

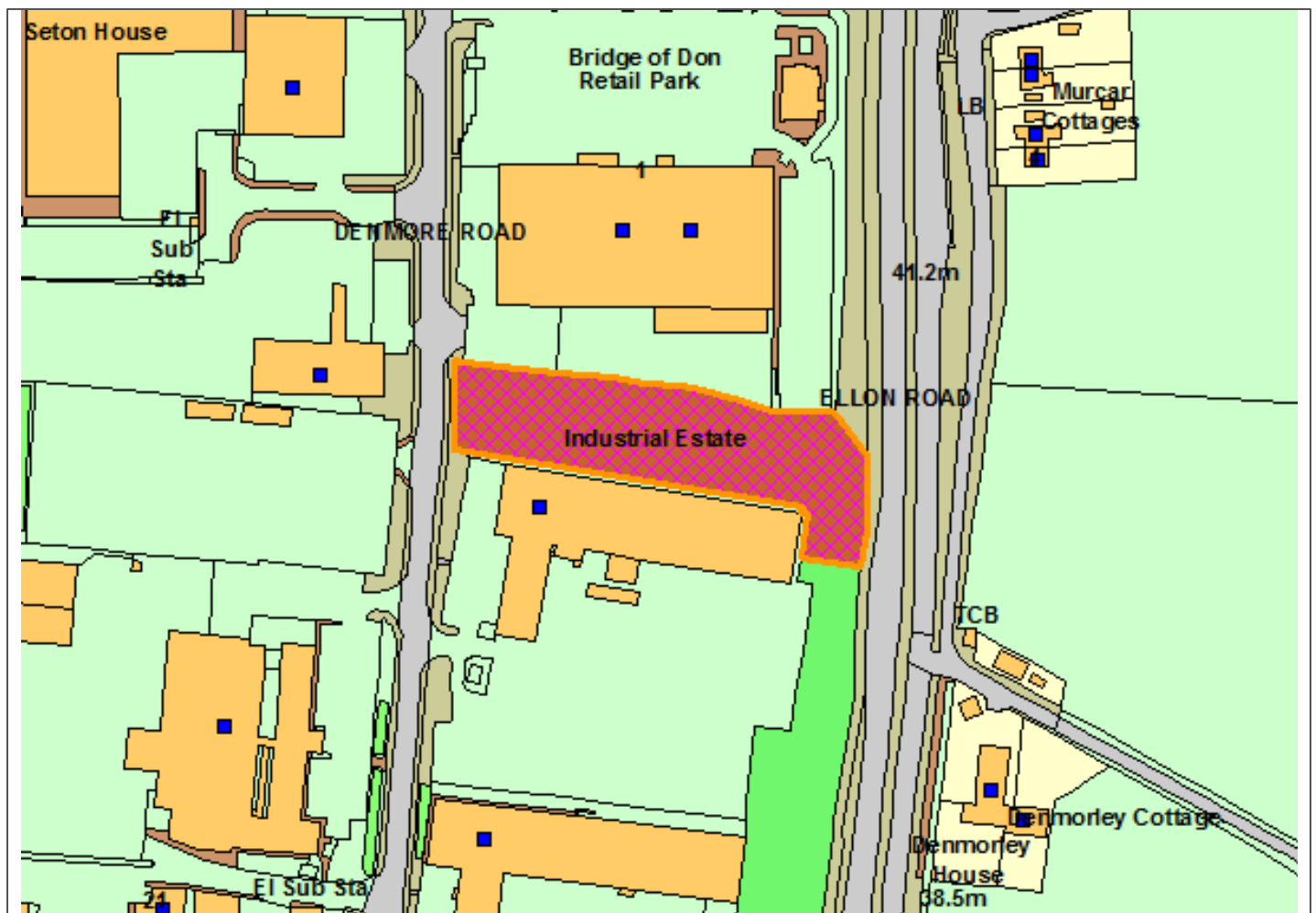


# Planning Development Management Committee

Report by Development Management Manager

**Committee Date:** 24 January 2019

<b>Site Address:</b>	Land To The North Of Sparrows Offshore, Denmore Road, Aberdeen, AB23 8JW
<b>Application Description:</b>	Proposed shared use pedestrian and cycle path
<b>Application Ref:</b>	181677/DPP
<b>Application Type</b>	Detailed Planning Permission
<b>Application Date:</b>	27 September 2018
<b>Applicant:</b>	Aberdeen City Council
<b>Ward:</b>	Bridge Of Don
<b>Community Council:</b>	Bridge Of Don - Pre Boundary Review 2018
<b>Case Officer:</b>	Roy Brown



## **RECOMMENDATION**

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Approve Conditionally

## **APPLICATION BACKGROUND**

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### **Site Description**

An approximate 4200sqm area of semi-natural green space in the Murcar and Denmore Industrial Estate. The site is part of the Green Space Network connecting into a wider area of open space to the west of Ellon Road and is covered with semi-mature semi-natural woodland and shrubbery and contains an informal desire-line path between Ellon Road and Denmore Road. The application site is bounded by a warehouse unit (Sparrows Offshore) and open space to the south; Denmore Road to the west; the rear of B&Q and the Bridge of Don Retail Park to the north and open space; and Ellon Road to the east.

### **Relevant Planning History**

Planning permission was granted conditionally in 2013 (Ref: P130776) for the change of use and development of the site into a private car park associated with Sparrows Offshore to the immediate south of the site, associated landscaping and the formation of a new public footpath between Ellon Road and Denmore Road on the basis that the economic and employment benefits of Sparrows Offshore's presence in the Bridge of Don area were considered to outweigh the relevant provisions of the Aberdeen Local Development Plan. It was not implemented and has since expired.

## **APPLICATION DESCRIPTION**

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### **Description of Proposal**

The formation of a 153m long 3m wide shared use pedestrian and cycle path, which would create an east-west link between Denmore Road and Ellon Road. No details of materials have been provided.

### **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=PFEV1GBZHK700>.

### Transportation Supporting Statement

Explains the background of the proposal in the context of the wider context of the Local Transport Strategy, the Active Travel Action Plan and the Regional Transport Strategy Action Plan to build a strategic travel network and an associated feasibility study to create routes along the Ellon Road Corridor; provides justification for this proposal; and notes that the scheme was proposed in the External Funding for Transport Projection Report approved by the Aberdeen City Council City Growth and Resources Committee 24th April 2018 (PLA/18/003) and Strategic Commissioning Committee 30th April 2018 (PLA/18/019) in Appendix 3 (A90 Trunk Road connections cycle routes).

### Tree Survey Report

Describes the trees on the site, their health and proposed tree protection measures.

### Tree Survey Drawing

Plan of the trees to be removed and the proposed tree protection fencing (read in conjunction with the Tree Survey Report).

### Ground Based Potential Roost Feature Assessment of Trees

The results of a bat roost potential survey that describes the methodology of the assessment and the results stating that there was no evidence of bat roosts or bats on the site. It notes that the trees have moderate suitability for foraging and commuting bats. Further recommendations were made with respect to avoiding bird breeding season and reducing lighting measures when bats are active, between March and August.

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

The application has been referred to the Planning Development Management Committee because the application is being recommended for approval and has been the subject of formal timeous objection by the local Community Council within whose area the application site falls, Bridge of Don Community Council.

## **CONSULTATIONS**

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**Bridge of Don Community Council** – Objection – With reference to Scottish Planning Policy and Policy NE1 of the Aberdeen Local Development Plan (ALDP), the proposal would result in the loss of trees/natural habitat and the Green Space Network and therefore should not be developed. The likely infrequency of use of the proposed path is of concern. There is no cycle path on Denmore Road to connect the cycle path on Ellon Road, and there are access/egress points nearby on Ellon Road to both the Parkway and Denmore Road. There are areas in Bridge of Don where members of the community have expressed desire for similar facilities in a different location. The Transportation Supporting Statement does not address these concerns. The Community Council ask if the application can be deferred so that the Community Council can discuss the best possible locations for shared use paths within the Bridge of Don community.

**Police Scotland** – No objection – Bridge of Don generally has a low level of crime and this cycle path causes no extra concern from a crime and a policing perspective. General recommendations for constructing new public paths are provided, notably in relation to natural surveillance and visibility being ensured, opportunities for defensive planting along the boundaries and with respect to the width of the path.

**Transport Scotland** – No objection – Advise that the application is subject to a condition requiring that prior to any works commencing, the applicants contacts the operating company and obtains approval of details of the tie-in to the trunk road footway and all other consents required, to ensure the integrity of the trunk road footway is not impaired. Further informatives are recommended.

**Aberdeen City Council Roads Development Management** – No objection – No roads concerns.

**Aberdeen City Council Flooding And Coastal Protection** – No objection - No comments as it does not pose a flood risk.

## **REPRESENTATIONS**

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One letter of representation (a letter of objection) has been received in relation to this application. The matters raised can be summarised as:

- The proposal would not offer practical benefit to connectivity with the area, and there would not be any benefit to connecting the cycleway on Ellon Road to Denmore Road as there is no cycle route on Denmore Road.

- There is 'demand' for a pedestrian link between the Dubford residential development (to the northwest of the Bridge of Don Retail Park) and the Bridge of Don Retail Park. It is noted that it 'has not been possible to reach an agreement over the formation of such a link'. The noted alternative link would outweigh any connectivity benefits offered by this proposal.

## **MATERIAL CONSIDERATIONS**

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### **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 Planning Policy**

Scottish Planning Policy

### **Aberdeen Local Development Plan (ALDP) (2017)**

Policy B1 - Business and Industrial Land

Policy NE1 - Green Space Network

Policy NE3 - Urban Green Space

Policy NE5 - Trees and Woodland

Policy NE8 - Natural Heritage

Policy NE9 - Access and Informal Recreation

Policy T2 - Managing the Transport Impact of Development

Policy T3 - Sustainable and Active Travel

Policy D1 - Quality Placemaking by Design

Policy D2 - Landscape

### **Supplementary Guidance (SG)**

Natural Heritage

Trees and Woodlands

Green Space Network and Open Space

## **EVALUATION**

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### ***Principle of Development***

The application site is zoned as Policy B1 in the ALDP. Policy B1 states that within existing business and industrial areas, there shall be a presumption in favour of retaining existing open space and the site would remain as open space. Given Policy B1 and the Green Space Network and Open Space SG seek new business and industrial land proposals to make provision for footpaths and the existing Murcar and Denmore Industrial Estate has an absence of footpaths, the formation of a footpath through open space would conform with the principles of Policy B1 and this guidance.

The application site is zoned as Policy NE1 - Green Space Network in the ALDP. Policy NE1 states that the Council will protect, promote and enhance the wildlife, access, recreation, ecosystem services and landscape value of the Green Space Network, which is identified on the Proposals Map. Proposals for development that are likely to destroy or erode the character and/or function of the Green Space Network will not be permitted. These issues are assessed in the following evaluation under *Green Space Network*.

### ***Transportation***

By forming a shared use cycle and pedestrian path which would link Ellon road (and a bus stop approximately 20m from the eastern end of the path), the proposal would accord with the objectives of Policy T2 in that it would be maximising opportunities for sustainable and active travel and Policy T3 in that the development would prioritise walking and cycling and it would be improving links between employment facilities and the bus stop and Ellon Road. Given the presence of an existing informal desire-line footpath, a formal hard surfaced path would make it quick, convenient and safe for existing users walking and cycling, and encourage further usage. The proposal would comply with SPP in that it would be an enhancement of a cycle route.

To the immediate east of Ellon Road a 27Ha opportunity site for land release has been allocated for employment land (OP1 – Murcar) in the ALDP as part of Phase 2 (2027-2035). In the longer term, this link would provide a beneficial sustainable and active travel link between business/industrial estates to the west and this future employment land to the east. This path would connect to future path links set out in the Dubford Development Framework to the Dubford residential development to the northwest of the Bridge of Don Retail Park.

The submitted Supporting Transportation Statement highlights that this proposal forms part of the wider Local Transport Strategy, the Active Travel Action Plan and the Regional Transport Strategy Action Plan and that it would provide an east to west link between Ellon Road and Denmore Road.

### ***Landscape and Design***

The path, at 3m wide to facilitate both cycle and pedestrian users, would retain a significant area of open space in the site to the north and south. With the exception of the area to be developed for this path, which would develop 11% of the site, its function as a soft landscape buffer between Sparrows and B&Q would be retained. The majority of the site would remain tree covered and thus the landscaped green space buffer between B&Q and Sparrows would remain. Given the semi-natural landscape character of the site surrounded by industrial units and major roads, a formal hard surface would be acceptable in the context. Details of the finishing material of the path have however not been submitted. These finalised details can be clarified and approved through an appropriately worded condition. Subject to these details, the design of the proposal in its local landscape context would comply with Policies D1 and D2 of the ALDP.

### ***Green Space Network***

The proposal would promote the access and recreation value of this area of Green Space Network, in accordance with Policy NE1. The development would conform with the objectives of Policy NE9 – Access and Informal Recreation by forming a new/improved link to green space and on this basis, the ecosystem services associated with the formation of a such a path. Given the majority of the site would remain undeveloped, its function in terms of connecting natural habitats to the north and south of the site and other open spaces in the wider area would be retained.

### ***Trees***

Policy NE5 states that there is a presumption against all activities and development that will result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation. SPP states that Scottish Government's Control of Woodland Removal Policy includes a presumption in favour of protecting woodland.

In this instance, the proposal would result in the removal of 60 semi-mature trees (16 with a diameter greater than 250mm at 1.5m above ground level; and 44 which are less than that). The species present include alder, whitebeam, rowan, wild cherry, willow, cotoneaster, laurel and elder. Whilst a significant number, there is limited spacing between these trees and because of the lack of woodland management on the site, thinning works would be required in the future irrespective of this development. The tree survey report identifies many of the trees to be in decline and dieback and there is evidence of disease in the alder trees.

Whilst these trees together contribute to nature conservation, landscape character, local amenity and climate change adaptation and mitigation and form a semi-mature semi-natural woodland, and therefore their removal would conflict with Policy NE5, individually they are of insignificant value and not worthy of protection, particularly with respect to local landscape character and amenity. If this proposal is granted, the majority of the site would still remain tree covered. The impact to the health and greater value of the retained trees as they reach maturity would be positive. This would accord with the principles of Policy NE5 in the longer term.

To ensure that the trees to be retained are protected during construction, it is recommended that the planning permission be granted subject to a condition requiring the implementation of the recommended tree protection measures prior to and during construction.

SPP states that where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. Police Scotland recommends the provision of 'defensive planting' along the boundaries of the site. It is therefore recommended that planning permission be granted subject to a condition requiring appropriate compensatory planting of native species.

Whilst not fully compliant with SPP and Policy NE5, subject to appropriately worded conditions, the longer-term positive impact of the proposal to the trees to be retained and proposed replanting would outweigh the short term impact in terms of trees to be removed.

#### Natural Heritage

The proposal would remove several trees and the site is highly likely to contain nesting sites for wild birds, notably species such as robins, blackbirds, house sparrows and dunnocks. The Natural Heritage SG states that to comply with the Wildlife and Countryside Act 1998 developers should delay works that may affect breeding birds and their young to safeguard existing nesting sites. It must be noted that even if a bird survey was submitted establishing that there were no birds nesting at any given time during the breeding season, given they are a mobile species, it is entirely possible that birds could nest in the site during construction after the survey is undertaken. To ensure there is no disturbance, it is recommended that planning permission be granted subject to a condition requiring the works to be undertaken outside the nesting season for these birds (between the 15<sup>th</sup> March and the 31<sup>st</sup> of August).

There is evidence of badgers being sighted in the wider area. Badgers are a protected species under the *Protection of Badgers Act 1992* and due to the sensitivities surrounding the species, further details of this cannot be disclosed publicly as to do so would be potentially harmful to the badgers' safety and wellbeing. However, as there was no evidence of this protected species on the site, the proposal would not adversely impact badgers or their habitats and no mitigation measures would be required, in compliance with Policy NE8 and the associated Supplementary Guidance.

A bat roost potential assessment report was submitted with the application. There was no evidence of bats or bat roosts on the site and the given the absence of mature trees on the site, the trees were not considered to have bat roost potential. Whilst the proposal would remove trees which would have a moderate suitability for foraging and commuting bats, a significant number of trees would remain and therefore such a habitat would remain. The proposal would therefore not negatively affect bats or bat roosts, in compliance with Policy NE8 and the associated Supplementary Guidance.

#### Green Space Network Summary

Whilst the loss of trees would have a short term negative impact to the function and character of the Green Space Network, the proposal would improve the access and recreation value of the

space, and in the longer term would retain and enhance the wildlife landscape value of the space. Subject to appropriately worded conditions, the proposal would have negligible impact to natural heritage. On balance, the proposal would therefore be considered to comply with Policy NE1 – Green Space Network, its associated SG and SPP.

***Matters Raised by Bridge of Don Community Council***

The matters raised relating to the impact on the Green Space Network, trees and natural heritage have been addressed in the above evaluation and through appropriately worded conditions. This planning application accords with Policies T2 and T3 of the Aberdeen Local Development Plan with respect to improving transportation links and encouraging sustainable and active travel, as detailed in the above evaluation. Whilst no survey or model has been submitted with the application which projects the potential usage of the development by pedestrians/cyclists, an informal desire line path through the site demonstrates that this route is already being used.

The benefits of alternative cycle and pedestrian paths in the Bridge of Don community is noted. However, the Planning Authority is obliged to consider and determine the application which has been submitted based on the relevant national policies and the Aberdeen Local Development Plan.

***Matters Raised by Transport Scotland***

The Planning Authority has addressed matters raised by Transport Scotland in the appropriately worded condition.

***Matters Raised by Police Scotland***

The proposal accords with the majority of recommendations for new public paths raised by Police Scotland with respect to maximising passive and natural surveillance of the site. There will be the opportunity for 'defensive planting' through compensatory replanting and this would be satisfied through the condition.

It can be noted that the shared use path is only 3m in width, which is less than the minimum 5m width Police Scotland recommend. Given the significant the loss of open space and trees which would result from a path of such a width and a 3m wide path would be able support cycle and pedestrian use (with no concerns from Roads Development Management from a public safety perspective), the width is considered acceptable in this particular instance.

***Matters Raised in the Letter of Representation***

The Planning Authority must assess the merits of the proposal which has been submitted. This planning application accords with Policies T2 and T3 of the Aberdeen Local Development Plan with respect with respect to improving transportation links and encouraging sustainable and active travel, as detailed in the above evaluation.

The benefits of and 'demand' for other path links in the area, or moreover the requirement for developers of other sites to create new paths through developer obligations (as described in the Dubford Development Framework) is irrelevant to this planning application, and would be required to develop these other sites irrespective of the outcome of this planning application.

**RECOMMENDATION**

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Approve Conditionally

**REASON FOR RECOMMENDATION**

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The proposed shared use cycle and pedestrian path would create and improve a sustainable and active travel link and would enhance the access and recreation value of this open space and part of the Green Space Network, in compliance with Policies NE1 – Green Space Network T2 – Managing the Transport Impact of Development, NE9 – Access and Informal Recreation and Policy T3 – Sustainable and Active Travel of the Aberdeen Local Development Plan.

The proposed design would be acceptable in the context of the local landscape character, the majority of the site would remain as open space and its function as a soft landscape buffer between B&Q and Sparrows would be retained, in compliance with Policies D1 – Quality Placemaking by Design and Policies D2 – Landscape of the Aberdeen Local Development Plan. The formation of a footpath in an area of open space in an industrial estate would conform with the principles of Policy B1 – Business and Industrial Land of the Aberdeen Local Development Plan; and the ‘Green Space Network and Open Space’ Supplementary Guidance’.

The proposal would have a short term negative impact to the wildlife function and character of the Green Space Network because of the loss of trees. However, because of their limited individual value, the ill health of some of the trees and their lack of spacing, the removal of these trees would in the longer term allow those to be retained to grow to maturity which would enhance the contribution to nature conservation, landscape character, local amenity or climate change adaptation and mitigation of the trees to be retained and the character and function of this area of the Green Space Network. Subject to an appropriate replanting scheme, tree protection measures and ensuring no construction is undertaken during the bird nesting season, the proposal would not adversely affect the function and character of the Green Space Network. The longer term positive impacts would outweigh the short term negative impacts and therefore on balance the proposal is considered to comply with the principles of Scottish Planning Policy; Policies NE1 – Green Space Network, NE8 – Natural Heritage and NE5 – Trees and Woodlands of the Aberdeen Local Development Plan; and the Supplementary Guidance: ‘Trees and Woodlands’, ‘Green Space Network and Open Space’ and ‘Natural Heritage’.

## **CONDITIONS**

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### Breeding Season

- 1) That no construction works associated with this development shall be carried out on site between the 15<sup>th</sup> March and the 31<sup>st</sup> August. Reason: To ensure the adequate protection of birds and their young, the wildlife and natural heritage of the Green Space Network.

### Tree Protection

- 1) That no construction shall take place unless the tree protection measures in the tree protection plan and the tree survey report have been implemented in its entirety and that they shall remain in place until the development is completed. Reason: in order to ensure adequate protection for the trees on site during the construction of the development.

### Replanting

- 2) That no construction shall take place unless a plan illustrating the new areas of native tree planting and ‘defensive planting’ on the site has been submitted to and approved in writing by the Planning Authority. All planting, seeding and turfing comprised in the approved scheme of replanting shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority. Reason:- in the interests of the green space network and the natural heritage of the area.



### Materials

- 3) That no development shall take place unless a scheme detailing all external finishing materials to be used on the surface of the path hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed. Reason:- in the interests of visual amenity.

### Transport Scotland

- 4) That no construction shall take place on site unless the details of the tie-in to the trunk road footway are approved by the Operating Company. Reason:- To ensure the integrity of the trunk road footway is not impaired.

## **ADVISORY NOTES FOR APPLICANT**

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### ***Badgers***

During construction work the applicant and/or the developer should remain vigilant for any signs of badgers. Should badgers or any sign of badgers be discovered, all work in that area should cease immediately and Scottish Natural Heritage (SNH) contacted for further advice ([licensing@snh.gov.uk](mailto:licensing@snh.gov.uk) / 01463 725364).

For the purposes of development as defined under the Town and Country Planning (Scotland) Act 1997, licences are available from SNH for certain purposes to permit actions that might otherwise constitute an offence in relation to badgers or their setts. A licence must be obtained from SNH for work that may cause disturbance to a badger or involves the damage or destruction of a sett.

Licences will not normally be issued during the breeding season (from the 30th November to the 1st of July). Developers should consider activities that may cause disturbance, damage or destruction to occur outside this period.

### ***Transport Scotland***

Transport Scotland advise that the applicant should contact the operating company and obtains approval of details of the tie-in to the trunk road footway and all other consents required, to ensure the integrity of the trunk road footway is not impaired.

The grant of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. The Route Manager can be contacted via: 01738 448600.

### ***Police Scotland***

They recommend that the developer liaise with the Police Scotland Architectural Liaison Officer service at each stage of the development, for the purpose of designing out crime using the principles of Crime Prevention through Environmental Design (CEPTED).

### ***Tree Felling***

It is recommended that tree felling avoids bird nesting season between the middle of March and the end of August.