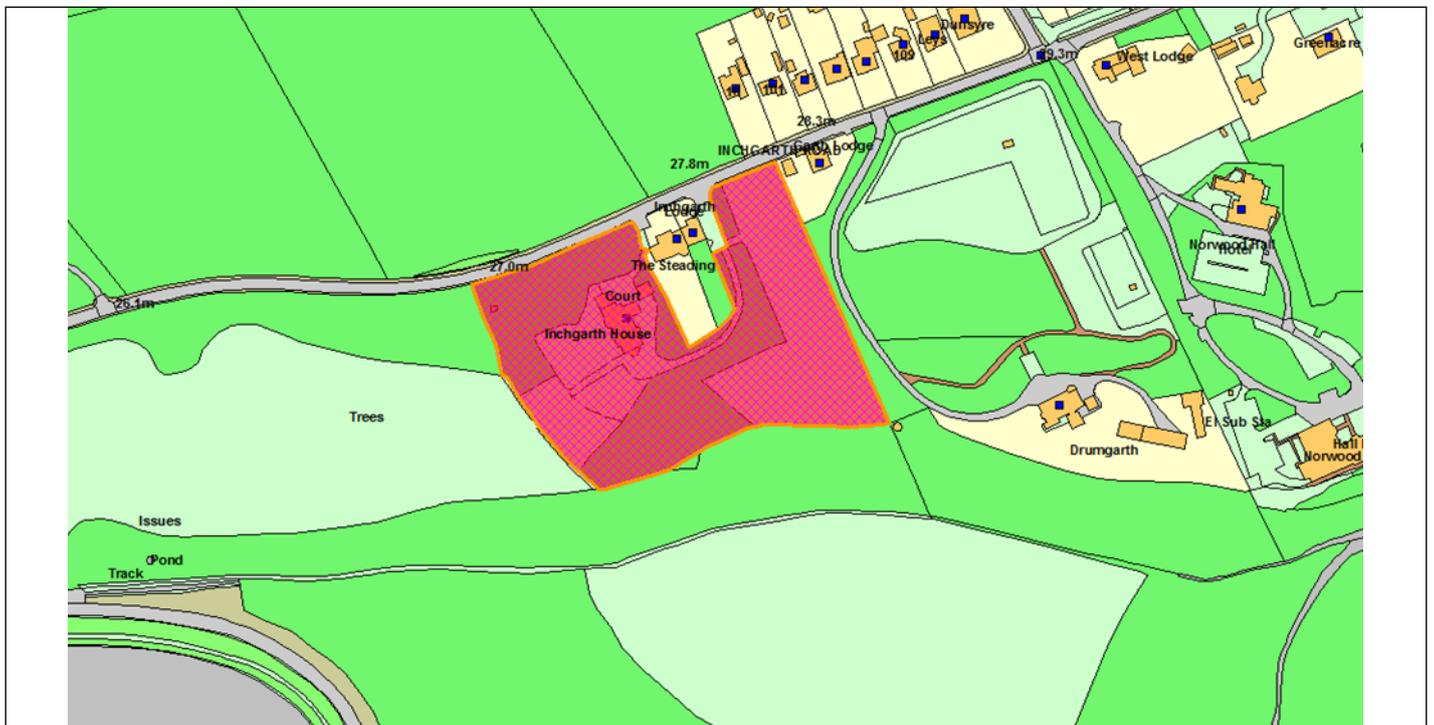


<b>Site Address:</b>	Inchgarth House, Inchgarth Road, Aberdeen, AB15 9NX
<b>Application Description:</b>	Formation of new access and driveway with gate, wall, pillars and landscaping at Inchgarth House (part retrospective)
<b>Application Reference:</b>	170115/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	13 February 2017
<b>Applicant:</b>	Kirkwood Homes Ltd
<b>Ward:</b>	Lower Deeside
<b>Community Council</b>	Garthdee
<b>Case Officer:</b>	Sepideh Hajisoltani
<b>Advertisement:</b>	Development affecting Listed Building Setting
<b>Advertisement Date:</b>	22.February.2017



## RECOMMENDATION

---

1. Refuse the planning application for the reasons given below;
2. Instruct enforcement action within the site, as appropriate, in order to ensure removal of the existing unauthorised driveway works, reinstatement of appropriate topsoil, site landscaping and replanting of new trees on site and other works as may be required to reinstate the original ground condition. This is required in the interest of preservation of the setting of the listed building, preservation of the character of the conservation area and to mitigate the adverse tree impact of the unauthorised site works.

## APPLICATION BACKGROUND

---

### Site Description

The application site is located to the south of Inchgarth Road and extends to approximately 1.9 ha. It comprises Inchgarth House, which is a category 'C' listed building and surrounding land, including mature trees. Access to the site is taken from Inchgarth Road to the east of Inchgarth House via an access shared with Inchgarth Lodge which curves around the south of the building. There is also another access to site located immediately to the north east of the new extension to the north elevation of the building which is currently blocked (Google street view images shows that this access had been in use until September 2011).

The site lies within Pitfodels Conservation area.

### Relevant Planning History

**921972-** Outline Planning Permission for erection of a dwelling-house and garage was refused in 1992.

**110529-** Detailed planning permission for erection of new flat roofed extension to accommodate new kitchen and utility room was approved unconditionally in July 2011.

**111556 & 111557-** Listed building consent and detailed planning permission for demolishing existing garage and port, erection of new store, garage block and colonnade, conversion of house and 2 flats back to one main house and refurbishment of all windows was approved conditionally in January 2012.

**140684-** Detailed planning permission for erection of single storey rear extension was approved conditionally in July 2014.

**150523 & 150524-** Detailed planning permission and listed building consent for removal of existing block garage and single storey extension to north east elevation. Conversion of house and 2 flats back to one main house, erection of new extensions to north east and North West elevations and refurbishment of all windows was approved conditionally in June 2015. This has been implemented.

**160782-** Detailed planning permission for erection of 2 storey garage with ancillary space; formation of an opening in the boundary wall to create access gate and a driveway was withdrawn by applicant in September 2016.

**170020/DPP-** Detailed planning permission for construction of triple garage with ancillary accommodation at upper level was withdrawn by applicant in March 2017.

## **APPLICATION DESCRIPTION**

---

### **Description of Proposal**

Detailed planning permission is sought for formation of new access and driveway with gate, wall, pillars and associated landscaping. The proposal includes demolition of part of the boundary wall (approximately 27m in length) to the North West corner of the application site and removal of 60 no. trees to create the new driveway to the site from Inchgarth Road.

It should be noted that part of the proposal including part of the groundworks for formation of the driveway and removal of a number of trees have already taken place and that the proposal could be considered as part-retrospective. It is also likely that the total number of trees to be removed would be closer to between 70-80 trees as the proposed development would not appear to have considered the impact on the root protection areas of neighbouring trees at the entrance or along the length of the proposed driveway.

The new gated access would be 3.8m wide and would have 1.8m high walls and pillars. Landscaping proposal includes hedging, tree plantation, fine and rough grass and wild flowers.

### **Supporting Documents**

All drawings and supporting documents listed below can be viewed on the Council's website at <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OL03XYBZISZ00>.

The following documents were submitted in support of the proposal:

- Tree Survey Report
- Tree Survey Schedule

### **Reason for Referral to Committee**

The application has been referred to the Planning Development Management Committee because the proposal has attracted 7 representations. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## **CONSULTATIONS**

---

**ACC - Roads Development Management Team-** Satisfied with the amended drawing and the proposed visibility splay.

**ACC - Flooding and Coastal Protection-** Given the history of surface water flooding at this site, the applicant is advised to use rain water attenuation storage such as water butts incorporated in the design. In order to not increase the surface water runoff, adoption of permeable block paving is also recommended.

## **REPRESENTATIONS**

---

Seven letters of representation have been received, summarised as follows:-

1. The proposal is contrary to the provisions of Scottish Planning Policy (SPP) in that it would damage established trees and woodlands;
2. Detrimental impact on the Green Belt, Pitfodels conservation area and listed building;
3. Unauthorised works to site including removal of established trees have already damaged the site and reinstatement of them would take many years;
4. The proposal would result in more tree loss and further damage to trees on site;
5. The retrospective works have resulted in loss of trees on neighbouring property;
6. The proposal would have detrimental impact on wildlife;
7. Future development at this site should be restricted and re-instatement of trees should take place;
8. Plantation of a few unspecified trees would not be suitable for this site;
9. Removal of the boundary wall would have a negative impact on the historic environment;
10. The proposal would disconnect Inchgarth House and the land to the east of the building and makes it open for future development – this will remove the historic link between Inchgarth House and Inchgarth Lodge;
11. The proposed access would be the third driveway to the site and is considered to be excessive. The existing access should be improved instead;
12. The proposed new access is a very busy road and would not provide a safe visibility and could be a hazard;
13. Part of the proposal is retrospective;
14. The retrospective re-surfacing of the driveway could lead to drainage problems for the two lodges located to the north east of the listed building;
15. There is a discrepancy in the planning statement in terms of ownership and right of access on the road next to the steading.

## **MATERIAL CONSIDERATIONS**

---

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

### **National Policy**

- Scottish Planning Policy (SPP)
- Historic Environment Scotland Policy Statement (HESPS)

### **Aberdeen Local Development Plan 2017**

- Policy NE5: Trees and Woodland
- Policy NE2: Green Belt
- Policy NE8: Nature Conservation
- Policy D5: Our Granite Heritage
- Policy D4: Historic Environment
- Policy D1: Quality Placemaking by Design

- Policy D2: Landscape
- Policy NE6: Flooding, Drainage & Water Quality

## **OTHER RELEVANT MATERIAL CONSIDERATIONS**

- Conservation Area Character Appraisal – Pitfodels

## **Supplementary Guidance**

- Landscape
- Transport and Accessibility
- Trees and Woodlands
- Bat and Development Supplementary Guidance

## **Historic Environment Scotland: Managing Change in the Historic Environment**

- Boundaries
- Demolition
- External walls
- Setting

## **EVALUATION**

---

### ***Policy NE5: Trees and Woodland***

There is a presumption against all activities and development that will result in the loss or damage to trees and woodlands that contribute to nature conservation, local landscape character, local amenity and climate change adaptation and mitigation. It is estimated that the proposal would result in loss of approximately 70-80 trees. This estimate is higher than what the applicant has stated (total of 60 trees). This is mainly due to the impact of the proposal on root protection areas of neighbouring trees. It is also noted that the submitted tree survey is not a development tree survey and as such it is not sufficient to assess the overall impact of the proposal. The submitted drawings detail the retention and loss of different trees and do not take into account the overall impact of the proposed development on existing trees.

It should also be noted that prior to submission of this application, the site was subject to unauthorised tree removal and site engineering / groundworks. It is estimated that between 145 and 207 trees have been removed. The area of land associated with the proposed formation of the driveway was the most heavily impacted area affected by the unauthorised tree removal and held the more significant trees previously associated with Inchgarth House, these being mature broadleaved trees of significant age. Whilst the submitted proposal require removal of a further 70-80 trees due to unauthorised tree removal and unauthorised earth works prior to submitting an application, the net loss of trees associated with the formation of the driveway is estimated to be approximately +150 trees.

In addition it should be noted that the proposed re-planting plan does not address the scale of tree removal associated with the current proposal and certainly does not address the level of tree removal undertaken prior to the application. There are insufficient details with in the replacement planting plan relating to species and size of stock proposed.

It should also be noted that the entire site is covered by the classification of ancient woodland. In Scotland, Ancient Woodland is defined as land that is currently wooded and has been continually wooded, at least since 1750. Once destroyed, they cannot be recreated. Woodland in this location is evident on the Roy Military Survey of Scotland 1747-55. The trees and landscape structure of Pitfodels is one of the primary reasons for its designation as a conservation area and are important in understanding the historical development of the area. Therefore any erosion of this should be avoided. Although there is no legislation specifically protecting ancient woodland,

Scottish Planning Policy identifies it as an important and irreplaceable national resource that should be protected and enhanced. The trees that were removed had statutory protection by reason of their location within a conservation area. The Scottish Government's policy on control of woodland removal states that there is a strong presumption against removing ancient semi-natural woodland or Plantations on ancient woodland sites, amongst other types of woodland.

Whilst the submitted application lacks certain supporting document including arboriculture impact assessment and a construction methodology for formation of the driveway in relation to the impact on the root protection areas of trees to be retained, it is considered that based on the existing information the proposal is contrary to provisions of policy NE5 and would result in significant detrimental impact on mature trees on site.

***Policy NE2: Green Belt***

No development will be permitted in the Green Belt for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural uses compatible with an agricultural or natural setting; mineral extraction/ quarry restoration; or landscape renewal.

The following exceptions apply to this policy:

- 1- Proposals for development associates with existing activities in the green belt will be permitted but only if all of the following criteria are met:
  - 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.

All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials. All developments in the Green Belt should have regards to other policies of the Local Development Plan in respect of landscape, trees and woodlands, natural heritage and pipelines and control of major accident hazards.

The proposed development does not comply with all the above mentioned criteria. The proposal would result in significant level of tree loss on site and it is also considered that the quality of the tree plantation scheme is not high, particularly once seen in the context of the Pitfodels conservation area.

It is considered that the proposal does not fully accord with policy NE2 by reason of its adverse landscape impact and tree removal.

***Policy NE8: Nature Conservation***

The site is situated within an area identified as having mature tree cover and therefore suitable bat habitat. A bat survey is required of all trees that will be affected by the development to establish if there are any bat roosts, and therefore, likely to be impacts on bats. It should also be noted that given the proximity of the site to the River Dee a Habitats Regulations Assessment is also required for full assessment of the impact of the proposal on protected species.

It should be noted that the site is known to have wildlife and nature conservation interest and yet insufficient information has been submitted to detail the potential development impact. On this basis it is the opinion of the Local Planning Authority that there is a risk of adverse impact in this regard and there is no adequate information to demonstrate otherwise.

***Policy D5: Our Granite Heritage***

Throughout Aberdeen the Council seeks the retention and appropriate re-use, conversion and adaptation of all granite features, structures and buildings, including granite boundary walls.

Proposals to demolish any granite building, structure or feature, partially or completely that is listed or within a Conservation Area will not be granted Planning Permission unless the Local Authority is satisfied that the proposal to demolish meets Historic Scotland's Scottish Historic Environment Policy (SHEP) test for demolition. In line with national policy, applications for demolition will be assessed against the following tests:

- Importance of the building
- Condition of the building
- Economic viability of reusing the building
- Wider public benefits

In terms of importance of the wall, it should be noted that the application boundary wall is listed as category C listed building and has the same statutory protection. As stated in the Pitfodels Conservation Area Character Appraisal, the entire length of Inchgarth Road is heavily influenced by both mature trees to the south and a large stone wall which extends the entire length and is a strong feature of the conservation area which adds significantly to the character. The prevalence of traditional boundary walls is an important unifying feature of the conservation area and a key vista, and should be conserved. Therefore the breach of the boundary wall is considered to have a negative impact on the character of the conservation area.

The other tests on condition of the building, economic viability and wider public benefit could not be used as a justification for demolishing part of the boundary wall. The existing wall is not beyond repair and development cost is not a critical factor in delivering the proposal. It is also considered that there is no public benefit element associated with removal of the boundary wall.

Accordingly it is considered that the proposal is not in accordance to policy D5.

***Policy D4: Historic Environment***

The council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP and its own Supplementary Guidance and Conservation Area Character Appraisals and Management plan.

The site is located within a conservation area and is within the curtilage of a listed building. Historic evidence shows that the primary access to Inchgarth House was via a sweeping driveway located to the east of Inchgarth Lodge. Therefore to ensure the historical integrity of the site this route, which has recently been resurfaced and upgraded, would be the preferred access.

The Pitfodels Conservation Area is characterised by large detached villas set in spacious landscaped garden plots with generous tree planting. Therefore, the loss of any trees and landscaping should be avoided in order to preserve and enhance the character of the conservation area and the landscape quality of the wider conservation area.

It is considered that the proposal does not accord with policies D2 or D4.

***Policy D1: Quality Placemaking by Design***

All development must ensure high standard of design. It is considered that the proposal has not been designed with due consideration to its context and would not make a positive contribution to its setting. Taken account of the considerations on removal of the original fabric of wall, it is considered the proposal does not accord with the requirements of policy D1.

***Policy NE6: Flooding, Drainage & Water Quality***

The proposal is to the satisfaction of the ACC Flood Team and has potential to accord with Policy NE6 (Flooding and Drainage), subject to provision of SUDS. However, provision of on site drainage could potentially result in further disturbance to protected trees.

### **Other Matters Raised in Representations**

Objection 1-12 & 14 relating to impact of the proposal on trees and wild life, green belt, conservation area, listed building; quality of replantation scheme, residential amenity of neighbouring properties; road safety and drainage problems have all been considered in the evaluation section of this report.

Objection 13 relates to the retrospective works. It should be noted that a retrospective application is considered in a normal way and it cannot be assumed that permission will be granted. However, the retrospective nature of the application raises the issue of the potential need for enforcement action, which is addressed below.

Objection 15 relating to private right of access is not a material planning consideration and has not been considered in this assessment.

Full regard has been given to all concerns raised in representations.

### **Need for Enforcement Action**

This is of particular relevance in relation to the adverse tree impact caused by the unauthorised site works. It is noted that the applicant, who owns the site and instructed the unauthorised site works, is an established housebuilder rather than a member of the public, and therefore should have been aware of the need for securing necessary planning approval and consent for tree removal before undertaking such work. Given that the adverse tree impact is considered to be insurmountable, enforcement action is now sought in order to ensure removal of the existing unauthorised driveway works, reinstatement of appropriate topsoil and replanting of new trees on site. This is required in the interest of preservation of the setting of the listed building, preservation of the character of the conservation area and to mitigate the adverse tree impact of the unauthorised site works.

### **Potential Conditions**

The application is recommended for refusal and it is considered that the adverse impacts of the development cannot be addressed by use of conditions. However, should committee be minded to grant consent, then conditions could address the following matters:

- Mitigating the impact of development on bats– n.b. A condition cannot be relied on provision of a bat survey – it would have to be provided up front and a decision deferred
- Landscaping and habitat reinstatement plan
- Arboricultural Impact Assessment
- Updated Tree Protection Plan with tree removal limited to those trees immediately associated with the development
- Construction Methodology Statement

It should also be noted that a construction consent for the access road junction is also required.

### **RECOMMENDATION**

---

- 1. Refuse the planning application for the reasons given below;**
- 2. Instruct enforcement action within the site, as appropriate, in order to ensure removal of the existing unauthorised driveway works, reinstatement of appropriate topsoil, site landscaping and replanting of new trees on site and other works as may be required to reinstate the original ground condition. This is required in the interest of preservation of the setting of the listed building, preservation of the character of**

**the conservation area and to mitigate the adverse tree impact of the unauthorised site works.**

## **REASON FOR RECOMMENDATION**

---

1. Due to significant detrimental impact on mature trees on site and inappropriate impact on the listed boundary wall, the proposed driveway would detract from the setting and character of the listed building and conservation area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with provisions of Historic Environment Scotland Policy Statement, Scottish Planning Policy, the Aberdeen Local Development Plan policies NE5 (Trees and Woodland), NE2 (Green Belt), D5 (Our Granite Heritage), D4 (Historic Environment), D1 (Quality Placemaking by Design) and relevant Supplementary Guidance.
2. Insufficient information has been submitted in regards to the impact of the proposal on nature conservation and, on this basis, it is considered that there is potential for the proposal to have an adverse impact on nature conservation and the qualifying interests of the River Dee Special Area of Conservation
3. There are no material planning considerations that would warrant approval of the application. The application should be refused to allow for full and unhindered reinstatement of trees in this area in order that the trees and woodlands that once contributed to local landscape character and local amenity can be re-established.