

PI

From: Rebecca Walker <Rebecca.Walker@ledinghamchalmers.com>
Sent: 17 September 2015 09:49
To: PI
Cc: Stephen Morrice; {F1506671}.LIVE@lcaberserver10.ledinghamchalmers.com; David Scott
Subject: Objection to Planning Application 151376 - Demolition and Erection of 3 No. Dwelling Houses, Brookfield, Murtle Den Road, Milltimber, Aberdeen [WOV-LIVE.FID1506671]
Attachments: Objection (PDF).PDF

Dear Sirs

Planning Application Reference 151376

Demolition of Existing Dwellinghouse and Erection of 3 No. Dwelling Houses

Land at Brookfield, Murtle Den Road, Milltimber, Aberdeen, AB13 0HS

Please find the attached Objection in respect of the above planning application. A hard copy has been sent to your offices.

Kindly acknowledge receipt.

Yours sincerely

Rebecca

Rebecca Walker

Senior Associate
Ledingham Chalmers LLP, Solicitors

Admitted as a solicitor in Scotland and in England and Wales

Ledingham Chalmers LLP, Solicitors

Johnstone House 52-54 Rose Street Aberdeen AB10 1HA (Registered Office)

DX: AB15 Aberdeen LP-39 Aberdeen-1

Tel: 01224 408408 Direct Dial: 01224 408627 Fax: 01224 408403

Website: www.ledinghamchalmers.com

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<<Objection (PDF).PDF>>

PLANNING APPLICATION REFERENCE: 151376

**DEMOLITION OF EXISTING DWELLINGHOUSE AND ERECTION OF 3 NO. DWELLING HOUSES
LAND AT BROOKFIELD, MURTLER DEN ROAD, MILLTIMBER, ABERDEEN, AB13
OHS**

We act for The Trustees for the Managers of the Widows Fund of the Seven Incorporated Trades of Aberdeen ("the Trades Widows"), having a place of business at Trinity Hall, Holburn Street, Aberdeen.

Our clients **object** to the application which has been submitted by Mr Richard McDonald for the demolition of the existing dwellinghouse and erection of 3 no. dwelling houses on land at Brookfield, Murtle Den Road, Milltimber, Aberdeen for the reasons set out in the below paragraphs.

Reasons for objection:

1. the site lies within the Green Belt and there is a presumption against development with only limited exceptions. The proposed development does not fall within any of these exceptions;
2. the proposed development is out of keeping with the character of Murtle Den Road;
3. the proposed development is not capable of implementation; and
4. the proposed development will challenge the capacity of Murtle Den Road.

Dealing with each of those in turn:

1. Green Belt

- 1.1 The site lies within the Green Belt. The Aberdeen Local Development Plan contains several policies pertaining to Green Belt land:

1.1.1 Policy NE1 - Green Space Network. This Policy sets out that the Council will protect, promote and enhance the wildlife, recreational, landscape and access value of the Green Space Network. Proposals that are likely to destroy or erode the character or function of the Green Space Network will not be permitted.

1.1.2 Policy NE2 – Green Belt. This Policy provides that no development will be permitted in the Green Belt for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible for an agricultural or natural setting, mineral extraction or restoration or landscape renewal. However proposals will be permitted if all the following exceptions apply: -

- (a) the development is within the boundary of the existing activity;
- (b) the development is small scale;
- (c) the intensity of activity is not significantly increased; and
- (d) any proposed built construction is ancillary to what exists.

- 1.2 In terms of Policy NE1 and NE2 (together with Policy NE1 and NE2 of the Proposed Aberdeen Local Development Plan) development will not be permitted in the Green Belt unless it meets the all the above exceptions. Our clients' view is that the application meets none of these and therefore should be refused. Dealing with these in turn:
- 1.2.1 The Development may be within the boundary of the curtilage of the existing house, however the activity in terms of Policy NE2 is low density residential housing. The building of an additional two houses, and loss of surrounding ground is out with the existing activity.
 - 1.2.2 The proposed development is not small scale in comparison to the surrounding area. Murtle Den Road is a low density development, with each property enjoying a sizeable plot and privacy. Again, the building of an additional two houses, and reconfiguration of the site leading to a loss of privacy, is not small scale.
 - 1.2.3 The intensity of activity will be significantly increased. There is presently one house on the site; the applicant seeks to increase that to three. The design statement sets out that each house plot must provide for on-site parking for at least three vehicles. It is reasonable to assume that each plot will have two cars, together with space for visitors. That represents a minimum of four additional vehicles accessing the site and using Murtle Den Road on a regular basis. Visitors to the two additional houses will increase that number. Further, an additional two houses will mean the usual noise associated with a household will increase three fold. That will include, for example, the noise associated with general maintenance of the houses and grounds and rubbish disposal.
 - 1.2.4 The proposed built construction is most certainly not ancillary to what exists. The proposal involves the demolition of the existing house and construction of three new houses. There will be a total reconfiguration of the site and the application cannot under any circumstances meet this test for an exception to the policy.
- 1.3 Our clients are aware of an application for development in the Green Belt of three houses which was recently approved (P141260). However, that application can be distinguished from the present application for the following reasons:
- (i) application P141260 pertained to a site of 2 hectares in size. The size of the current application site is 1.0088 hectares; and
 - (ii) application P141260 was in essence, a "gap site" abutted to the east by Deeside Gardens, a development comprising a mix of detached and semi-detached properties, and to the west by residential dwellings typically of large detached granite properties in substantial gardens. The three houses did not therefore represent over-development and were not out of keeping with the size and scale of the surrounding properties.
- 1.4 The current application can also be distinguished from application P120919. That application granted planning consent for two houses to be built at Inchrya, at the far end of Murtle Den Road. Consent for those houses was

however granted as Inchrya was zoned as part of OP62, being the Oldfold site, and not the Green Belt unlike the current application.

2. Character of Murtle Den Road

2.1 Murtle Den Road is characterised by large, detached houses set within private areas of mature woodland. The area is very different to the residential area to the West as it is very low density, creating an exclusive residential area. While the development at Oldfold may have now commenced, great care was taken in the Masterplan, adopted in 2013, to preserve the character of Murtle Den Road. The Design and Access Statement and Masterplan which forms part of the Oldfold Planning Permission in Principle notes that the character of the Murtle Den area should replicate the existing housing, enclosed by woodland and distinct from the wider development area. It provides that the area should be made up of very large detached plots set within mixed woodland and accessed from an extension to the existing driveway. It further provides that development in this area should be in keeping with the character of the existing properties.

2.2 Aberdeen Local Development Plan Policy D1 – Architecture and Placemaking provides that in order 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.

2.3 The proposed development would detract from the character of Murtle Den Road. A development of three houses on the former site of Brookfield would be out of keeping with the surrounding houses and landscape. The surrounding houses are all low density and located on sizeable plots. Approval of the application would set a precedent for infill housing, leading to Murtle Den Road becoming a higher density development. It would also create a precedent for development in the Green Belt. The existing character of Murtle Den Road should be preserved and it should not be permitted to resemble the higher density housing with which the Oldfold development will be characterised.

3. Development not Capable of Implementation

3.1 The applicant does not have adequate rights in order to access or service the proposed development. Murtle Den Road, together with the verge adjacent to the roadway, is privately owned by our clients, and has not been adopted by the local authority.

3.2 When our clients sold the plot which now forms the proposed development site the only rights of access which were granted were in favour of a single dwelling house. The applicants are not entitled to increase the burden on the road beyond this.

3.3 Further, the applicant has no ability to comply with any requirements which may be imposed as part of any planning permission or statutory consents in relation to Murtle Den Road. The applicant has no right to resurface the road, widen the road, or comply with any visibility splay requirements in respect of any areas falling outwith their ownership.

- 3.4 The applicant has no rights over Murtle Den Road in relation to any other statutory connections which may be required in respect of the proposed development.
- 3.5 While the matters referred to above are generally property related issues, which could conceivably be dealt with by negative or suspensive conditions in any planning consent, our clients would be concerned if any such planning permission was granted, which was clearly unable to be implemented.
- 3.6 In addition to the above, the title to the proposed development site contains burdens restricting development to one house. While no longer enforceable as feudal burdens, the recent decision of *Cook v Cadman* 2014 S.L.T. (Lands Tr) 13 supports the view that the restrictions on development nonetheless constitute a neighbourhood burden which is enforceable by neighbouring proprietors, including our clients.

4.0 Capacity of Murtle Den Road

- 4.1 Within the Local Development Plan there is already an existing allocation of nine houses proposed to use Murtle Den Road. Approval of the current application would result in a further four houses (two houses already having been approved pursuant to planning application ref: 120919) being approved in a piecemeal fashion, all relying on Murtle Den Road for access.
- 4.2. The continued approval of piecemeal applications up Murtle Den Road would put the capacity of Murtle Den Road at risk in respect of the already allocated nine houses. There is already a requirement for improvements to Murtle Den Road to be implemented in respect of the existing allocation of nine houses and the current application may necessitate further improvements. However, as set out above, the owners of the proposed development site have no rights in respect of Murtle Den and no ability to carry out any improvements.
- 4.3 The proposed application should not be permitted so as to adversely affect the development already allocated in terms of the Local Development Plan. While our clients object to the planning application, in the event that it is approved it is submitted that the owners of the proposed development site should have to equitably contribute to the cost of any improvements already identified as required to Murtle Den Road and meet fully the costs of any additional improvements identified as required solely as a result of the proposed development.

5. Conclusion

- 5.1 It is our view that this application (a) is contrary to Policy NE1 and NE2 (together with Policy NE1 and NE2 of the Proposed Aberdeen Local Development Plan); (b) does not fit with the Masterplan for the area; and (c) is incapable of being developed due to fundamental constraints in terms of access and servicing.
- 5.2 We would respectfully ask that these objections are taken into account when considering the application.

Agents for the Trades Widows Fund

[**insert date**]



P&SD Letters of Representation		
Application Number:	151376	
RECEIVED	17 SEP 2015	
Nor	Sou ✓	MAp
Case Officer Initials:	PAU	
Date Acknowledged:	18/09/2015	