area shall operate on a basis which reflects the terms of the existing Section 75 planning agreement in place between the Council and the University.”* [Note this original agreement provided for Residential Exemption Permits to be provided to residents free of charge and so, as Committee resolved, it should be replicated in this case.]
- The RGU Garthdee Campus Masterplan adopted by Aberdeen City Council as Supplementary Planning Guidance to the Statutory Development Plan says *“As a result the extension of the time period of the ‘free-for-residents’ CPZ (with the period to be determined through consultation with the Local Authority) is a key principle of the Masterplan.”* [Section 6]

Thus, provision having been made for RGU fully to fund the extended CPZ, any charge made on residents for the provision of Residential Exemption Permits would be unlawful and not allowed under the Road Traffic Regulation Act 1984. As was found in the High Court by Lady Justice Lang: *“section 122 of the 1984 Act was not intended to authorise a local authority to raise a levy on parking permit holders, pursuant to section 45(2)(b), to fund any project which met the objects set out in section 122. Such an intention was not expressly stated nor could it be implied. The 1984 Act was not a revenue raising or taxing statute. It did not authorise the authority to use powers to charge local residents for parking in order to raise surplus revenue to defray other road transport expenditure and reduce the need to raise income from other sources, such as fines, charges and council tax. That purpose was not authorised under the 1984 Act.”* [Regina (Attfield) v Barnet London Borough Council [2013] EWHC 2089 (Admin); [2013]WLR(D) 303]

Please acknowledge receipt of this response.

Yours sincerely,

Bill Lonsdale

Bill Lonsdale  
Garthdee Community Council

Cc Paul O'Connor MBE Chair Garthdee Community Council