

Planning Development Management Committee

LAND AT DALRIACH, CONTLAW ROAD,
MILLTIMBER

DEMOLITION OF EXISTING DWELLING HOUSE,
ERECTION OF 5 DWELLING HOUSES AND
FORMATION OF IMPROVED VEHICLE ACCESS.

For: Mr B Kelly

Application Type: Cert of Appropriate Alternative
Development

Advert: None required

Advertised on: n/a

Application Ref.: P151571

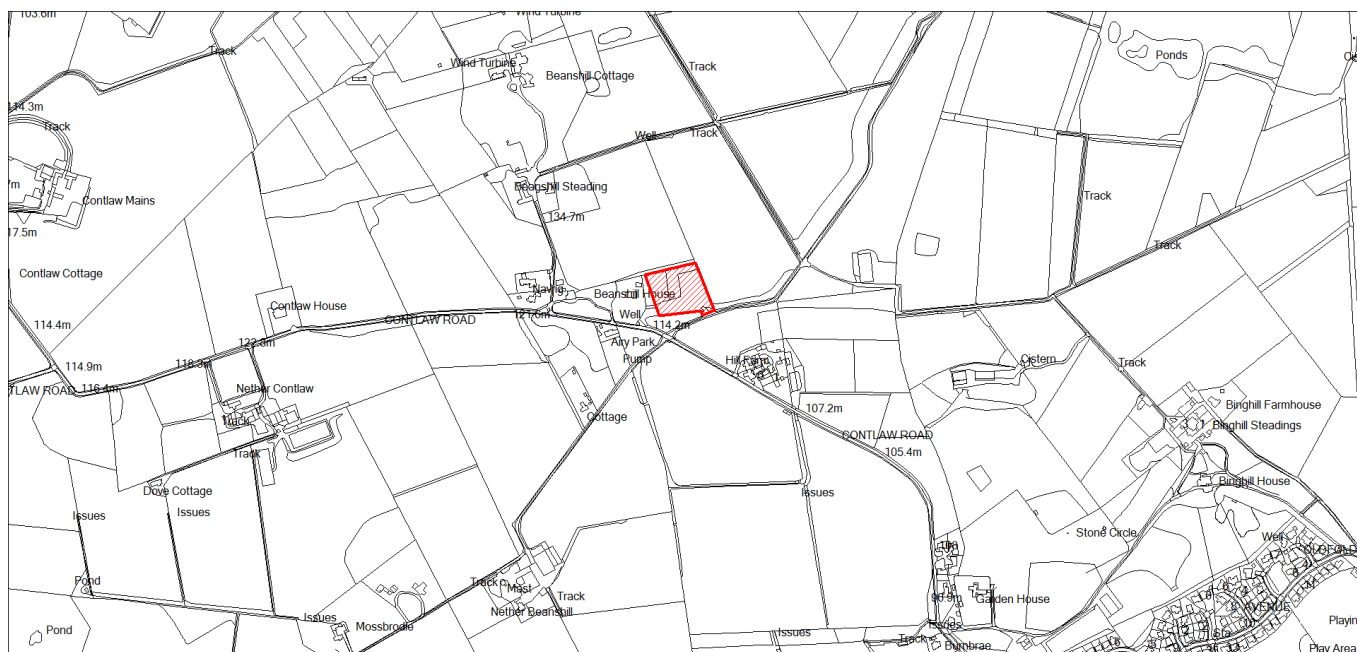
Committee Date: 11th February
2016

Application Date: 8th October 2015

Officer: Matthew Easton

Community Council: No
consultation required.

Ward : Lower Deeside (M Boulton/A Malone/M Malik)



RECOMMENDATION:

That a certificate of appropriate alternative development is issued stating –

1. that in respect of the land which is subject of the application, on the relevant date of 25th September 2007 or at a future time, planning permission would have been granted for –
 - a) a single replacement dwellinghouse on a one-for-one basis;

- b) for horticulture and nursery with a small-scale ancillary retail element (such as a farm-shop);
- c) for non-residential agricultural or forestry buildings associated with a agricultural or forestry use on the land; or
- d) for telecommunications masts and ancillary equipment,
- e) any householder development ancillary to the use as a dwellinghouse (such as an extension, domestic garage, alterations to the house);
- f) small scale equestrian use including the construction of related buildings and structures (such as stables or tack rooms);

but would not have been granted for any other use.

2. that any planning permission described in (1) would have been granted subject to conditions requiring the applicant to submit satisfactory details, prior to the commencement of development, for approval by the planning authority which addressed the following matters –
 - a) layout, scale, massing, design and external appearance of buildings or structures;
 - b) disposal of surface water and foul drainage;
 - c) provision of vehicular access to the site;
 - d) landscaping of the site to mitigate any visual impact.
3. that because Scottish Ministers through Transport Scotland, made orders under the Roads (Scotland) Act 1984 promoting the Aberdeen Western Peripheral Route, which is the scheme for which the application land is to be acquired, it would not be appropriate to include planning permission for the scheme in the certificate as would normally be the case.

BACKGROUND TO CERTIFICATES OF APPROPRIATE ALTERNATIVE DEVELOPMENT

Where land is to be acquired using compulsory purchase powers, the owner of the land, acquiring authority or other person with an interest, may apply to the planning authority for a certificate of appropriate alternative development (“CAAD”), which sets out the uses of the land for which planning permission would have been granted if the land had not been compulsorily acquired. This is in order to assist in establishing the value of the land and thereafter an appropriate amount of compensation to be awarded to the landowner by the acquiring authority.

A CAAD is not a planning application and must be assessed on a hypothetical basis and with reference to the planning policy and circumstances on the date which the compulsory purchase orders and notices were served (“the relevant date”).

The relevant legislation is the Land Compensation (Scotland) Act 1963 (“the 1963 Act”).

When submitting a CAAD application, the applicant must state whether or not there are, in the applicant's opinion, any classes of development which either immediately or at a future time, would be appropriate for the land in question, if it were not proposed to be compulsorily acquired. The applicant must also state their grounds for holding that opinion.

In determining a CAAD application, the planning authority are required to issue a certificate stating that –

- a. planning permission would have been granted for development of one or more classes specified in the certificate (whether specified in the application or not) and for any development for which the land is being acquired, but would not have been granted for any other development; or
- b. that planning permission would have been granted for any development for which the land is to be acquired, but would not have been granted for any other development.

'Classes' merely means types of development and is not limited to development within the classes listed in the Town and Country Planning (Use Classes) (Scotland) Order 1997. Planning authorities are not restricted to consideration of the classes specified by the applicant. Where it is the opinion of the planning authority that planning permission would have only have been granted subject to certain conditions, or only at a future time, or both, it is required to specify that in the certificate issued.

The land subject of this application has been acquired by Transport Scotland on behalf of Scottish Ministers, to make way for the Aberdeen Western Peripheral Route scheme ("the AWPR"), which is now under construction.

The draft compulsory purchase orders for the AWPR were published on the 25th September 2007 and therefore for the purpose of assessing the CAAD, that is the relevant date. It must also be assumed that at the relevant date and at any future date, the AWPR scheme did not exist.

SITE DESCRIPTION

The physical characteristics of the site are required to be considered as they were on 25th September 2007.

The site is located beside Contlaw Road, within an area of open countryside known as Beanshill. The northern edge of Milltimber is 0.8km to the south east and Kingswells is approximately 3.7km to the north east.

The site extended to some 0.8 of a hectare and prior to its clearance took the form of two separate areas. The first was located at the eastern part and comprised a single storey detached dwellinghouse known as 'Dalriach' with associated garden ground and detached garage. The adjacent larger area to the immediate west comprised a paddock, small area of woodland and a former

chicken shed. It is understood that this particular area formed part of the 'Dalriach' holding but was not part of a wider agricultural holding or operation.

The surrounding area is characterised by agricultural fields, farms and small areas of woodland. There are several dwellinghouses and former steadings now in residential use interspersed throughout the area.

The application site is currently cleared and within the land made available for the construction of the Aberdeen Western Peripheral Route ("AWPR").

RELEVANT HISTORY

Detailed planning permission (90/1308) was granted by delegated powers for the erection of a conservatory in July 1990.

PROPOSAL

An application for a CAAD has been submitted by Halliday Fraser Munro on behalf of Mr B. Kelly, former proprietor of the land described above.

It is their opinion that on the relevant date, had the site not been subject of compulsory purchase, then small-scale residential use would have been appropriate at the site. This would have entailed the demolition of existing buildings and construction of five dwellinghouses (three terraced in a U-shape and two semi-detached in a perpendicular arrangement) set around a central courtyard to mimic a traditional agricultural steading layout.

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?ref=151571>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because the determination of certificates of appropriate alternative development is not included within the Council's Scheme of Delegation.

CONSULTATIONS

No statutory consultations are required for a CAAD application.

REPRESENTATIONS

Transport Scotland – As the authority which has acquired the land at ‘Dalriach’, Transport Scotland is of the opinion that a development of five new-build houses would have been contrary to the provisions of the development plan and emerging development plan applicable at the relevant date and that the examples of other development in the vicinity are not directly comparable or relevant as material considerations. Permitting the development would have set a precedent for residential development in the green belt contrary to the development and it would be inappropriate for a positive CAAD to be issued for the development as described by the applicant.

Transport Scotland’s position largely accords with the evaluation and recommendation of this report.

PLANNING POLICY AT THE RELEVANT DATE

For the purposes of assessing the CAAD application, the relevant planning policies are those which were in place on the relevant date (25th September 2007) –

Aberdeen & Aberdeenshire Structure Plan (2001)

The Aberdeen & Aberdeenshire Structure Plan (2001) (“the 2001 structure plan”) was adopted in June 2002 and provided a strategic vision and spatial strategy for Aberdeen and Aberdeenshire with the specific aims of focusing national guidance on the area’s land use issues, co-ordinating activity by partners where it affects the use of the land and to set the scope, limits and objectives for detailed local plans which govern the use of land.

It is considered that the following policies were relevant and the consideration of whether or not development would have been acceptable –

At the relevant date the site was unallocated in terms of employment land and therefore Policy 3 (Other Employment Opportunities) is relevant. It states that proposed employment uses on such sites shall be considered acceptable providing they respect relevant structure and local plan policies and reasonable account is taken of criteria regarding satisfactory integration with existing land uses, infrastructure requirements, proximity to existing populations, the use of brownfield sites, economic need and the minimisation of pollution.

Policy 6 (Tourism) indicated that tourist and related developments shall be encouraged where they are compatible with policies to safeguard and enhance the built and natural environment.

Policy 9 (Housing Allocations) required the Councils to safeguard land for 800 units on green field sites between 2006 and 2010.

Policy 11 (General Housing Considerations) ensured that housing developments respect all relevant local plan policies, made a positive contribution to sustaining the community they are located, through sensitive siting, good quality design and use of appropriate densities, offered a choice of residential environments and house types, took account of available infrastructure and direct housing preferentially to brownfield sites within settlements.

Policy 27 (Green Belt) explained that local plans would set the detailed boundaries of the green belt so that the landscape setting and identity of urban areas were protected and enhanced, coalescence prevented, development required by structure plan policies was accommodated, degraded land could be restored and opportunities were created for landscape renewal and land safeguarded for long term development.

It went on to say that the boundaries of the Aberdeen Green Belt and Strategic Reserve Land would be subject to review, with the aim to protect and enhance the prime ecological, landscape and recreational assets of the Green Belt, meet the aims of sustainable transport and identify land for the long term development needs of Aberdeen and surrounding settlements.

Policy 28 (Development in the Green Belt) stated that no development would be permitted in the Green Belt for purposes other than those essential for agriculture, forestry, recreation, mineral extraction or restoration or landscape renewal.

Local plans could identify opportunity sites for appropriate sports, recreation and countryside uses where specific locational or operational criteria meant that they could not be accommodated within the existing urban area or within areas outwith the Green Belt.

All such development had to be of the highest quality in terms of siting, scale, design and materials in accordance with guidance from the relevant local plan.

Aberdeen City District Wide Local Plan (1991)

The Aberdeen City District Wide Local Plan (“the 1991 plan”) was in effect on the relevant date and was adopted in September 1991. It is acknowledged that at the relevant date it had largely been superseded by events and the Council’s most recent position on planning policy at the time, which was the Finalised Aberdeen Local Plan 2004 (“the 2004 finalised plan”). Although the 1991 plan was diminishing in its relevance in light of the advanced stage of the 2004 finalised plan, it was at the relevant date still the extant local plan for Aberdeen and formed the basis for determining planning applications.

In addition to the 1991 local plan, the 2001 structure plan and 2004 finalised plan were consulted when determining planning applications and each given an appropriate weight depending on how up-to-date and relevant they were considered to be or in the case of the emerging local plan, the likelihood of policies changing.

- Policy GB1 (Green Belt Areas) – The appeal site was zoned as Green Belt where was directly relevant. It stated that there would be an embargo against all development unless it concerned uses which must be located within the countryside, those directly related to nature conservation or to uses already existing in the Green Belt (paragraph 9.3.1).

Such uses which may be acceptable are non-residential agricultural or forestry buildings, new housing for established local needs (e.g. an essential agriculture or forestry worker), certain open air recreational uses, institutional uses, rehabilitation of historic or architecturally important buildings, replacement of existing houses, mineral workings, provision of utilities, land infill and reclamation, burial grounds, horticulture and nurseries, nature conservation and existing activities within the Green Belt.

- The overall housing strategy of the plan was to direct housing towards brownfield sites within the built up area, to greenfield sites at Cove, Kingswells and Bridge of Don and to sites in the existing Lower Deeside settlements (3.1.6).
- In terms of employment and industrial land, development was being directed towards Dyce, Peterseat and Lochside / Newlands. (4.1.5). The City Centre is identified as the most appropriate place for new office development, whilst out of centre locations must respect environmental and infrastructural constraints (4.1.7). It was also acknowledged that there was demand for smaller office space within the West End area of the city (4.1.10).
- The local plan strategy for recreation, leisure and tourism development aimed to ensure both public and private sector operate on a co-ordinated manner to benefit the area in the provision and management of such facilities (6.1.3). It sought to protect historic buildings, parks, shops, the harbour, the countryside and the setting of the city with the aim of protecting the tourist assets of the city (6.1.5).
- The shortfalls in community facilities such as health, education and social facilities were identified with the aim of addressing the imbalance in the area. Milltimber was not identified as requiring further community facilities.

More generally the local plan sought to ensure that the three Lower Deeside settlements of Cults, Milltimber and Peterculter remained clearly spaced at intervals along the valley. Measures would be taken to reaffirm the limits to further settlement growth including the safeguarding of landscape features and areas of woodland and the introduction of further tree planting in particularly sensitive areas. Green belt policies would be applied generally in the areas between the settlements (13.6.1).

Finalised Aberdeen City Local Plan (Green Spaces | New Places) – Modified Written Statement) (August 2004)

The Finalised Aberdeen Local Plan 2004 was at an advanced stage on the relevant date with the Council having received the Reporters' Report into the

Public Local Inquiry into the proposed plan. Therefore significant weight was given to the provision of the plan when determining planning applications.

- Policy 27 (Green Belt) – The appeal site was continued to be zoned as green belt where was directly relevant and explained that in the green belt there would be an embargo against all development unless it concerns uses for which a countryside location is essential.

Agriculture, forestry, outdoor recreation, mineral extraction or restoration or landscape renewal were identified as being acceptable uses. Expansion of existing activities within existing site boundaries would be treated on their own merits and in the context of green belt policy. Also identified as being acceptable were indoor sports and institutional uses on specific opportunity sites identified on the proposals maps and infrastructure development that could not be accommodated other than within the green belt.

All green belt developments were required to have regard to other policies of the local plan in respect of the protection of landscape, trees and woodland and natural heritage.

- Policy 9 (Telecommunications Equipment) – Telecommunications development had to be sited and designed to minimise visual impact and intrusion, show that alternative sites had been examined, provide screening if necessary and to have no significant adverse impact upon the natural or built environment, including the coast and countryside.

Aberdeen Local Plan Public Inquiry Report (August 2007)

At the relevant date the Council had received the Scottish Executive Reporters' Report of the Public Local Inquiry into the unresolved objections to the 2004 finalised plan. No objections were received in relation to the inclusion of the application site within the green belt.

FUTURE PLANNING POLICY BEYOND THE RELEVANT DATE

Aberdeen Local Plan (2008)

The Aberdeen Local Plan 2008 ("the 2008 plan") was adopted in June 2008 and the site was identified as being located within the green belt.

Policy 28 (Green Belt) – Stated that no development would be permitted in the green belt for purposes other than those essential for agriculture, forestry, recreation, mineral extraction or restoration or land renewal.

Proposals for development associated with existing activities in the green belt would be permitted but only if all of the following criteria were met: (a) the development was within the boundary of the existing activity, (b) the development was small scale, (c) the intensity of activity was not significantly increased and (d) any proposed built construction was ancillary to what existed.

Policy 9 (Telecommunications Equipment) required such development to be sited and designed to minimise visual impact and intrusion, show that alternative sites had been examined, provided screening if necessary and to have no significant adverse impact upon the natural or built environment, including the coast and countryside.

Aberdeen City and Shire Structure Plan (2009)

A new structure plan was adopted in August 2009 to replace the 2002 structure plan. It identified Aberdeen City as a Strategic Growth Area and it is expected that at least half of the growth identified for the Aberdeen area will take place on green field sites.

A green belt review was required to be carried out jointly by Aberdeen City and Shire Councils as part of their local development plan processes.

Proposed Aberdeen Local Development Plan (2010)

Published in September 2010 the proposed Aberdeen Local Development Plan ("the 2010 proposed plan) identified the site as being green belt and subject to Policy NE2 (Green Belt), which was principally the same as Policy 28 in the 2008 plan.

EVALUATION BASED ON THE RELEVANT DATE

Residential Development of Five Units

At the relevant date 'Dalriach' was zoned as green belt in the Aberdeen District Wide Local Plan 1991, where Policy GB1 applied and there was an embargo on all development, unless it fell into certain exempt categories.

The demolition of a single house and its replacement with five houses would not have been acceptable under any of the categories exempt from the general embargo on development. Notwithstanding, it is appropriate to look at any other material considerations which might have suggested that such a development may have been acceptable.

The 1991 plan directed housing towards three areas; brownfield sites within the urban area, greenfield sites at Cove, Kingswells and Bridge of Don and sites within the settlements in Lower Deeside. Although the site is within Lower Deeside, it is not within any of the settlement boundaries. The housing sites identified in these areas formed part of the larger planned expansion of Cults, Bielside, Milltimber and Peterculter, rather than smaller sporadic development which had not been through the scrutiny of the Local Plan process.

The Aberdeen & Aberdeenshire Structure Plan 2002 (NEST) provided a strategic vision and spatial strategy, which were translated into the Aberdeen Local Plan 2008. However as the structure plan was adopted in 2002 and more up to date than the 1991 plan, there was the potential for there to be strategic planning

issues raised in the structure plan which the adopted local plan did not address or consider, such as a potential lack of housing or employment land within the city.

The Housing Land Audit 2007 shows that at the relevant date there was 6.2 years of housing land supply within the Aberdeen area. This was in excess of the NEST Structure Plan requirement which required the Council to provide 5 years worth of housing land supply. Therefore as the housing land supply was being met there would have been no justification for approving housing development within the green belt or outwith allocated sites or the established built environment.

Nonetheless, even if additional housing sites were required, 'Dalriach' would have been considered unsuitable for residential development, being remote from the built-up area of Milltimber, community facilities and public transport links. The nearest local shops were located in Peterculter (about 2.5 km away) and Cults (over 4 km away) and the nearest bus stops were 1.8km away on North Deeside Road, 900m of which are unlit country roads.

The 2002 Structure Plan (NEST) required there to be 40-75 hectares of marketable supply of employment land at any one time within Aberdeen City. The Employment Land Audit 2007 published in March 2007 shows that there was a supply of 53 hectares in 2006/07. Therefore it would have been unlikely for the planning authority to grant permission for employment or industrial land on an unallocated green field site during this period because there was no shortage in the supply of employment land in the city.

The Finalised Aberdeen Local Plan 2004 was at an advanced stage in September 2007 with the Council having received the Reporters' Report on the Public Local Inquiry (PLI) into the proposed plan in August 2007. In the 2004 plan, 'Dalriach' remained as green belt, with no proposals for the site to be allocated for development.

Significant changes were proposed at the PLI to text within the green belt policy, both by the Council and Reporters. The Council's response to the Reporters' report was agreed by committee in December 2007. Therefore, although Policy 27 (Green Belt) would have been a material consideration at the relevant date, little weight could be given to it and Policy GB1 of the 1991 plan would have maintained primacy. Notwithstanding, the original drafting of Policy 27 required development involving the expansion of existing activities within an existing site to be contained within the boundaries and to otherwise be treated on their merits and in the context of green belt policy. All development in the green belt was expected to have regard to other policies in respect of landscape protection, trees and woodland and natural heritage.

An increase in the scale and intensity of activity from one house to five would have been contrary to the principle of green belt policy which was to maintain the identity of Aberdeen and the communities within and around the City by defining their physical boundaries clearly and avoiding undue coalescence and urban sprawl. Therefore there is nothing in the Finalised Local Plan 2004 which

suggests that planning permission would have been granted for five residential units on the relevant date.

Categories of Development Acceptable in Principle within the Green Belt

Policy GB1 of the 1991 plan identified several categories of development which were considered, in certain specified circumstances, to be exempt from the general embargo on development.

- The plan acknowledged that most agricultural or forestry buildings would benefit from permitted development rights if kept within certain parameters and would therefore be an acceptable use within the green belt.

Agricultural use of land and buildings is defined as including horticulture, fruit, vegetable and seed growing, dairy farming, the breeding and keeping of livestock (including the grazing of horses – but not the breeding or training of horses for show jumping or recreation), the use of land as grazing or meadow land, market gardens and nursery grounds.

Agricultural use is excluded from the definition of development in the Town and Country Planning (Scotland) Act 1997 and consequently, no planning permission for the use of land or buildings for agriculture would have been required. As the plan acknowledged, construction of non-residential buildings to be associated with an existing agricultural or forestry use, was considered to be development but generally did not require planning permission if kept within certain parameters.

If a change of use took place to agricultural use at the site and a proposed building for the purpose exceeded the permitted development thresholds, it is likely that subject to siting, design and appearance, such development would have been granted planning permission.

Horticulture and nurseries, where the prime function was the production of foodstuffs or flowers for sale, or the raising of plants for sale or replanting, were specifically mentioned and considered by the local plan to be legitimate uses within the green belt and would not have required planning permission. Notwithstanding, a garden centre, which is more akin to a retail operation, would not have been supported due to the peripheral location, level of traffic generation; concentration of buildings, car parking and other activities normally required for the successful operation of such a use.

- In a similar way to agricultural use, forestry is exempt from the definition of development and therefore the land could be used for forestry purposes without planning permission. Any buildings required for the purpose are likely to have been granted consent subject to siting, design and appearance, if they did not already benefit from permitted development rights.
- The construction of a single new house would be permitted if the applicants could satisfy the Council that it was required to provide residential accommodation for essential forestry or agricultural workers who were require

to be housed immediately adjacent to their place of employment and where there was a proven economic need.

Given the small size of the site it is highly unlikely that a second house would be required for such purposes. The existing house could have been used if required and with the close proximity of Milltimber, it would have been difficult to argue that a home for a second essential worker would be required under any circumstances.

- Certain open air recreational uses which were normally located out-with urban areas and required large amounts of open space (e.g. a golf course, golf driving range or equestrian activities) were permitted. The small size of the site meant that it would not have been suitable for a golf course.

A golf driving range is typically in excess of 200m in length and therefore with the site being around 85m in length it is unlikely to have been suitable for such as use. Structures such as floodlighting and high fences are likely to have had an adverse impact upon the landscape character of the area and residential amenity and therefore such use would not have been supported.

Equestrian uses such as stables or exercises arenas, were considered acceptable uses within the green belt subject to suitable layout and design.

- Exemptions relating to the conversion of existing substantial buildings to institutional uses and conversion of historic, architecturally important or traditional buildings would not apply in this case. 'Dalriach' was neither substantial nor of any particular historic architectural merit.
- The replacement on a one-for-one basis of existing permanent houses, which were at the time in occupation, were normally permitted, provided it could be demonstrated to the Council that the house had been in continuous occupation for five of the seven years immediately prior to the date of the application. The replacement house would, except in exceptional circumstances, for example, to improve a dangerous access, occupy the same site as the building it would replace.

There are no known issues with the access or any other matter which would suggest that a different position for the new house would have been acceptable.

Therefore subject to any new house being acceptable in terms of siting, design, massing, scale and materials, a replacement house would have been granted planning permission.

- Extensions to existing activities were permitted in the green belt subject any intensification and suitability of the use within the green belt being acceptable. This would have covered domestic development such as a house extension, domestic garage, out-buildings and other development ancillary to the dwellinghouse, which would have been granted planning permission subject to suitable design and layout.

- Within the green belt landfill, land reclamation activities and mineral workings were permitted. However given the small scale of the site and close proximity to residential properties it is highly unlikely that these uses would have been acceptable.
- Green belt policy allowed for the provision of utilities, if as part of their normal operation they could not be located anywhere other than the green belt. Most utilities benefit from permitted development rights and therefore would not have required planning permission; however telecommunications masts and equipment would not. National and local policy supported the expansion of telecommunications networks and therefore subject to siting and design, the principle of new telecommunications masts and equipment within the green belt would have been supported and granted planning permission.
- New burial grounds were acceptable within the green belt. However the policy required cemeteries to be more than 100m from existing residential properties. The closest residential property was 30m away from the eastern boundary and therefore such development would have failed the policy requirements.
- The establishment of nature reserves and provision of appropriate facilities for interpretation, enjoyment and study were permitted by green belt policy. Given the small scale of the site and lack of any natural heritage designation or particular assets, such a use would seem unlikely.

The Finalised Aberdeen Local Plan 2004 was at an advanced stage in September 2007 with the Council having received the Reporters' Report into the Public Local Inquiry (PLI) into the proposed plan in August 2007. In the 2004 plan, 'Dalriach' remained as green belt, with no proposals for the site to be allocated for development.

At the PLI significant changes were proposed to text within the green belt policy, both by the Council and Reporters. The Council's response to the Reporters' report was agreed by committee in December 2007. Therefore, although Policy 27 (Green Belt) would have been a material consideration at the relevant date, little weight could be given to it and Policy GB1 of the 1991 plan would have maintained primacy. Notwithstanding, the original drafting of Policy 27 required development involving the expansion of existing activities within an existing site to be contained within the boundaries and to otherwise be treated on their merits and in the context of green belt policy. All development in the green belt was expected to have regards to other policies in respect of landscape protection, trees and woodland and natural heritage.

The 2004 plan fundamentally retained the same requirements on categories of development which were exempt from the development embargo but did not provide as much detail. No new categories of acceptable development were added and therefore no material considerations over and above those in the 1991 plan policy were introduced.

Reference is made in the supporting statement to an earlier proposed route alignment of the AWPR (between Bielside and Milltimber) which is shown in the 2004 plan. It is suggested that the proximity of the AWPR would have had a positive effect on the likelihood that small residential development gaining planning permission at 'Dalriach'. However a fundamental aspect of considering alternative uses for a site under the CAAD regime is that the underlying project the land is being acquired for does not exist. Although the road being constructed is on a different route alignment, the project must still be disregarded and therefore any benefit that the AWPR may have provided in terms of accessibility to the area cannot be taken into account.

EVALUATION BASED ON ANY FUTURE DATE

Aberdeen Local Plan (2008)

The 2004 plan became the adopted Aberdeen Local Plan 2008 in June of that year and continued to zone the site as green belt. Policy 27 became Policy 28 and was modified from the initial drafting in the 2008 plan – but maintained a strict embargo on development.

No development was permitted in the green belt for purposes other than those essential for agriculture, forestry, recreation, mineral extraction or restoration or land renewal. Proposals for development associated with existing activities in the green belt were permitted but only if all of the following criteria were met: (a) the development was within the boundary of the existing activity, (b) the development was small scale, (c) the intensity of activity was not significantly increased and (d) any proposed built construction was ancillary to what existed.

The increase from one unit to five would have been a substantial increase in the scale and intensity of the existing activity both in terms of the number of people living there, traffic generated and visual impact. Neither would four additional units have been reasonably considered as being ancillary to one existing house. Therefore under the Aberdeen Local Plan 2008 five residential units would not have been granted planning permission.

Again and similar to the 2004 plan, no new categories of acceptable development were introduced and no new material considerations over and above those associated with the 1991 plan were introduced.

Although at the relevant date it would be difficult to consider any policy developments after the 2008 plan as being reasonably foreseeable, it is considered worthwhile mentioning the policy situation beyond the 2008 plan in order to demonstrate that the policy situation in relation to the site has remained constant between the relevant date and the present date.

Aberdeen Local Plan (2012)

The preparation of the 2012 plan began in the first quarter of 2009. The proposed plan was published in 2010, was formerly adopted in February 2012 and still is

the adopted plan. 'Dalriach' was not subject of any development options in the preparation of proposed plan, however two options were considered for an area of land immediately to the south, the options being known as Contlaw (9/49) and Nether Beanshill (9/51). Both options were dismissed by the Council as being unsuitable for development. Nether Beanshill was considered by Reporters' examination of the proposed plan which agreed it was not a suitable site. Therefore the area of land to the south remained as green belt, as did 'Dalriach' itself.

The content of green belt policy itself did substantively change from the 2008 plan.

Proposed Aberdeen Local Plan (2015)

The proposed plan was published in March 2015 and continues to zone 'Dalriach' as green belt. The area of the land to the south, known as Contlaw, was again submitted as a development option during the preparation of the plan, but was discounted as still being unsuitable.

Policy NE2 (Green Belt) reinstates a specific category which permits the replacement on an one-for-one basis of existing permanent houses currently in occupation, as was the case in the 1991 plan. No other substantive changes were made.

Other Matters

The applicant highlights several developments which have taken place in the surrounding area over the years and suggests that they are reasons for approval of the five dwellinghouses proposed in the application. None are directly comparable and therefore of relevance. Taking each in turn –

- Beanshill Farmhouse – A change of use from farmhouse to children's nursery (88/1173) was approved in 1988 by Aberdeen District Council whilst the Lower Deeside Local Plan 1980 was in force. There is no record of the reasons for approval of this application.
- Upper Beanshill – A conversion of a farm steading and two cottages to form seven dwellinghouses (90/2431) was approved by Aberdeen District Council in February 1991. The conversion of traditional buildings was acceptable under Policy 3.2.4 (viii) of the Lower Deeside Local Plan.
- Upper Beanshill Farm – A conversion of farm steading to a dwellinghouse (91/1067) was approved in July 1991 and again would have been acceptable under the Lower Deeside Local Plan.
- Nether Beanshill Farm – Installation of a telecommunications mast was approved in January 2005 (A4/2193) and permitted by Policy GB1 and Policy 27 of the Finalised local plan 2004.

- Upper Beanshill Cottage – Three wind turbines (P110317) were approved in July 2011. Renewable energy schemes associated with existing uses in the green belt were considered acceptable under local and national renewable energy policies.
- Westfield Cottage – A replacement dwellinghouse (P121352) was approved in November 2012. Although replacement dwellings were not specifically mentioned as being exempt from the green belt development embargo, they were considered acceptable if they met specific criteria which have already been discussed under the sections on the 2008 and 2012 local plans above. This decision supports the recommendation of this report that a replacement dwellinghouse would have been acceptable.
- Also of relevance, but not identified by the applicant is a planning application at Laurelbank, Pitfodells Station Road. The application was for sub-division of a residential curtilage and erection of a new house within the green belt (A4/1589) and was refused in January 2005 and subsequently dismissed at appeal (P/PPA/100/312). Although not located within the open countryside and therefore not directly comparable, one of the reasons for refusal was that the proposal would undermine the principles of controlling development and preventing sporadic housing in the green belt. Whilst not the only reason for refusal, it demonstrates the Council's approach to development within the green belt at the time and supports the recommendation that such development would not have been granted at the relevant date.

The applicant's supporting statement includes information on property values and the socio-demographics of the local area. However on review it does not appear that such information would have been of any relevance in determination of a planning application. The intention appears to be to suggest that there was demand for new housing within the area. Notwithstanding this potentially being the case, green belt policy exists to control sporadic and uncontrolled development around Aberdeen and the fact that there may be demand to live in the countryside in close proximity to the city does not override the policy. The sites allocated within the local plan also provided sufficient land to meet the housing land supply requirements and therefore there would be no reason to approve further housing on an ad-hoc basis.

Section 25(4) of the 1963 Act requires the planning authority to state that planning permission would be granted for any development for which the land is being acquired. However, Scottish Ministers through Transport Scotland made orders under the Roads (Scotland) Act 1984, promoting the AWPR, which is the scheme for which the application land is to be acquired. Therefore no planning permission is required for the AWPR and consequently it would not be appropriate to include planning permission for the scheme in any certificate issued as would normally be the case.

CONCLUSION AND REASONS FOR RECOMMENDATION

At the relevant date 'Dalriach' was zoned as green belt in the Aberdeen District Wide Local Plan 1991, where Policy GB1 applied and there was an embargo on all development, unless it fell into certain exempt categories. The demolition of a single house and its replacement with five houses would not have been acceptable under any of the categories exempt from the general embargo on development.

Green belt policy would however have permitted the construction of non-residential buildings related to agricultural or forestry uses; a replacement house on a one-for-one basis or telecommunications infrastructure, such as a mobile phone mast. Each class of development would have been subject to satisfactory details being agreed in relation to siting, design, scale, massing, landscaping and access.

In the Finalised Aberdeen Local Plan 2004 'Dalriach' remained as green belt, with no proposals for the site to be allocated for development and although green belt policy was re-drafted, it did not increase the scope for any planning permission to have been granted for any particular category of development over and above that which would have been permitted in the 1991 local plan.

At no future point beyond the relevant date, either under the 2008 or 2012 adopted plans or 2015 proposed plan, would planning permission have been granted for five residential units at 'Dalriach'. The classes of development considered acceptable under the 1991 local plan would have continued to have been acceptable, up to the present day. However none of the green belt policies within these plans introduce any other use which could have been acceptable over and above those already considered under the 1991 plan.

At the relevant date and at any point beyond, there was no strategic material planning considerations, such as a shortage of housing or employment land, which would have led the planning authority to grant planning permission for sporadic development within the green belt contrary to green belt policy.

RECOMMENDATION

That a certificate of appropriate alternative development is issued stating –

- 1. that in respect of the land which is subject of the application, on the relevant date of 25th September 2007 or at a future time, planning permission would have been granted for –**
 - a) a single replacement dwellinghouse on a one-for-one basis;**
 - b) for horticulture and nursery with a small-scale ancillary retail element (such as a farm-shop);**
 - c) for non-residential agricultural or forestry buildings associated with a agricultural or forestry use on the land; or**
 - d) for telecommunications masts and ancillary equipment,**
 - e) any householder development ancillary to the use as a dwellinghouse (such as an extension, domestic garage, alterations to the house);**

- f) small scale equestrian use including the construction of related buildings and structures (such as stables or tack rooms);**

but would not have been granted for any other use.

- 2. that any planning permission described in (1) would have been granted subject to conditions requiring the applicant to submit satisfactory details, prior to the commencement of development, for approval by the planning authority which addressed the following matters –**
 - a) layout, scale, massing, design and external appearance of buildings or structures;**
 - b) disposal of surface water and foul drainage;**
 - c) provision of vehicular access to the site;**
 - d) landscaping of the site to mitigate any visual impact.**
- 3. that because Scottish Ministers through Transport Scotland, made orders under the Roads (Scotland) Act 1984 promoting the Aberdeen Western Peripheral Route, which is the scheme for which the application land is to be acquired, it would not be appropriate to include planning permission for the scheme in the certificate as would normally be the case.**