

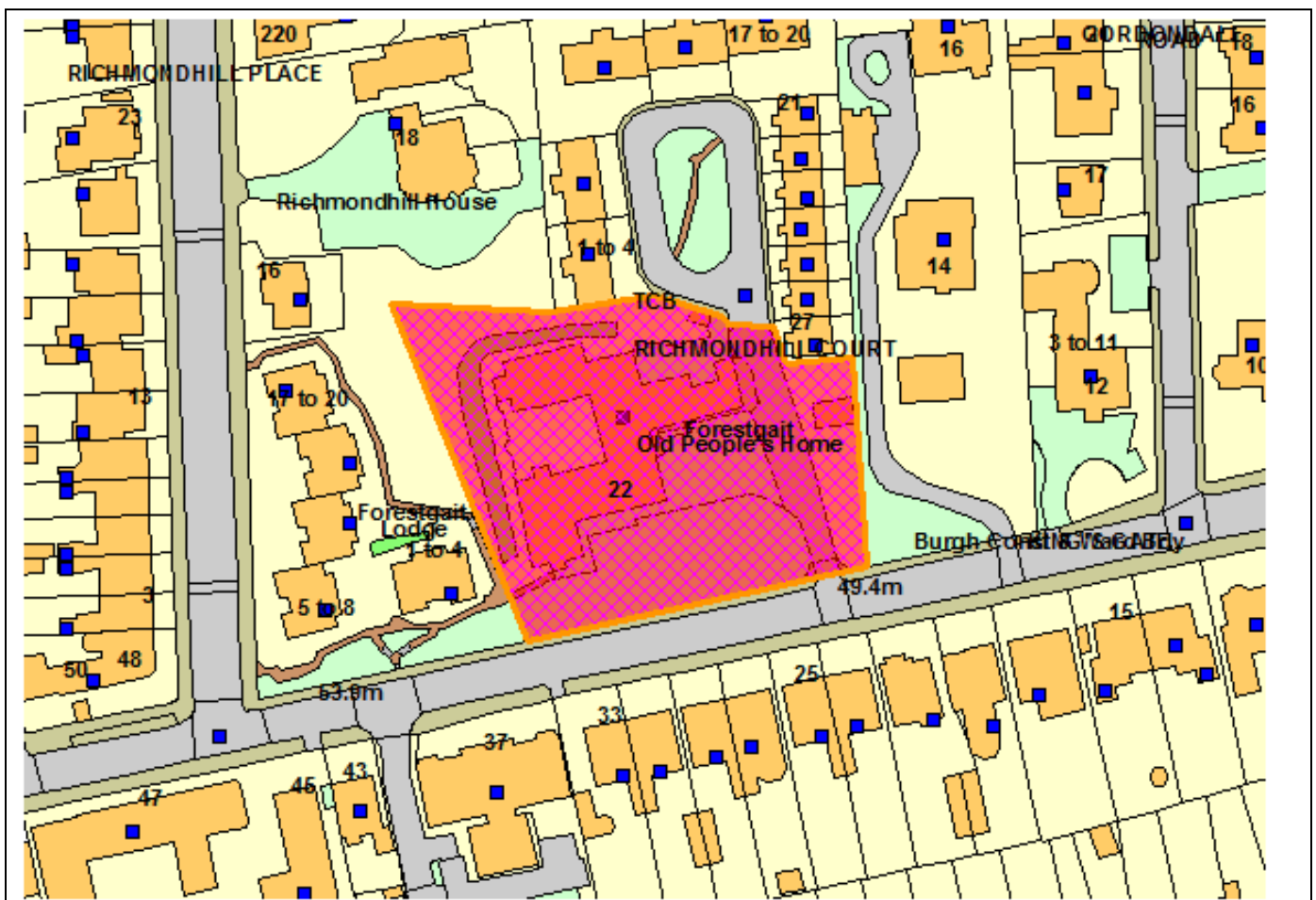


Planning Development Management Committee

Report by Development Management Manager

Committee Date: Thursday 30th September 2021

Site Address:	Forestgait, 22 King's Gate, Aberdeen, AB15 5FA
Application Description:	Erection of residential development comprising 35 flats/apartments over 3 and 4 storeys, including erection of ancillary structures and demolition of existing redundant building; formation of car parking area, landscaping works and alterations to site access
Application Ref:	210592/DPP
Application Type	Detailed Planning Permission
Application Date:	5 May 2021
Applicant:	CALA Management Ltd & Aberdeen Association Of Social Serv (VSA)
Ward:	Mid Stocket/Rosemount
Community Council:	Rosemount And Mile End
Case Officer:	Jamie Leadbeater



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The site comprises a small section of King's Gate public thoroughfare and a vacant detached two-storey care home building built in the 1970s with associated amenity ground and car parking set within mature woodland on the northern side of King's Gate within the Albyn Place/Rubislaw Conservation Area. The site area equates to 0.48 hectares in size.

The site takes access off a narrow (4.8m), un-adopted road called Richmondhill Court which also serves 27 other residential units to the north of the site managed by Castlehill Housing Association. Housing within this development comprises a mix of flat units set within two storey terraces and single storey terraced houses. Immediately to the west of the site exists 5 flat roof two-storey flatted blocks comprising approximately 20 residential units built in 1960s/1970s with shared area of communal open space situated to the rear (east) of all units. A large detached two and half storey granite villa carrying a category C-listing, known as Richmondhill House, exists immediately to the north of the site and is set approximately 3m above the floor level of the vacant care home, which is managed by joint applicant, VSA.

In terms of the wider context, the prevailing character of the surrounding area i.e. Richmondhill Place to the west, Gordondale Road to the East and King's Gate to the south, all comprise of dwelling-houses and flats set within two to three storey high buildings with nearly all finished entirely in traditional granite blockwork. Most buildings also incorporate a number of similar features such as bay windows, dormer windows, pitched slate roofs, chimneys, and timber windows and doors. Whilst this prevailing character is depicted from building of late 19th Century/early 20th Century age, there are some examples of more modern developments which utilise these design features – particularly on King's Gate and Gordondale Road.

In terms of designation, the site falls within a defined “residential area” on the Aberdeen Local Development Plan (ALDP) 2017 Proposals Map, to which Policy H1 in the ALDP attaches. Furthermore, the site falls within Albyn Place/Rubislaw Conservation Area, the boundary wall along the southern boundary of the site falls under the curtilage of the category C-listed Richmondhill House, and most trees within the site boundary are covered by a Tree Protection Order (TPO).

Relevant Planning History

Application Number	Proposal	Decision Date
181699/DPP	Erection of residential development comprising 41 residential flats set over 4 storeys; formation of car parking area, landscaping and all associated infrastructure works	29.10.2019 Withdrawn by applicant before committee
181747/CAC	Complete demolition of 2 storey building	27.11.2019 Withdrawn by applicant before committee
210593/CAC	Complete Demolition of single storey and 2 storey buildings	Pending consideration

APPLICATION DESCRIPTION

Description of Proposal

Detailed Planning Permission (DPP) is sought for the erection of a flatted block set over 3 and 4 storeys upon an 'L-shape' footprint comprising 35 two-bedroom flats with associated car parking, landscaping work, erection of ancillary cycle and bins stores, and alterations to the existing Richmondhill Court access.

In terms of appearance, the principal (southern) elevation would be predominantly finished in a natural grey granite with a mixture of white and grey render in parts with the exception of the recessed fourth storey which would be finished in a grey fibre cement cladding. Balconies both recessed into the footprint of the building and those projecting off the front elevation set within a metal frame would feature heavily across the front elevation. The lower three storeys of the building on the western elevation would be finished entirely in a white or grey render whilst the top (fourth) floor would be finished in fibre cement vertical cladding. This finishing treatment would be replicated on the eastern and northern elevations, excluding a small pockets of granite on side elevation of the three storey wing and two entrance doors set behind the principal elevation on the northern and eastern elevations and a full height fibre cement clad feature on the eastern elevation. One column of projecting balconies would also feature on the eastern elevation of the four-storey element overlooking the proposed car parking area.

In terms of site layout, the flatted block would be built upon an L-shape footprint and essentially divided into a four-storey west wing and three storey southern wing. The front (southern) elevation would therefore have a split-level principal height set towards the front of the site looking onto trees inside the southern boundary and the west wing would be set towards the western boundary, about 2m off the existing steep grass embankment which runs around the building along part of the northern site boundary. Car parking would be sited behind the building to the west of Richmondhill Court and also along the eastern side of Richmondhill Court, with a cycle and bin store located even further east at the foot of trees along the site's eastern boundary. Further separate bin and cycle stores would be located to the north of car parking to the rear of the building on the site's northern boundary which would be surrounded by small pockets of soft landscaping. The cycle and bins store would have a blockwork base course with vertical timber cladding to outer walls and metal mono pitch roof.

In terms of the residential floor layout, the ground floor would comprise of 10 x two-bedroom flats, of which 5 flats have single aspects with two separate accesses from the car parking area to serve stairwells to upper floors. The first and second floors would replicate the same floor layout at the ground floor but include balconies to each unit. The third (top) floor would comprise of 5 x two-bedroom flats, of which 2 flats would have single aspects. Each flat would have their own balcony area but unit 35 would have a larger roof top terrace set within the footprint of the building.

In terms of landscaping, the grassed areas would be located on the sloping embankment along the western boundary and between the principal (south) elevation of the building and trees lining the sites frontage. A pathway would dissect the area of grass between the building's frontage and trees along the site's front/southern boundary. Other small pockets of grass would be located along the northern and eastern boundaries on the fringe of proposed car parking areas. A minimum of 9 existing trees in the south-eastern corner of the site are proposed to be removed to make way for development.

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=QSBCSRBZJ3100> .

- Design and Access Statement
- Drainage Assessment
- Ecological Constraints Survey
- Listed Wall analysis
- Planning Statement
- VSA letter regarding sale proceeds from site
- Tree Survey
- Transport Assessment

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 objections to the application have been received.

CONSULTATIONS

Internal

ACC - Developer Obligations – An assessment has been received which seeks the following:

- **Affordable Housing** at 25% would equate to 8.25 units. This is to be met by through the delivery of the VSA specialist housing facility at 450 Holburn Street, approved under application 170744/DPP which has recently been completed; and,
- **Primary Education** - No contribution. Development would not result in Mile End Primary School going over capacity, when factoring in 2018 forecasts; and,
- **Secondary Education** - No contribution. Development would not result in Aberdeen Grammar School going over capacity, when factoring in 2018 forecasts; and,
- **Community Facilities/Sports & Recreation** - £7,000. To be used at Rosemount Learning Centre; and,
- **Open Space** - £5,124. To be used towards Westburn Park/Victoria Park improvements; and,
- **Healthcare** - £16,156. To be used by NHS Grampian in reconfiguring healthcare facilities provision in city centre; and,
- **Core Path Network** – No need for a contribution has been identified.
- **Transportation** – approximately £14,000 for the upgrade of the two nearest bus stops to the site on King's Gate.

ACC - Roads Development Management Team – No objection, subject to several conditions being met.

The site is well served by pedestrian and cycle routes, and there is a bus stop of King's Gate within 100m of the site providing services to both the city centre and wider city, although a bus stop upgrade will be necessary at the developer's expense. The expected approximate cost of these upgrades, provided by the Public Transport Unit, is likely to be £14,000.

Parking standards for the area of the city are 1.5 spaces per unit and therefore the requirements would be 53 spaces but the proposed ratio of 1 space per unit plus 2 disabled spaces is considered acceptable providing cycle parking is provided. The sizes of the car parking spaces are acceptable and the provision of EV charging points plus 40 cycle spaces are also welcome.

Widening of the site access for two-way vehicular movements in and out of Richmondhill Court to the measurements that follow previous discussions, including the provision of a footpath. In order to improve visibility from the access, the kerb line should be built out slightly into the King's Gate public thoroughfare. These access upgrades would improve access for refuse collection purposes and the submitted Swept Path Analysis in the Transport Assessment demonstrates adequate

turning space within the site for refuse collection. The submitted Transport Assessment also confirms that an acceptable Travel Plan format is proposed.

ACC - Waste & Recycling – No not object, and the service would intend to provide refuse services for the development apart from garden waste. Some concerns have been raised about the width of the pathways leading to the bin stores to prevent potential property damage to parked cars.

External

Rosemount And Mile End Community Council – Ask that the Council consider comments submitted by residents.

Scottish Water – No objection, but applicant should be aware that this does not confirm that the proposed development can be serviced. Scottish Water are unable to confirm there will be sufficient water servicing capacity from Invercarnie Treatment Works but confirm there is currently sufficient capacity for foul water connection to the Nigg PFI Waste Water Treatment works.

REPRESENTATIONS

A total of 30 representations have been received, all of which object to the application. The reasons for objection are summarised as follows:

- The proposal would overdevelop the site, resulting in an excessive number of residential units being created;
- The proposed building would be located closer to King's Gate than the existing building;
- The height of the building is not in-keeping with the height of the existing buildings and those within the surrounding area;
- A replacement building for the site should be a maximum of 2 storeys whilst using more sympathetic materials which are in-keeping with the surrounding area;
- This development does not consider existing building, mature trees and existing infrastructure. The series of rectangular boxes does not interact with its surroundings;
- King's Gate is already a busy road and the extra vehicle movements arising from the proposed development will cause safety issues on Richmondhill Court;
- The proposed modern, non-traditional finishing materials not in-keeping with site's context and would look out of place;
- The proposed windows are not in-keeping with the traditional sash & case windows seen on King's Gate;
- Height and proximity of the building to neighbouring properties would create an overbearing impact on neighbouring properties on Richmondhill Court;
- Increased noise and light disturbance to the surrounding properties, most of which contain the elderly;
- Proposed windows, balconies and terrace would have an adverse overlooking impact on neighbouring properties;
- Lack of on-site parking would result in indiscriminate parking and congestion in neighbouring streets;
- Mile End primary school is already overcapacity and this development would potentially worsen that situation;
- Would result in loss of trees covered by Tree Preservation Order;
- Negative impact of character and amenity of conservation area;
- Proposed design is contrary to ALDP design policy;
- Existing entrance to Richmondhill Court off King's Gate is dangerous enough without intensifying use of it;

- The entrance to Richmondhill Court would not need to be widened if the combined number of properties did not exceed 50, so the current entrance would be suitable for a smaller development. This would ensure a large section of the listed boundary wall would not need to be removed including many trees with preservation orders;
- Loss of existing building would have an adverse impact on local community as facility promotes diversity in the area;
- Construction phase would result in restricted access for rescue services vehicles to Richmondhill Court;
- Whilst the developer wishes to maximise their profit by getting as many units as possible, the Planning Committee should take into consideration that it's not always about maximum return and that cognisance should be taken of the softer issues of preservation of heritage and the core values of people of the city which the development will most definitely affect;
- The existing drainage system is not fit for purpose and could not support more housing;
- The proposed development would be an ugly stain on the city's landscape.

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.

With regards to developments in Conservation Areas, Section 64 (1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (PLBCAA) requires that in the decision-making process special attention shall be paid to the desirability of preserving or enhancing the character or appearance of such areas. This includes views into, within, and out of Conservation Areas.

National Planning Policy and Guidance

- Scottish Planning Policy (SPP)
- PAN 60: Natural Heritage
- PAN 67: Housing Quality
- PAN 68: Design Statements
- PAN 78: Inclusive Design
- Historic Environment Scotland (HES) – *Managing Change in the Historic Environment: Setting*
- Historic Environment Policy for Scotland (HEPS)
- Designing Streets

Aberdeen Local Development Plan (ALDP) 2017

- Policy CF1: Existing Community Sites and Facilities
- Policy CI1: Digital Infrastructure
- Policy D1: Quality Placemaking By Design
- Policy D2: Landscape
- Policy D4: Historic Environment
- Policy H1: Residential Areas
- Policy H5: Affordable Housing
- Policy I1: Infrastructure Delivery and Planning Obligations
- Policy NE4: Open Space Provision in New Development
- Policy NE5: Trees and Woodland
- Policy NE6: Flooding, Drainage and Water Quality
- Policy NE9: Access and Informal Recreation

- Policy R6: Waste Management Requirements for New Development
- Policy R7: Low and Zero Carbon Buildings and Water Efficiency
- Policy T2: Managing the Transport Impact of Development
- Policy T3: Sustainable and Active Travel

Supplementary Guidance (SG)

- Affordable Housing (Supplementary Guidance)
- Flooding, Drainage and Water Quality (Supplementary Guidance)
- Green Space Network and Open Space (Supplementary Guidance)
- Low and Zero Carbon Buildings, and Water Efficiency (Supplementary Guidance)
- Planning Obligations (Supplementary Guidance)
- Resources for New Development (Supplementary Guidance)
- Transport and Accessibility (Supplementary Guidance)
- Trees and Woodlands (Supplementary Guidance)

Other Material Considerations

- Albyn Place and Rubislaw Conservation Area Character Appraisal and Management Plan

Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. The following policies in the Proposed Plan are considered relevant:

- C11 – Digital Infrastructure
- CF1 – Existing Community Sites and Facilities
- H1 – Residential Areas
- D1 – Quality Placemaking
- D2 – Amenity
- D6 – Historic Environment
- D7 – Our Granite Heritage
- H5 – Affordable Housing
- I1 – Infrastructure Delivery and Planning Obligations
- NE5 – Trees and Woodland
- R5 – Waste Management Requirements for New Development
- R6 – Low and Zero Carbon Buildings, and Water Efficiency
- T2 – Sustainable Transport
- T3 – Parking

EVALUATION

Principle of Development

As set out in the 'site description' the application site falls within a designated 'residential area' on the ALDP 2017 Proposals Map, to which Policy H1 is applicable. Policy H1 in the ALDP states it supports new residential development in designated residential areas, providing it meets the following:

- it does not constitute "overdevelopment";
- it does not have an unacceptable impact on the character and amenity of the surrounding area;
- it does not result in the loss of valuable and valued areas of open space; and,
- the proposal complies with relevant supplementary guidance.

The following paragraphs shall evaluate the merits of the proposal in line with the above requirements to reach a conclusion as to whether the proposal complies with the policy or not.

In addition to the requirements of Policy H1, Policy CF1 in the ALDP is equally applicable given the existing building on the site constitutes an 'existing community facility' having lastly and historically been used to provide health and social care. The policy states that where such buildings become surplus to current or anticipated future requirements, alternative uses which are compatible with adjoining uses will be permitted in principle. One of the joint applicants and current site owner – VSA (Voluntary Service Aberdeen) – who are a well-established care provider in the city, has confirmed in the Design & Access Statement that the existing building is no longer fit for its original care purpose and is surplus to their current and future needs. Policy CF1 makes allowances for the proposed use providing it would be compatible with neighbouring residential uses, which it would be, if found to be wholly acceptable in policy terms from the analysis to follow.

Matter of "Overdevelopment"

The site is heavily constrained by protected trees along the southern and eastern boundaries and by embankments on the western and northern boundaries, although the northern boundary also includes some fencing and trees to create a physical boundary with Richmondhill House. The existing building has a large footprint (occupying 23% of the site area) and the proposed building, set on a different footprint, would take up a similar proportion of the site (21%). However, the proposed change of use of the site to the mainstream residential places has a requirement for greater amenity space provision and levels of car parking than the previous nursing home use.

As it stands, the existing site arrangement has limited areas of green amenity space (along the eastern and southern boundaries). The proposed external car parking arrangement would encroach into the eastern area and the proposed replacement building would take up some existing green space in the southern part of the site thus reducing what little amenity space remains. In part, this is necessitated by the need to provide 1 car parking space per flat – a ratio which falls under the 1.5 spaces per two-bedroom unit technical standards set out in the Transport & Accessibility SG applicable in this part of the city – and makes no provision for visitor parking. The justification for eroding some of the existing green space in the southern section is in an effort to deal with some of the Planning Service's concerns relating to the impact on housing on Richmondhill Court in previous application 181699/DPP which was recommended for refusal and subsequently withdrawn by the applicant prior to committee taking place.

Some of the proposed car parking would necessitate the removal of three healthy mature trees which contribute to the character of the site and local area. The resultant proposed layout is therefore considered to be comprised of minimal car parking, a reduced level of amenity space compared to the pre-existing level, less protected trees which contribute heavily to the character of

the site and a built footprint which is overly dominate/disproportionate to the size to the site area.

The proposed building would be significantly and substantially over-scaled and tall relative to the both the existing building and the prevailing heights of buildings in the surrounding area. This is particularly the case for the 4-storey west wing. Although the 4-storey element is recessed back from the principal southern frontage this would not be sufficient to mitigate the building's intrusive prominence in the King's Gate streetscene due to its height and differing finishing materials from the rest of the building. The proposed number and maturity of trees to be retained on this frontage wouldn't be sufficient to screen the building even when in full leaf. Nearly 50% (17 out of the 35) flats proposed would have single aspect outlooks. It would be more desirable and in-keeping with building in the surrounding area for each unit to have at least a dual aspect, to optimise the level of residential amenity afforded to prospective residents. Further discussion on the merits of single aspect units will follow in the paragraphs below, but the use of single aspect flats normally indicates that a development site is severely constrained and is a means of increasing the density of units where it would be more beneficial to have less units and enhance the level of residential amenity on offer.

Taking into account the main points in the above analysis, it is considered the proposal represents substantial 'overdevelopment' of the site, which accords with concerns expressed by objectors. The overdevelopment centres upon the judgement that the proposed building is out-of-keeping with its context in respect of scale, form and massing. The site is too small and constrained to accommodate a building of the envelope and number of units proposed. The applicant was advised at pre-application stage that the number of units and scale of development proposed was likely to be too great and the Planning Service has engaged with the applicant during the application process to provide advice on how the issues could be remedied, but the required significant changes to the proposal's height, massing and car parking layout were not forthcoming in the application that has been submitted.

Impact on character of the surrounding area (including Albyn Place/Rubislaw Conservation Area

Proposed 3 and 4 storey flatted block

The prevailing character of the surrounding area, as set out in the "site description", comprises large granite buildings of between two and three storeys height dating from the Victorian and Edwardian periods set amongst mature trees. Site accesses and associated boundary treatments are also of modest scale to reflect that fact that most buildings were built before the motorised vehicle. Such character sets the context for what type and quality of design is expected for any replacement building on the application site. Both policies H1 and D1 in the ALDP require new developments city-wide to be of a high quality and complementary to their surroundings as result of contextual appraisal. The site and surrounding area to the south, east and west also fall within the Albyn Place/Rubislaw Conservation Area reflective of the site and surrounding area's historic significance. Such a designation adds greater sensitivity to the site's context and raises the expectation and necessity for new development to be of a high quality and complementary scale and style. Consequently, adherence to Policy D4 (Historic Environment) is an essential requirement if the proposal is to be viewed favourably.

The applicants have submitted a Design and Access Statement (DS) with the application to attempt to justify and illustrate their design-approach and further supporting submissions have been made throughout the course of the application as discussions have progressed. The DS describes the proposal as being of a bespoke and contemporary design, finished in high-quality finishing materials to create a high-quality design solution on the "northern edge of the Albyn Place/Rubislaw Conservation Area". However, and importantly, Section 64 (1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a statutory duty on the decision-maker to pay special attention to the desirability of preserving or enhancing the character

or appearance of such areas, irrespective of where a site is located within the designated area.

Upon review of the proposed replacement 3 and 4 storey building it is considered the structure has a distinctly modern, blocked arrangement set upon a L-shape footprint with modern finishing materials. Such an architectural approach is standardised rather than creating a bespoke design suitable for and complementary to the site's historic context and parameters, which is evident from the fact the design relies heavily on the size of window openings and balconies to give the building any visual interest to each elevation. The principal elevation fronting King's Gate provides the greatest visual interest of all elevations. By contrast, the elevations overlooking the main car parking area to the rear, but which also have a public frontage on Richmondhill Court, are dominated by windows and are less interesting in design terms. The applicant has made some minor improvements to the window sizes through submission of amendments for these elevations by making them larger to improve their verticality and added small quantities of granite around the two entrance doors, but these adjustments alone are not considered sufficient to enhance the appearance of the building to a level that is befitting of a public elevation in the Albyn Place/Rubislaw Conservation Area. It is acknowledged the applicant has proposed to utilise a natural granite as the principal finishing material on the front of the building. However, there is still a significant proportion of white render on this elevation which is not compatible in terms of historic context and material quality with the surrounding area which is characterised by a predominant use of natural granite on historic buildings. Areas of white render on the building's frontage and eastern side elevation would be 'alien' in appearance to buildings in the immediate surrounding area and wider Albyn Place/Rubislaw Conservation Area. The existing mature trees in full leaf would not screen such an overt visual contrast from King's Gate, certainly if the proposed entrance to Richmondhill Court is widened and the proposed number of trees are lost. A similar overt architectural contrast with the prevailing traditional granite buildings would also be experienced from several viewpoints along Richmondhill Place. The applicant's Design & Access Statement draws comparisons with other similar consented design schemes off Midstocket Road and off Springfield Road, but the context and site parameters of these sites are completely different. Importantly, neither of these developments are located within a conservation area and thus are of little relevance to the consideration of this application. This design comparison with other similar developments also draws attention to the fact that the proposal is not a bespoke design for the particular context of the site as required in this instance (see above).

Site Access alterations

The proposed alterations to the site access off King's Gate are needed to meet the technical requirements of the Roads Service for this level of development. However, an entrance widening of the proposed scale would have a significant adverse visual impact on the character of King's Gate, its streetscene and the wider Albyn Place/Rubislaw Conservation Area. Such works would entail the removal of protected trees and part of the original listed wall pertaining to Richmondhill House which contribute positively to the character and amenity of the conservation area and the 'setting' of the category C-listed Richmondhill House. These concerns are also reflected in the views submitted by local residents and other objectors, which the local Community Council asks members to take into account. Detailed elevation proposals of the access alterations were requested of the applicant to demonstrate how such works could be sensitively integrated into the existing listed wall. This detailed information has not been forthcoming. The aspirational visual image submitted with the cross-section drawing P(90)005 Rev C and a photomontage in a supplementary supporting analysis document on the listed wall do not provide the level of detail required to demonstrate what the full impact of the listed structure's alterations could have on the conservation area or that a sensitive integration with the wall can be achieved

Overall, it is considered the proposed scale, form, massing, fenestration pattern and finishing materials of the proposed building would collectively be at odds with the prevailing character and appearance of buildings in the surrounding area and wider Albyn Place/Rubislaw Conservation

Area. Furthermore, the scale of the proposed alterations to the existing site access – including removal of protected trees – would adversely affect the character of the site, King's Gate streetscene and wider conservation area. As such, the proposal is considered to be contrary to the relevant provisions of Policy D1, D4 and H1 in the ALDP.

Impact on amenity

Sustainable development encompasses an aspect of social responsibility and inclusion, within which falls the consideration of amenity.

It is accepted that privacy and the protection of general amenity constitutes a material consideration in the decision-making process and is an important design objective in ensuring that residents of properties bounding any development site and those occupying new accommodation feel at ease within and outwith their accommodation. This position is reflected in the requirement to create safe and pleasant places set within ALDP policy D1 (i.e. avoid unacceptable impacts on adjoining uses/invasion of privacy) and policy H1, that in part, seeks to ensure that development will not have an unacceptable impact on the amenity of the surrounding area. At the national level the need to maintain and respect amenity is referenced within SPP.

There is a recognition that in densely built urban environments there will be a degree of overlooking between dwellings and surrounding garden/amenity areas, particularly from above ground floor level. Such views tend to be oblique and where these views are direct, their impact is mitigated by adequate separation distances created by gardens/amenity areas backing onto each other - or by other design solutions.

Quality of Amenity to be Afforded to Prospective Occupiers

Whilst there is no defined rule, the general main considerations in determining if adequate residential amenity could be achieved are as follows: Quality of aspect/outlook and capacity to acquire natural daylight; sense of internal space; privacy; and quality/size/convenience of dedicated external amenity space. All considerations are discussed below.

Seventeen of the flats proposed would have a 'single aspect' internal layout and a further three units would only qualify as being 'dual aspect' due to the provision of one small window serving lounge/kitchens on an adjoining northern elevation. Such an arrangement would reduce these units' exposure to natural daylight throughout the course of the day, which is an intrinsic element of 'good' residential amenity. Specifically, the ground floor single aspect flats on the western side and eastern side of the west wing be exposed to the least natural light given their windows relationship with the sun's path as well as the height and proximity of the existing grassed embankment along the western boundary and height of the adjoining south wing. The low level of amenity in these units would be compounded by a poor outlook from their single aspect windows. The two flats on the western elevation would look out onto a steep rising embankment from close range limiting views, amenity and light. This relationship is further made worse by the proposed positioning of seating in front of the main windows designed to provide open space for other residents. This would compromise privacy afforded to prospective residents of the two flats. The other ground floor flat on the inner eastern side, would only obtain natural sunlight in the early morning and would overlook a car park – both factors adversely affecting amenity. As such, this proposed arrangement is not considered acceptable. Whilst the flats with the same arrangement at upper floor levels would have the same orientation, the impact of that arrangement would not be so severe as they would be set above ground level and therefore would feel elevated above the car park. All other flats would have dual aspects and therefore adequate exposure to daylight and sunlight for general residential amenity purposes.

In terms of proposed flat sizes, whilst the Council has no adopted space standards, consideration

of space standards from other planning authorities in Scotland would suggest that the size of units is very much on the limits of acceptability for two-bedroom flats, especially when considering each flat would be afforded an open-plan kitchen and living room arrangement with no utility space to accommodate the laundry facilities. This is a further important in achieving good quality residential amenity.

With regards to privacy, the proposed L-shape arrangement of the proposed building avoids conflicting window arrangements with residential units within the same development, unlike the 'U-shape' scheme proposed under previous application 181699/DPP. The windows within the south-facing flats within the 3-storey wing would be separated from dwelling-houses on the opposite side of King's Gate (25 – 33 King's Gate) by c. 32m which is significantly more than the minimum 18 distance normally required to mitigate loss of privacy, so sufficient privacy should be obtainable within these units, excluding the balcony areas. The west facing units looking onto an embankment, and at higher levels a communal grassed area, would be separated from east-facing windows units within Forestgait Lodge to the west by c. 28m, again sufficient distance to safeguard privacy within these units. No windows exist in the southern gable of 1-4 Richmondhill Court, so bedrooms within the northern elevation of the 3-storey southern wing would have sufficient privacy from this arrangement, and the windows within the west elevation of the 4-storey block would be set c. 40m away from the bungalows (21 – 27 Richmondhill Court) on the eastern side of Richmondhill Court so that arrangement would safeguard privacy of prospective residents. Consequently, all proposed units would be afforded an adequate level of privacy inside each unit.

Another consideration in determining acceptable level of amenity is whether or not the development would be served by an appropriate level of dedicated amenity space. It is clear from the proposed site plan that there would be a distinct lack of meaningful and usable amenity space within the site proportionate to the number of residential units proposed. Most of the green space proposed is either on a gradient, heavily overshadowed or in left over small parcels on the periphery of car parking areas which have no value as usable space. The provision of balconies on floors one and three does offer some outdoor space for each unit but it doesn't address the fundamental objective of Policy NE4. It is accepted that the proposed penthouse terrace would offer an adequate level of amenity space but this in the only unit within the development than would meet expectations. Whilst the Developer Obligations assessment proposes to mitigate the shortfall in dedicated space at Victoria/Westburn Park, the site is quite geographically disconnected from these parks (1.2km away on pedestrian route). So even if the applicant agrees to pay the required sum, it would not fully address the shortfall in amenity opportunities presented to prospective residents when considered in the round.

Amenity Impact Upon Neighbouring Properties

The main indicators of whether a proposed development would have an acceptable impact on neighbours' amenity are as follows: whether windows serving habitable rooms or private garden ground would be overlooked; whether the height and proximity of a new building would create an undue overbearing impact on neighbouring properties; and whether the height and proximity of a new building would impact on natural daylight penetration into existing properties and/or create additional overshadowing. Many of the objections submitted draw attention to these issues.

With regards to privacy, all habitable windows within the proposed development would be set a sufficient distance away from existing neighbouring properties windows to give sufficient privacy. Given this is a two-way consideration, then it is fair to conclude neighbouring properties would not experience an undue loss of privacy inside their properties despite concerns put forward by objectors. Furthermore, mindful that the front garden spaces pertaining to properties on Richmondhill Court and 23 – 33 King's Gate aren't currently private, nor are the communal gardens areas around Forestgait Lodges, then it is considered that these properties would not experience an undue additional loss of privacy within these garden areas from the proposed

development when the current situation is borne in mind.

With regards to any potential overbearing impact, the proposed L-shape building arrangement addresses most of the concerns highlighted in the report for the previous proposal under application 181699/DPP given the building would be set much further away from the bungalows on the eastern side of Richmondhill Court. Although both the three and four storey elements of the building are taller than the existing building, both would be set much further away from these bungalows than the existing two storey building. In addition, the four-storey block would be off-set from the gable of the two storey flats on the western side of Richmondhill Court and not span the full width of the site's northern boundary. This is an improvement on the previous proposal (181699/DPP) which would have made the two storey buildings feel totally enclosed and overwhelmed. Objections that have been lodged expressing concern that the balconies on the front (southern) elevation of the building would present an 'overbearing' impact on these large granite villas. Whilst it is accepted the proposed building would significantly increase the level and presence of development on the site, there would remain a c. 30m separation distance between the projecting balconies and front of these villas, and this is considered to be sufficient to mitigate a feeling of overbearing. The intervening trees along the southern boundary should also help to soften this impact, but during the winter months when the trees have lost their leaves the use of the balconies and people sitting out at a high level relative to villas (23 – 33 King's Gate) will be more apparent. Finally, although the proposed site arrangement and building would not have an unduly detrimental overbearing impact on properties to the north, east and south, the impact on the flats within the Forestgait Lodge development to the west would be more severe. The proposed building would be approximately double the height of the existing building and have windows across the entire elevation with balconies on the upper three floor levels. Consequently, although the building would be set c. 28m off the buildings containing flats 9 – 16 Forestgait Lodge, the building would make them feel more enclosed than the existing building and this would be more apparent within their communal garden area, especially when the balconies are in use.

Mindful that the proposed 3 and 4 storey building would be greater in height than the existing 2 storey hipped roof building, it is likely to be more imposing and therefore the daylighting and overshadowing impact of the development on neighbouring properties needs to be considered. Objectors residing in properties in the immediate surrounding area have expressed concerns that the proposed development would have an adverse impact on their residential amenity in this respect. In order to counter these concerns, the applicant has included a daylight/overshadowing analysis within their Design and Access Statement showing the scale of shadows cast from the development at eight different times of the day from 8am in the morning through to 8pm at night on the quarterly days of the year (21st March, 21st June, 21st September and 21st December). Upon review of these calibrated images, none of the surrounding properties would be overshadowed from the proposed building with shadows primarily be cast over the communal green space pertaining to Forestgait Lodges to the west and when the sun moves round to the west, most overshadowing would occur within the car park to the rear of the proposed building. The main exception to this judgement is that some overshadowing would occur to the rear of 1 - 4 Richmondhill Court in the middle of the day in March and September, so some short-term shadows could be cast across windows within the rear of that building for a couple of hours until the sun moves further west. However, given the impact would be short term, it is considered to be acceptable.

Loss of Public Open Space

The site does not contain any designated public open space on the ALDP 2017 Proposals Map, and therefore the development in its proposed form would not give rise to any loss of public open space.

Conclusion on compliance with Policy H1 and Policy D1 in the ALDP 2017

Upon full consideration of the abovementioned issues, it is considered that the proposal would not be compliant with the site's land-use designation policy – Policy H1 – meaning that the development is considered unacceptable in terms of the relevant development plan policy for the site. Additionally, given that the proposed design and scale of the building is considered incompatible with the character of the surrounding area and would neither afford all prospective residents an adequate level of residential amenity the proposal nor comply with the relevant expectations of Policy D1 in the ALDP.

Impact on 'setting' of listed Richmondhill House

As set out in the site description, category C-listed Richmondhill House neighbours the site to the north-northwest. Policy D4 in the ALDP requires new development to be of high-quality design which respects the "setting" of listed buildings. Historic Environment Scotland *Managing Change in the Historic Environment: Setting* document also provides specific guidance on what constitutes the 'setting' to a listed building and the procedures for assessing the impact arising from the proposed development. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires Planning Authorities to have special regard to the desirability of preserving listed buildings and their 'setting' or any features of special architectural or historic interest which it possesses.

In reviewing the historical layout of Richmondhill House, a designed landscape once existed between its principal (southern elevation) and King's Gate. This arrangement is deemed to form the principal setting. It is clear that since its original formation, the area covering the building's original setting has largely been developed encompassing the existing building on the application site and buildings immediately to the north (within Richmondhill Court) and the west (between the site and Richmondhill Place). Subsequently, it is fair to deduce that the listed building's original setting has largely been compromised, however some views do remain from King's Gate. Mindful that the existing building is two storeys in height, the proposed building would significantly increase the height and mass of development on the site, it would largely mask Richmondhill House from view in its entirety where a partial view, at least, still exists. To this end, the proposed change in scale of development on the site would worsen the impact of built development on the listed building's original 'setting'. As such, the proposal is considered to conflict with the requirements of Policy D4 in the ALDP and Historic Environment Scotland's "Managing Change in the Historic Environment: Setting" guidance.

Impact on trees

The trees within the site benefit from a Tree Preservation Order (TPO) dating back to 1962 due to the significant contribution that the trees make to the landscape character and local amenity of the area, and since then the Albyn Place/Rubislaw Conservation area designation has added an additional level of protection to these trees.

Policy NE5 in the ALDP and its associated Supplementary Guidance (*Trees and Woodlands*) establishes a presumption against all activities and development that will result in the loss of or damage to trees that contribute to local amenity and character. The Policy and SG notes that to assess impacts of proposed development upon trees, specialist surveys and plans are required. These requirements were highlighted to the applicants at pre-application stage and the Planning Service expressed doubts that the proposed level and layout of development could be achieved without adversely affecting the protected trees; however, full judgement would be reserved until the Planning Service was in possession of the appropriate surveys.

A Tree Survey and all associated documentation, including an Arboricultural Impact Assessment,

have been submitted which have been reviewed by the Council's Tree Officer. In summary, the documentation identifies that a minimum of 9 trees shall be lost to make way for the proposed development – 3 more than what was previously proposed under application 181699/DPP. At least 3 of these trees can be considered to be of the highest priority for retention given they are prominent and therefore make a significant contribution to the landscape character and amenity of the local area. Moreover, the Council's Tree Officer is of the view that the likely number of trees to be lost as a consequence of the proposals would be significantly greater than the 9 shown on the proposed site plan, both in the short and long term. This judgement is centred upon the fact that additional hard surfacing to create new external car parking – particularly along the eastern side of Richmondhill Court - would worsen the already limited new rooting environment within the trees' Root Protection Areas (RPAs). The finished site levels which would either be equal or lower than present levels giving rise to a high probability that works would compromise the quality of existing root systems which would be of detriment to trees long-term health. Weakened roots would inevitably give rise to the high likelihood that protected trees would need to be removed for health and safety purposes.

Although it is accepted that it would be reasonable to allow a small loss of trees to enable redevelopment of the site, mindful of the Council's Tree Officer's advice, the proposal would result in a significant loss of mature trees and could give rise to a strong likelihood of further tree loss. Given the trees are of intrinsic value to the character and amenity of the site and immediate surrounding area, the proposal is considered to not be compliant with Policy NE5 in the ALDP 2017 and its associated Trees and Woodlands Supplementary Guidance.

Other Issues

Developer Obligations and Affordable Housing

Scottish Government Circular 3/2012 (the Circular) sets out the circumstances in which planning obligations can be used to overcome obstacles to enable the grant of planning permission. In this way development can be permitted / enhanced and potentially negative impacts can be mitigated.

The Circular critically notes that the Development Plan should be the point at which consideration of the potential need for and use, of planning applications begin. In this regard the provisions of the Circular are embodied within the ALDP, most notably Policy I1 and attendant Supplementary Guidance, together with policies H5 (Affordable Housing) and NE4 (Open Space).

With regard to the provision of open space in new developments, Policy NE4 in the ALDP recognises that where it is not possible to provide a proportionate amount of dedicated open space both in quantitative and qualitative terms within a development a commuted sum towards off-site provision or enhancement of existing open spaces will be sought. Given that there is considered to be a shortfall in meaningful and functional open space within the development, the Obligations Assessment seeks a commuted sum in this respect for £5,124 to provide additional play space at either of the nearest public parks, Westburn Park and Victoria Park. The same assessment seeks contributions in respect of Community Facilities/Sport & Recreation and Healthcare, as provided for under the Circular.

The applicant has indicated they would be willing to enter a legal agreement (under Section 69 of the Local Government Act or under Section 75 of the Town and Country Planning Act) to enable the Council to secure the sought-after range of developer obligations, which would be a competent mechanism in which to ensure compliance with Policy I1 in the ALDP, should Members be minded to grant planning permission.

On the matter of affordable housing; Policy H5 in the ALDP states housing developments of 5 or more units require to contribute no less than 25% of the total number of units as affordable

housing. However, under the policy's associated Supplementary Guidance off-site provision and/or a commuted sum in lieu of on-site affordable housing may be deemed appropriate in certain circumstances.

Allowing for the scale of the proposed development, the usual affordable housing obligations against this development would be a requirement for 8 on or off-site plus a contribution of quarter of a unit (i.e. 0.25 of a dwelling) amounting to £9,500 for the sub-market area or alternatively a total commuted sum payment of £313,500 for 8.25 units. However, in attempting to satisfy the affordable housing requirements of Policy H5, joint applicant VSA, has sought to discharge all their obligations against all units within a 20-bedroom specialist care home facility, consented under application 170744/DPP and which has recently been completed at 450 Holburn Street. Whilst the proposal would not constitute mainstream 'affordable housing' in terms of the definition in the SG it is considered that there is scope within the Affordable Housing SG to accommodate this arrangement mindful there is a demand for such specialist affordable housing for those in need of care within the city. A letter has been submitted by VSA as evidence that income from sale of the application site has been used to cross-subsidise the provision of the new care home facility at Holburn Street. Taking into account the foregoing the Planning Service has agreed to this means of complying with Policy H5 if the application is granted approval.

Drainage

The applicants have submitted a drainage assessment to determine if the proposed development could be served by an appropriate SuDS (Sustainable Urban Drainage System) to prevent localised flooding and to ensure the safe discharge of foul water from the site. The assessment recommends that foul water and surface water run-off is channelled from parts of the site into the existing combined public sewer, which Scottish Water has suggested there is present capacity within their infrastructure to accommodate. As such, it is considered the proposal satisfies the relevant requirements of Policy NE6 in the ALDP but if members were minded to approve the application, a condition would need to be applied to control the timing of the infrastructure's delivery.

Digital Connectivity, Energy Efficiency and Water Efficiency

No information has yet been supplied with the application to demonstrate compliance with policies C11 and R7 in the ALDP relating to energy and water efficiency and digital connectivity. However, if Members are minded to grant planning permission, it is considered reasonable and competent to control compliance with these policies through use of appropriately worded planning conditions.

Other Matters Raised in Representation Not Yet Addressed

- *Increased noise and light disturbance to the surrounding properties, most of which contain the elderly* – The proposed mainstream residential use of the site would generate more traffic movements than the pre-existing care facility and would result in more traffic movements through the Richmondhill Court entrance and exit point, which are set away from the units housing the elderly at the opposite end of Richmondhill Court. Furthermore, given the proposed building would be taller and contain more windows than the existing care building, there is a strong likelihood that there would be more light emissions arising from the proposed building, which will be particularly apparent during dark hours. However, it is likely that any additional light would likely be masked due to the interventions of curtains and blinds within the building resulting in a negligible additional impact. To conclude, these additional 'disturbances' are likely to be to a reasonable degree in the context of a residential area and would not have any reasonably significant impact on the elderly residents.
- *Mile End primary school is already overcapacity and this development would potentially worsen that situation* – The Developer Obligations assessment indicates that there are no capacity

issues at Mile End Primary School, and that based on school forecasts, there would be scope to accommodate the likely number of new pupils which may arise if the development is consented. The forecasts take into account existing and projected birth rates. The standard formula used by Developer Obligations used on similar developments city-wide would expect a maximum of 6 new pupils to arising from the development if consented.

- *The entrance to Richmondhill Court would not need to be widened if the combined number of properties did not exceed 50, so the current entrance would be suitable for a smaller development. This would ensure a large section of the listed boundary wall would not need to be removed including many trees with preservation orders – This objection makes a valid point. Given Richmondhill Court already serves 27 residents units, had the applicant proposed 22 units or less, then the Roads Service (under guidance from the Emergency Services) would have been unlikely to have sought a widening of the existing entrance. Should the entrance not be widened, it would likely mean that less protected trees are removed.*

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is not considered acceptable in terms of both Plans for the reasons previously given.

Concluding comments

In conclusion, whilst the use of the site for mainstream residential use is considered acceptable, the proposed scale and design of the development would be out-of-keeping with the site's context and therefore be detrimental to visual amenity. Amongst other concerns, the proposed layout would not afford all prospective residents an adequate level of residential amenity and would result in an excessive loss of mature trees which would harm the character and amenity of the surrounding area. Widening of the existing entrance onto Richmondhill Court would also harm the character of the Albyn Place/Rubsilaw Conservation Area and the setting of the listed Richmondhill House.

Whilst the VSA have indicated the sale of the site to CALA would help to continue financing their services in the city, this is not a material consideration in determining this application

Consequently, overall, whilst the proposal may carry some merits in respect of satisfying technical requirements for access, parking and waste, the proposal would be fundamentally at odds with policies H1, D1, D4 and NE5 in the Aberdeen Local Development Plan 2017 as well as other relevant national policy and guidance. Such conflicts with key policies in the ALDP materially outweigh any merits and therefore the application is recommended for refusal.

If committee members are alternatively minded to 'approve' the application, this shall be subject to the completion and successful registration of a legal agreement to secure payment of all developer obligations. Additionally, approval should also be subject to a number of conditions which ensure the implementation of tree protection measures, car parking, cycle parking, bin storage, details on altered access wall, finishing material samples, water saving technologies, energy-saving measures within construction, and any other reasonable requirements necessary to satisfy the requirements of relevant ALDP 2017 policies.

RECOMMENDATION

Refuse

REASON(S) FOR RECOMMENDATION

- 1) The proposed development would constitute overdevelopment by virtue of its excessive footprint, height and massing and, adverse impact on, and loss of, protected trees which, together, would be contrary to the provisions of Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017
- 2) The proposed design - by virtue of its form, scale, layout and palette of finishing materials - would not suitably respect the site's historic context taking cognisance of the established pattern of development, prevailing height of buildings and existing architectural styles in the surrounding area - which are intrinsic to the character and amenity of the Albyn Place/Rubislaw Conservation Area. Additionally, the proposed scale of alterations to the existing site access would give rise to a loss of character to the site and would be out-of-keeping with the existing character of access ways on King's Gate. As such, the proposal does not to comply with Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017, Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017, as well as the relevant sections of Scottish Planning Policy, Historic Environment Policy for Scotland and Historic Environment Scotland Guidance on "Managing Change in the Historic Environment: Guidance Notes".
- 3) The proposed development, by virtue of its external car parking layout and alterations to the existing access, would result in both in the loss of existing trees and place existing trees under undue pressure to be removed in the future. These trees of are protected by a Tree Preservation Order (TPO) and contribute heavily towards the character and amenity of the site and wider Albyn Place/Rubislaw Conservation Area. As such, the proposal would be at odds with Policy NE5 (Trees and Woodland) and Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017.
- 4) The proposed flatted block, by virtue of its siting, scale and massing and external appearance, as well as the alterations to the listed boundary wall, would have an undue adverse impact on the 'setting' of category C-listed Richmondhill House located to the north of the application site. As such, the proposal is considered to be at odds with Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017 and Historic Environment Scotland guidance "Managing Change in the Historic Environment: Setting".
- 5) The proposed floor and window arrangement within the flatted block would not give prospective residents of all units within the development an acceptable level of residential amenity insofar that the ground floor single aspect units looking onto the western embankment would not have a satisfactory outlook or obtain sufficient daylight. As such, the proposal is considered not to comply with the general amenity expectations implicit to Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.