

PLANNING PERMISSION APPEAL TO SCOTTISH MINISTERS



UNDER SECTION 47 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

**IMPORTANT: Please read and follow the notes provided when completing this form -
failure to supply all relevant information could invalidate your appeal**

Use BLOCK CAPITALS if completing in manuscript

Appellant(s)	
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Mark this box to confirm all contact should be through this representative <input checked="" type="checkbox"/>	

* Do you agree to all correspondence regarding your appeal being sent **by e-mail**? ☒ Yes ☐ No

Planning authority	Aberdeen City Council		
Planning authority's application reference number	180368/DPP		
Site address	Land adjacent to Rubislaw Quarry, Hill of Rubislaw, Aberdeen, AB15 6XL		
Description of proposed development	Residential development (across ten storeys and three basement levels) consisting of 299 private flats, gym, function room, public heritage bistro, promenade, car parking and amenity space		
Date of application	14 March 2018	Date of authority's decision	25 June 2018
OS Map Grid Ref or Postcode		Area of Appeal Site (m ² /ha)	0.96ha

Nature of application:	
Planning permission	<input checked="" type="checkbox"/>
Planning permission in principle	<input type="checkbox"/>
Approval of matters specified of conditions	<input type="checkbox"/>
Variation or discharge of conditions	<input type="checkbox"/>

Appeal against:	
Refusal of application	<input checked="" type="checkbox"/>
Failure to give a decision (deemed refusal)	<input type="checkbox"/>
Conditions imposed on consent	<input type="checkbox"/>

STATEMENT OF APPEAL

You **MUST** state, in full, why you are appealing against the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your appeal.

Note: you might not have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account. You will though be entitled to comment on (i) any additional matter which may be raised by the planning authority in its response to your appeal, or (ii) any representations the Scottish Government might receive from any other person or body.

State the reasons for your appeal and all matters you wish to raise here. (If necessary, this can be continued or provided in full on a separate document.)

Please see separate appeal statement.

Have you raised any matters which were not before the planning authority at the time the decision you are appealing against was made?

☐ Yes

☒ No

If yes, you should explain in the box below, why the matter was not raised at that time and why you consider it should now be taken into account.

n/a

List of documents/evidence

Provide a list of all documents, materials and evidence which you have provided with your appeal and intend to rely on in support of your appeal and ensure that the documents are clearly numbered (If necessary, this can be continued or provided in full on a separate document). When listing plans and drawings please quote the reference the planning authority gave them.

Please see Appendix One to the Appeal Statement

APPEAL PROCEDURE

The person appointed to determine your appeal will decide the procedure to be used. In general, a decision will be made based on your appeal documents and the planning authority's response. In some cases the appointed person may require further procedures to gain more information on specific matters before reaching a decision. This is your opportunity to indicate what procedure you think is most appropriate for the handling of your appeal. (See Notes for Appellants)

- 1 ☒ Review of all relevant information provided by yourself and other parties only, with no further procedure
- 2 ☒ Inspection of the land subject of the appeal
- 3 ☐ Further written submissions on specific matters
- 4 ☐ Holding of one or more hearing sessions (i.e. round table discussions) on specific matters
- 5 ☐ Holding of one or more formal inquiry sessions on specific matters

* You can suggest a combination involving more than one further procedure, if necessary.

If you have marked boxes 3, 4 or 5, please explain here which of the matters (as set out in your statement above) you believe ought to be subject of that procedure, and why. (If necessary, this can be continued or provided in full on a separate document.)

n/a

Site inspection

In the event that the Scottish Government Reporter appointed to consider your appeal decides to inspect the appeal site, in your opinion:

Can the site be viewed entirely from public land?

☐ Yes ☒ No

Is it possible for the site to be accessed safely, and without barriers to entry?

☐ Yes ☒ No

Are there any biosecurity issues that affect the site?

☐ Yes ☒ No

(for more information on biosecurity, please see the site inspection section in the notes for appellants)

If there are reasons why you think the Reporter would be unable to access and view the appeal site alone, please explain here:

To access the site safely, it must be recognised that it is a former quarry with steep drops and appropriate precautions must be taken. For this reason, the site is not normally open to the public but, if the Reporter wishes to inspect the site, access can be arranged.

OTHER APPEALS

Have you made any other appeals to Scottish Ministers concerning this land?

☐

Yes

☒

No

If yes, please give details, including our appeal reference numbers (if known):

CHECKLIST

Please mark the appropriate boxes to confirm you have provided all supporting documents/evidence relevant to your appeal:

- ☒ Full completion of all parts of this form
- ☒ Full statement of appeal
- ☒ All documents, materials and evidence which you intend to rely on
- ☒ Application to planning authority, including all plans/drawings and other documents relevant to your application which is now subject of this appeal
- ☒ Planning authority's decision notice (if any), which is the subject of your appeal
- ☐ Where application/appeal relates to an earlier consent (e.g. approval of matters specified in conditions; variation of previous conditions), the application, approved plans and decision notice from that earlier consent.
- ☒ The Report of Handling prepared by the planning authority in respect of your application, where one exists (see Notes for Appellants)

***Plan and Drawings** A copy of the location plan at a scale of 1:1250 or 1:2500) and scale copies of all of the drawings submitted as part of the application under appeal. It is not possible for electronic plans and drawings to be scaled and you should also provide these in hard copy.

The Scottish Government routinely publishes all documents relating to each appeal on its website at www.dpea.scotland.gov.uk. You must advise DPEA if there are particular reasons why you think any document you have provided cannot be published.

DECLARATION

I appeal to the Scottish Ministers as set out on this form and supporting documents. I confirm that I have today sent a copy of my appeal to the planning authority.

Signed

Date

26 July 2018.

If you take part in the appeals process, use DPEA websites, contact the division or attend a webcast, the DPEA may collect certain information about you. To find out more about what information is collected, how the information is used and managed please read the [DPEA's privacy notice](#)

This form and all supporting documents should be sent to:

E-mail: dpea@gov.scot

Submit by Email

Post: Planning and Environmental Appeals Division
4 The Courtyard
Callendar Business Park
Falkirk
FK1 1XR

Print Form

Contact Tel: 0300 244 6668



PLANNING APPLICATION 180368/DPP

**RESIDENTIAL-LED DEVELOPMENT OF 299 PRIVATE RENTED SECTOR FLATS WITH
AMENITY SPACE, 332 CAR PARKING SPACES, 2 PUBLICLY ACCESSIBLE CAR CLUB
VEHICLES (INCLUDING ELECTRIC CHARGING POINTS), RESIDENTS' GYM, RESIDENTS'
FUNCTION ROOM, PUBLIC HERITAGE BISTRO (164 SQM) AND PUBLIC PROMENADE
WITH VIEWPOINTS TO THE QUARRY**

APPEAL STATEMENT

on behalf of

CARTTERA PRIVATE EQUITIES INC



1 Introduction

1.1 Planning application reference 180368/DPP was submitted to Aberdeen City Council on 12 March 2018 (validated 14 March 2018) seeking planning permission for:

“residential development (across ten storeys and three basement levels) consisting of 299 private flats, gym, function room, public heritage bistro, promenade, car parking and amenity space.”

1.2 The application was considered by the Council’s Planning Development Management Committee on 21 June 2018, the report for which (the Report of Handling) [Document 65] recommended that the application be approved on the basis that:

- The principle of developing the site is long established and an existing consent is still live and capable of being implemented;
- In terms of Policy NE1 (Green Space Network) of the Aberdeen Local Development Plan, the value of the site is limited as it largely comprises dense scrub, a species poor hedgerow, bare earth and an area of semi-natural broadleaved woodland,
- While some trees would be lost, this has already been established during previous applications;
- The value of the site at present is further limited by the fact that there is currently no public access to this, as such, while some open space would be lost, the opening of the site to public use and provision of high quality public realm and landscaping would result in a neutral impact;
- The proposed development of build-to-rent flats would contribute towards an increased range of rental options in the city, which it is important to have;
- The building would not constitute overdevelopment, but would sit comfortably in the site due to the surrounding topography and landscape and through the careful design of its scale, massing and modelled form, in accordance with the provisions of Policy D1 (Quality Placemaking by Design), D2 (Landscape) and D3 (Big Buildings) of the Aberdeen Local Development Plan;
- The amenity impacts on surrounding residential properties, considered through Policy H1 (Residential Areas) of the Aberdeen Local Development Plan are largely restricted to a visual impact, which would be moderate from a limited number of locations, but would otherwise be negligible or nil;



- The provision of the 'heritage bistro' within the development with a public walkway and landscaping allowing public access along the edge of the quarry for the first time is welcomed;
- In terms of transportation and the requirements of Policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) of the Aberdeen Local Development Plan, the site is well located within the urban area and close to public transport routes;
- A sufficient level of parking has been provided and the impact on the surrounding road network is considered to be minimal;
- 50% of the surface water from the site would be directed to the public sewer, whereas the remainder would be discharged to the quarry at a controlled rate, representing an improvement over the current situation as less water would be directed into quarry. SEPA and the Council's Flooding Team have confirmed that they are satisfied with these proposals and it is expected that the requirements of Policy NE6 (Flooding, Drainage & Water Quality) would be met;
- A mitigation plan has been submitted with respect to badgers living on the site and it is considered acceptable, with a license for the activity granted by Scottish Natural Heritage, thereby complying with NE8 (Natural Heritage) of the Aberdeen Local Development Plan;
- In accordance with Policy I1 (Infrastructure Delivery & Planning Obligations) and H5 (Affordable Housing) of the Aberdeen Local Development Plan, suitable developer obligations towards affordable housing, primary and secondary education, core paths, open space and healthcare have been agreed and would be secured through a legal agreement.

1.3 When considering the application, members of the Council's Planning Development Management Committee made a number of positive comments about the development proposed, in particular with regards to the tenure of housing proposed (private rented sector, also known as build-to-rent), the inclusion of a heritage bistro, and the opening up of the site for public access.

1.4 The above notwithstanding, the Council's Planning Development Management Committee voted 2 to 7 to refuse the application, with the decision notice (dated 25 June 2018) [Document 64] stating that:



“Application refused due to the adverse visual impact the proposal would have based on its scale and massing which is contrary to Policy D3 - Big Buildings of Aberdeen Local Development Plan. There is insufficient onsite parking provided which would lead to overspill parking on residential streets. There is a lack of suitable capacity to accommodate the educational needs of the development. There would be an adverse impact on the wildlife on the site. The quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan.”

1.5 The decision to refuse the application is now being appealed on the grounds that, the application:

- was supported by the Council’s professional planners following an extensive and thorough assessment (see the Report of Handling considered by the Council’s Planning Development Management Committee);
- complies with the vision and objectives of the Aberdeen City and Shire Strategic Development Plan (see Planning Statement paragraphs 4.3 – 4.9);
- complies with Local Development Plan Policies R1, D1, D2, D3, H3, H4, H5, I1, T2, T3, NE1, NE4, NE5, NE6, NE8, R7 and associated supplementary guidance (see Planning Statement paragraphs 4.10 – 4.30);
- is supported by Scottish Government policy and guidance, including Scottish Planning Policy and Draft Planning Delivery Advice on build to rent and net economic benefit (see Planning Statement paragraphs 5.2 – 5.14 and 5.16 – 5.17); and
- will contribute to the delivery of the Council’s Local Housing Strategy objectives, with evidence from research on behalf of Homes for Scotland of a demand for private rented sector housing (see Planning Statement paragraphs 5.18 – 5.20 and 5.15 respectively).

2 Policy context

2.1 Full details of both the proposed development and the policy context against which it requires to be considered are set out in the Planning Statement submitted with the application [Document 28], in terms of which it is submitted that the application complies with the Development Plan and is supported by all other relevant material planning considerations as outlined above. That Planning Statement now forms part of the appeal documents, and its terms are incorporated herewith.



- 2.2 A full list of documents submitted with the application is provided in Appendix One, together with all other relevant documents referred to in this statement
- 2.3 Importantly, and as identified in the Report of Handling for the application, the principle of development on this site is long-established and dates back to 1998 when a large-scale office building was approved. Since then, a number of other consents have been approved, including consent for residential and office use (approved in August 2006) and which remains live.
- 2.4 For the reasons given in both the Planning Statement and this paper apart, read in conjunction with the documents listed in Appendix One, it is submitted that the appeal should be allowed, and the application granted.

3 Reasons for refusal

- 3.1 Although the Decision Notice only gives one reason for refusal, it contains five different elements as follows:

- *the adverse visual impact the proposal would have based on its scale and massing which is contrary to Policy D3 - Big Buildings of Aberdeen Local Development Plan;*
- *there is insufficient onsite parking provided which would lead to overspill parking on residential streets;*
- *there is a lack of suitable capacity to accommodate the educational needs of the development;*
- *there would be an adverse impact on the wildlife on the site; and*
- *the quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan.*

- 3.2 Each of these is addressed in turn below. In doing so it should be remembered that Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Development Plan comprises the Aberdeen City and Shire Strategic Development Plan (2014) [Document 83] and the Aberdeen Local Development Plan (2017) [Document 84]. The following paragraphs demonstrate how the application complies with the Development Plan in terms of the issues raised in the Decision Notice.



The adverse visual impact the proposal would have based on its scale and massing which is contrary to Policy D3 - Big Buildings of Aberdeen Local Development Plan

- 3.3 Policy D3 of the Aberdeen Local Development Plan makes it clear that the most appropriate location for big buildings is within the city centre and its immediate periphery. As is evident from the location plan submitted with the application [Document 32], the site to which this application relates is in such a peripheral location. Indeed, the Report of Handling (page 12) notes that Hill of Rubislaw is well established as a location for large buildings, both in terms of what exists currently and what has been consented over the years.
- 3.4 Policy D3 also needs to be read in conjunction with Supplementary Guidance (SG) Big Buildings [Document 85], which emphasises the positive impact that big buildings can have on their environment and supports big buildings even beyond the city centre and periphery where they comply with the criteria within the guidance. These criteria are listed in full in section 1.4 of the Design and Access Statement (DAS) submitted with the application [Document 19] and are discussed further in paragraph 3.6 below.
- 3.5 As required in terms of Policy D3, the DAS also includes:
- an analysis of the context (see DAS sections 2.1 and 2.2);
 - an illustration of the visual impacts through a series of sequential views, the locations of which were agreed with the Council, (see DAS section 2.4 and the Landscape and Visual Impact Assessment (LVIA) submitted with the application [Document 20];
 - an analysis of micro-climatic impacts (see DAS section 3.3 on how the proposed development satisfies the six qualities of successful placemaking, including through providing contact with nature, and DAS section 3.4 on how the proposed development has been designed to ensure all units have a favourable aspect with optimum levels of daylight, with the building located sufficiently far away from existing residential properties to ensure no micro-climatic impacts on them in terms of overshadowing or loss of sunlight, as confirmed on page 14 of the Report of Handling);
 - area connectivity (see DAS section 2.3 on accessibility, and also the Transport Statement (TS) submitted with the application (as updated in May 2018) [Document 41]; and



- the use of high quality materials, craftsmanship and detailing with low maintenance implications (see DAS section 3.11), in relation to which it should be stressed that the fact that the proposed development is a private rental scheme means that careful attention will be paid to ensuring a very high quality of building fabric since the developer has a long-term interest in the asset.

3.6 In terms of how the proposed development complies with the specific criteria set out in the Supplementary Guidance (as listed in section 1.4 of the DAS), it is submitted that:

- detailed consideration has been given to the site context, topography and existing development as set out in DAS section 2.2, with the proposed development expressly designed to complement this;
- in responding to the site's context, the proposed design focuses on enhancing the skyline of Aberdeen by offering an articulated profile, rather than an undifferentiated roofline, further details on which are set out in DAS section 3.1, while the LVIA demonstrates that the building will be set within the context of a skyline where tall buildings are already not uncommon (for further details on which, see paragraph 3.11below);
- the proposed building would be sufficiently far away from any neighbouring residential properties to ensure that there would be no impact on amenity enjoyed by residents of these, with the only other buildings in close proximity to the proposed building being offices, the sensitivity of which is considered to be low, all as confirmed by the planning officer in the Report of Handling (see page 14);
- the LIVA also demonstrates that, in terms of visual impact on residential receptors close to the site, the significance of the effect of the proposed building will be no more than moderate, with the majority of views being from first floor windows and often partially screened by existing vegetation;
- as set out in DAS section 3.2, the proposed development has been designed to present an active frontage which is welcoming to both residents and visitors to public realm elements, with public accessibility being integral to the design;
- the proposed development makes sustainable use of an otherwise constrained brownfield site, is in a location that is well served by a range of sustainable modes of transport, and has sustainability at its core in a number of ways, full details of which are set out in DAS section 3.10;



- in terms of vertical emphasis in the design, DAS section 3.1 describes the scheme as being suggestive of rolling granite hills with vertical stacks of residential units, avoiding the option of a long barrier scheme, while section 3.3 describes how the floor to floor height has been increased from the previously consented scheme, allowing larger vertical windows;
- materials will be selected for their high performance and robust, long life/low maintenance quality, as set out in section 3.11 of the DAS;
- servicing arrangements have been fully integrated into the design as set out in DAS section 3.7;
- the proposed development has been designed to incorporate spaces that can serve a number of different functions and uses, as set out in DAS section 3.2; and
- the proposed development incorporates a mix of uses, including facilities for residents and public realm elements open to anyone, as also set out in DAS section 3.2.

3.7 Finally, in terms of the criteria set out in the Supplementary Guidance, while Civil Aviation and other telecommunication requirements are not expressly addressed in the DAS, the site is located well outside the Aberdeen Airport and Perwinnes Radar safeguarding areas and no concerns have been raised by the Council in respect of these at any stage in the design process or in the determination of the application, hence the application complies with Policy B4 – Aberdeen Airport.

3.8 In terms of the scale and massing in particular, it is important to consider this in the context of previously consented development that could still be built, with regards to which section 3.3 of the DAS demonstrates how the envelope of development consented in 2006 compares to that now proposed in this application. Notably, both of these provide for a maximum of 10 storeys, with the highest point of the development now proposed being less than 4 metres higher than that already consented. At the same time, the development now proposed has been designed specifically to include openings at ground level and to minimise the bulk and mass visible from the most sensitive receptors.

3.9 In turn, in terms of the visual impact that the proposed development would have based on its scale and massing (this being the particular concern raised in the Decision Notice), the LVIA submitted with the application demonstrates how the building will be viewed from key viewpoints across the city. The scope of the LVIA was the subject of extensive discussions with the Council to ensure it was as comprehensive and



robust as possible. Specifically, the LVIA assesses near, middle and distant views (the locations of which were agreed with the Council) as required by the Supplementary Guidance, with the assessment not showing there to be a major impact on any of these.

- 3.10 The LVIA then concludes that the stepped profile of the building means that the mass is not overbearing, while the intricacies of the building elevation create areas of light and shade, which in turn help minimise the scale of the block. At the same time, as the footprint of the building wraps around the edge of the quarry, it is noted that the building is never seen as one single linear mass but rather a series of interlinked units.
- 3.11 The conclusions of the LVIA are endorsed in the Report of Handling, which notes that the 10-storey height is not consistent across the building, with the massing broken up by the stepped profile of the peaks and valleys, reducing the impact of its apparent size, concluding that:

“...whilst undoubtedly a tall building, its scale and massing would be successfully lessened by its modelled form. From distant views, tall buildings, such as the numerous residential tower blocks and office buildings are not uncommon on the city’s undulating skyline, with the introduction of the building having a negligible impact.”

- 3.12 The Report of Handling further notes that:

- generally, the site is well enclosed, and the proposed development is unlikely to be particularly visible in the local area due to the topography;
- the proposed development would be most prominent visually from the neighbouring office park, but the nature of this means that it has low sensitivity to change, such that the impact on this is not considered to be significant; and
- where the proposed development would be visible from some neighbouring homes, there are none on which the impact is categorised as major, or indeed any greater than the impact of the currently consented scheme would be.

- 3.13 Taking the above points together, the proposed development clearly complies with all elements of Policy D3, with it having been demonstrated through a robust LVIA process – the scope of which was discussed extensively and agreed with the Council – that the design of this effectively minimises the visual impact of the scale and massing. There is therefore no justification for the application to be refused on this ground.



There is insufficient onsite parking provided which would lead to overspill parking on residential streets

3.14 The starting point for the assessment of parking provision is Supplementary Guidance (SG) Transport and Accessibility [Document 86], which sets out maximum parking standards for all new development. Importantly, it must be recognised that these are expressed as **maximum** standards, with lower levels accepted where accessibility is good and other measures to reduce private car usage are proposed. In particular, low car developments are supported in circumstances where:

- the site benefits from good walking, cycling and public transport accessibility;
- it can be demonstrated through a Travel Plan that significant measures will be undertaken to minimise the number of cars expected to travel to/from the site;
- there will be no adverse impact on the amenity of neighbouring sites through increasing on-street parking pressures;
- complementary measures have been put in place to remove the need for residents to own a car such as Car Club access; and
- the anticipated occupants are within close proximity to their main trip destination (e.g. nursing staff accommodation close to the hospital; oil and gas sector workers at Hill of Rubislaw).

3.15 Details of how the parking provision for the proposed development has been calculated are set out in the Transport Statement (as revised in May 2018), in which it is noted that:

- in terms of the standards, the application site is located in the outer city zone, in which a **maximum** of 1.5 spaces per flat is permitted, plus a **maximum** of 14 spaces for the bistro (with emphasis on the fact that this is a maximum number) (please see paragraph 4.2.9 of the TS for details of how the bistro spaces have been calculated);
- private rented sector development is expected to generate less demand for parking than a traditional flatted development would (a report by BPF [Document 101], for example states that build-to-rent schemes tend to be situated near public transport and require less car parking as the majority of tenants in urban markets typically do not require or want to rent parking spaces. It concludes that the space could be put to more effective use, proving additional rental income,



whether through more residential units or amenity space for tenants to use. Locally there is evidence from the Dandara private rented sector scheme at Forbes Place, Aberdeen, that car parking take-up is every low;

- the development proposed in terms of this application meets the criteria for low car development as set out in paragraph 3.16 below; and
- the Council's Roads Development Management officers accepted the levels of parking provision proposed as being in accordance with policy.

3.16 In terms of the criteria for low car development, each of these is addressed in terms in the following sub-paragraphs.

Good walking, cycling and public transport accessibility

- Walking – as set out in section 3.2 of the TS, the site is well connected to other residential and employment areas, with a range of shops and facilities within a 1600m walking distance and easily accessible by foot. In addition, to enhance pedestrian access further, the application proposes to construct a new footpath on the south side of Hill of Rubislaw to Queen's Road, and the applicant is happy for the development to be subject to a condition requiring a detailed scheme for this to be submitted. Please see section 3.2 of the TS for further details.
- Cycling – as set out in section 3.3 of the TS, a wide range of facilities are within cycling distance of the site, with formal on-road advisory cycle lanes running on the B9119 Queen's Road, which can be accessed directly from the site, as well as on the A944 Lang Stracht/Westburn Road and the A93 Great Western Road/North Deeside Road, both of which can be accessed from the site via quieter and lightly trafficked residential streets, including routes identified as 'recommended routes' on the Aberdeen Cycle Map. Please see section 3.3 of the TS for further details.
- Public Transport – as set out in section 3.4 of the TS, local bus services run along both Queens Road and Anderson Drive, with stops within 400m of the site providing direct links in to the city centre and out to Aberdeenshire. Recognising the importance of these services in terms of providing residents of the proposed development with sustainable alternatives to private car use, the applicant is committed to upgrading the existing bus stop on the south side of Queen's Road as part of the proposed development, and this was welcomed by the Council's Roads Development Management Team. Please see section 3.4 of the TS for further details.



Demonstrated through a Travel Plan that significant measures will be undertaken to minimise the number of cars expected to travel to/from the site

- As set out in paragraph 4.2.5 of the TS, a residential travel plan will be provided, with this to focus on sustainable travel opportunities and the use of the Car Club (on which, please see further details below).

No adverse impact on the amenity of neighbouring sites through increasing on-street parking pressures

- As also set out in paragraph 4.2.5 of the TS, the surrounding residential streets are all included in a proposed controlled parking zone (CPZ) could be taken forward by Aberdeen City Council if required, with residents of the proposed development not eligible for on street parking permits, such that there would be no increase in on-street parking pressures.
- In respect of this it should be noted that the report to the Council's Communities, Housing and Infrastructure Committee [Document 105] in which the CPZ was proposed, and which the Committee agreed is clear that it is overspill parking from commuters working at the Hill of Rubislaw Business Park which has created pressure for on-street parking as employees of the businesses located in the park commute from elsewhere and park in the surrounding area. Residents of the proposed development are less likely to own cars and those that do and who work elsewhere will not be parked in the surrounding streets during the day when the on-street parking issues have historically arisen.
- The CPZ has not yet been implemented since the issue of overspill parking is not yet considered to be sufficiently problematic to warrant its implementation. In addition to which Planning Permission in Principle was granted in September 2015 (application reference 150376) for up to 191 additional parking spaces to be provided within the Hill of Rubislaw Business Park [Document 106], which will address the current shortfall of parking across the three offices and hence any pressure for on-street parking prior to the need to implement the CPZ.

Complementary measures have been put in place to remove the need for residents to own a car such as Car Club access

- As set out in paragraphs 4.2.12 to 4.2.15 of the TS, it is proposed to provide three Co-wheels car club spaces as part of the proposed development, which is equivalent to 51 car parking spaces, and the principle of which has been agreed with and welcomed by both Co-wheels and the Council. (It should be noted that



the application initially proposed the provision of two car club spaces, but this was increased to three spaces through discussions with the Council's Roads Development Management Team as per the application determined by the Planning Development Management Committee.) In this regard it should be noted that the use of car clubs is increasing in popularity with Aberdeen City Council's Co-Wheels car club being one of the fastest growing in Europe.

- Also, as detailed in paragraphs 4.2.20 to 4.2.25 of the TS, cycle and motorcycle parking have been proposed to comply with the required Council standards (although in subsequent discussions with the Roads Development Management Team the number of motorcycle parking spaces was reduced to improve the layout, while still providing motorcycle parking at an acceptable level).

The anticipated occupants are within close proximity to their main trip destination

- In common with findings reported in the Scottish Government publication, A Strategy for the Private Rented Sector in Scotland (2013) [Document 102], it is anticipated that most residents will be professionals. Given the location of the proposed development it is expected that these residents will work nearby, with the main trip destinations being to work. In this regard, the proposed development site is particularly well located for businesses based at Hill of Rubislaw, with other key employment locations such as the Aberdeen Royal Infirmary, Woodhill House and the business parks at Kingswells and Westhill easily accessible by public transport.
- In addition, the provision of an on-site residents' gym and the heritage bistro means that residents do not have to travel to participate in after work activities while, as confirmed in paragraph 3.2.1 of the TS, a range of local shops and facilities are also within a 1600 metre walking catchment area.

3.17 The accessibility of the site and its suitability for low car development notwithstanding, it is recognised that many residents will still want to own their own car. As such, it is proposed to provide the full maximum level of parking for all 2 and 3 bed flats, with reduced provision for 1 bed and studio flats only, with this being at a ratio of 1 parking space per unit. In addition, the full maximum level of parking will be provided for the bistro. This adds up to a combined total of 359 spaces, of which 51 would be provided through 3 car club spaces, resulting in a need for 311 spaces (including the 3 spaces required for the car club). Adding an element of generosity to this, a total of 332 spaces, inclusive of 17 accessible spaces, are proposed, and the Council's Roads Development Management Team has confirmed that they consider this to be acceptable.



- 3.18 For the reasons given above, and as expanded on in more detail in the TS and accepted by the Council's Roads Development Management officers, the proposed parking provision is clearly in accordance with Council standards, with no justification for any additional parking to be requested, and no evidence that there would be any negative impact on neighbouring streets as a result of over-spill parking. Conversely, proposals already agreed for a controlled parking zone on neighbouring streets could be implemented by the Council to ensure that over-spill parking cannot happen. As such, it is submitted that there is no justification for the application to be refused on parking grounds.
- 3.19 At the same time, it should be noted that the TS confirms at paragraph 5.5.12 that the proposed development is not expected to have an adverse impact on the local road network generally, which the Council's Roads Development Management Team has acknowledged.

There is a lack of suitable capacity to accommodate the educational needs of the development

- 3.20 The Council's Education Consultation Response [Document 66], submitted by the Service Manager responsible for education assets and finance, confirms that pupils from the proposed development would be zoned to Hazlehead Primary and Hazlehead Academy, both of which are expected to exceed capacity over the next few years, irrespective of whether or not any additional development takes place at Hill of Rubislaw or elsewhere. Specifically, factoring potential pupil numbers arising from the proposed development into the Council's 2015 School Roll Forecasts (the most up-to-date information available), the Developer Obligations assessment (dated 5 June 2018) [Document 68] (which is reflected on page 21 of the Report of Handling) indicates that this has the potential to contribute to Hazlehead Primary going over capacity by **no more** than 15 pupils, and to Hazlehead Academy going over capacity by **no more** than 7 pupils by 2020. In this regard it should be noted that the Developer Obligations assessment confirms that the proposed 1 bed units and studio apartments, which comprise two thirds of the total number of units in the development, are not expected to generate any pupils.
- 3.21 The relevant Supplementary Guidance (SG) Planning Obligations [Document 87] makes it clear that, in circumstances where a development may result in a school roll exceeding capacity, it is appropriate for a contribution to be sought to either reconfigure or extend the school(s) in question. In this case it was confirmed by the Council's Corporate Landlord Service, that reconfiguration would be appropriate and a suitable contribution to implement that has been agreed as confirmed in the Report of Handling.



- 3.22 As a result, and as accepted by the Council's Corporate Landlord Service responsible for the education assets, there are no capacity issues at either school that cannot be addressed and the means of addressing these has been agreed, in accordance with Policy I1 – Infrastructure Delivery and Planning Obligations and related Supplementary Guidance: Planning Obligations, such that there is no justification for refusing the application on this ground.

There would be an adverse impact on the wildlife on the site

- 3.23 An Environmental Walkover Report was submitted with the application [Document 25], in terms of which the habitats present on the site were not identified as representing an important ecological resource. Further, to the extent to which the site might support species such as herring gull, redwing, starling, house sparrow, and song thrush at certain times of the year, the proposed development will not have any negative impact on these provided mitigating measures recommended in the Report are carried out.

- 3.24 [REDACTED]

- 3.25 [REDACTED] Likewise, the Report of Handling confirms the Council's view that natural heritage interests would not be prejudiced by the proposed development (see page 20).

- 3.26 In light of the above, and as further discussed in paragraph 4.23 of the Planning Statement, it is submitted that there is no evidence that the proposed development would have a negative impact on wildlife on the site. Conversely, all appropriate measures have been taken to identify any protected species which may be present, and to ensure their protection. As such the application should accordingly be supported in terms of Policy NE8 – Natural Heritage of the Aberdeen Local Development Plan.



- 3.27 In terms of natural habitats more generally it should be noted that, while a number of trees would be removed as part of the proposed development, the loss of all but one of these had already been consented previously in relation to previous planning applications. Further, as confirmed in the tree survey report submitted with the application [Document 24], none of the trees to be lost are considered to be of any significant value. At the same time, it is proposed to plant a substantial number of new trees as part of the development, and details of how this complies with Policy NE5 of the Aberdeen Local Development Plan are set out in paragraph 4.23 of the Planning Statement.
- 3.28 It is also noted that loss of trees was not included in the reasons for refusal, indicating that the proposed replacement planting is generally accepted as a point of principle, in accordance with Policy NE5.
- 3.29 Further, while the site is currently designated as open space, the Report of Handling confirms that the Council agrees that the value of the site in terms of the designation is considered to be limited and that the loss of the green space has already been accepted through development consented previously, while the positive aspects of the proposed development in terms of providing public access to the quarry means that the overall impact on the open space network will be neutral.
- 3.30 Taking the above points together, in particular that the impact on the natural habitat is not a concern in itself, and that this in turn will ensure that impact on wildlife will be minimised, it is clear that the application complies fully with the relevant ALDP policies on natural heritage, and as such there is no justification for it to be refused on natural heritage or wildlife grounds.

The quality of the design does not meet the requirements of Policy D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan

- 3.31 As set out in paragraph 4.13 of the Planning Statement, Policy D1 of the Aberdeen Local Development Plan requires all development to have high standards of design, with all proposals to be considered against the six qualities of successful placemaking. In this regard the design team worked closely with the Council's planning team, including its design specialist, throughout the evolution of the design proposals. As required in terms of Policy D1, an assessment of the proposed development against the six qualities is set out in the DAS.
- 3.32 Importantly, it should be noted that the purpose of Policy D1 is not to impose any particular style of design or aesthetic on new development, but rather to ensure that new development is well designed in terms of being distinctive, as well as



demonstrating a real understanding of its context and how it will sustain and enhance the social, economic, environmental and cultural attractiveness of the city. Again, and as also discussed in paragraph 3.6 above, the DAS clearly evidences the way in which the design process has given detailed consideration to the existing site context, and responds to this by offering a distinctive articulated profile rather than an undifferentiated roofline. Further details are set out in DAS section 3.1.

- 3.33 It should also be noted that, in developing the design concept, extensive discussions were held with the Council's planners, including input from the Council's specialist design team. The design evolved positively in response to those discussions.
- 3.34 As such, whilst accepting that the proposed development is a big building and will be visible from some parts of the city, it is submitted that the high quality and unique design means that it will be a visually attractive building, which would add distinctiveness and interest to the skyline, and should be supported as such.
- 3.35 The merits of the ultimate proposals are recognised in the Report of Handling, which states that:

"The proposal's architectural design is unique to the site and has been informed by its surroundings. Although unashamedly different from typical flattened developments in Aberdeen, this is welcomed as it provides distinctiveness and adds interest to the city's built environment."

- 3.36 The Report of Handling then concludes that:

"...it is considered that the development has been thoughtfully designed in response to its context and would create a successful place with a distinctive architectural character, taking account of the criteria in Policy D1 (Quality Placemaking by Design)."

- 3.37 This is the correct conclusion to reach and, for the reasons given in the DAS, it is clear that the application meets all the requirements of Policy D1.
- 3.38 At the same time, it should be recognised that the design incorporates extensive areas of public realm, landscaped squares, and public access along the former quarry edge, providing a high level of amenity value for both residents and visitors, and should be further supported as such.



4 Material considerations

4.1 In addition to the points above, a number of additional points come out of the Council's consideration of the application which are material to the determination of this appeal.

4.2 In terms of consultee responses not already discussed above, it should be noted that:

- Environmental Health raised no objection to the application, but recommended that an air quality impact assessment and a noise impact assessment are both carried out. The assessment should consider the impact on existing residents as well as the potential exposure levels of occupants of the new properties on Hill of Rubislaw. Measures to reduce any potential air quality impacts should be considered.
- While SEPA initially raised concerns about increased flood risk and rising water levels within the quarry impacting on the proposed development, it has been agreed that this can be addressed by conditions requiring that, before development begins: (i) a management plan for controlling the water level in the quarry be agreed between all relevant parties; and (ii) surface water sewer connection arrangements be reviewed and agreed by the Council and Scottish Water. The applicant is happy to accept these conditions and it should be noted that there is no outstanding objection to the application from SEPA. Further, with regards to surface water drainage, it should also be noted that, as highlighted in the Report of Handling, SEPA has expressly recognised that the proposed arrangements would be an improvement on the current situation, in which all surface water is discharged into the quarry.

4.3 As also noted in the Planning Statement submitted with the application and acknowledged in the Report of Handling, there are a number of benefits from build to rent schemes, which are also promoted by the Scottish Government, as proposed in this application in terms of:

- complementing existing housing models;
- helping increase the overall rate of delivery of housing;
- enhancing the attractiveness of the city;
- supporting market mobility by providing homes for people moving into the area for work; and



- contributing to the range of rental options available in the city, which is important.

4.4 The proposed development would also make a contribution of [REDACTED] to the provision of affordable housing. This is entirely in accordance with Policy H5 – Affordable Housing and associated Supplementary Guidance (SG) Affordable Housing [Document 88], which requires 25% of all new development of five units or more to be affordable and allows for such a contribution to be made by way of a commuted payment in circumstances when on site or offsite is not viable or feasible and the Council agree. In this case, the Council’s planners and housing officers agreed that the nature of the development and its form as a single building make it difficult for a discrete part of the building to be let and managed independently by a Registered Social Landlord and hence the commuted payment, calculated using the formula set out in the Supplementary Guidance, was acceptable. Such a payment would help ensure the delivery of much needed affordable housing units in Aberdeen on a site identified by the Council.

5 Objections

5.1 It is recognised that a significant number of objections were raised in response to the application. In this regard it should be noted that during the period allowed for representations, Rubislaw Quarry Limited (promoters of a Granite Heritage Centre on the opposite side of the quarry), posted the following text on its Facebook page:

“We would urge anyone who cares about the Granite City's heritage and our unique site to object to these plans and ensure we help Aberdeen City Council, who support our vision for the Rubislaw Quarry Heritage Centre, to make the right decisions for future generations of Aberdonians. You can view the application at <https://publicaccess.aberdeencity.gov.uk> Just type in 180368 and make your voice heard. All objections should be made by 4th April, so please do it now before it is too late. GRANITE CITYZENS CAN MAKE A DIFFERENCE!!!!”

5.2 As a result, over half of the representations submitted object to the application because they wish to see the Rubislaw Quarry Heritage Centre (granted planning permission in December 2015) progress. They mistakenly believe that the refusal of the application which is the subject of this appeal will allow the Heritage Centre to be implemented. It should however be stressed that there is nothing in this application which prevents the Heritage Centre from being developed and both proposals could theoretically co-exist. However, the title deeds for the land on which the Heritage Centre is proposed contain a condition that regulates the redevelopment of the quarry subjects (including retaining the existing and/or natural condition of site, protecting visual amenity and retaining the water level of the quarry). It is that restriction that is



currently preventing the development of the Heritage Centre. Further details on this are provided in the Response to Objections [Document 63] submitted to the Council prior to the determination of the application.

5.3 The Response to Objections report also methodically addresses each of the other issues raised by objectors and demonstrates that there is no substance to the vast majority of them, while others can be mitigated through actions agreed with the Council or other relevant statutory agency (SEPA and SNH, as set out above).

5.4 The Report of Handling also summarises and addresses issues raised by objectors and concludes that none of these constitute grounds for refusal of the application.

6 Conclusion

6.1 The DAS submitted with the application demonstrates that the design process undertaken by the applicant ensures that the proposed development responds to the existing site context and satisfies the six qualities of successful placemaking in accordance with Policies D1 and D3 of the Aberdeen Local Development Plan, and the application should be supported accordingly.

6.2 At the same time, for the reasons given in the Planning Statement submitted with the application, the Report of Handling and in this appeal statement, read in conjunction with the documents listed in Appendix One, it is clear that the application also complies with all other relevant Development Plan policies and material considerations, and should therefore be supported.

6.3 With regards to the other specific issues raised in the Decision Notice, namely parking provision, education capacity and impact on wildlife, these are addressed in paragraphs 3.14 - 3.18, , 3.20 - 3.22, and 3.23 - 3.26 respectively above, in light of which it is submitted that there is no justification for the application to be refused on these grounds.

6.4 Conversely, it is submitted that the application:

- was supported by the Council's professional planners following an extensive and thorough assessment (see the Report of Handling considered by the Council's Planning Development Management Committee);
- complies with the vision and objectives of the Aberdeen City and Shire Strategic Development Plan (see Planning Statement paragraphs 4.3 – 4.9);



- complies with Local Development Plan Policies R1, D1, D2, D3, H3, H4, H5, I1, T2, T3, NE1, NE4, NE5, NE6, NE8, R7 and associated supplementary guidance (see Planning Statement paragraphs 4.10 – 4.30);
- is supported by Scottish Government policy and guidance, including Scottish Planning Policy and Draft Planning Delivery Advice on build to rent and net economic benefit (see Planning Statement paragraphs 5.2 – 5.14 and 5.16 – 5.17); and
- will contribute to the delivery of the Council’s Local Housing Strategy objectives, with evidence from research on behalf of Homes for Scotland of a demand for private rented sector housing (see Planning Statement paragraphs 5.18 – 5.20 and 5.15 respectively).

6.5 The application should therefore be approved accordingly.



Appendix One: List of documents submitted in support of the appeal

Planning Application Documents

1. Ground Investigation Report
2. Sustainability Statement
3. Building Section 3 & 4
4. Building Section 1 & 2
5. Level 8 and 9 Layout Plans
6. Level 6 & 7 Layout Plans
7. Level 4 & 5 Layout Plan
8. Level 2 & 3 Layout Plan
9. Level 0 & 1 Layout Plan
10. Basement (Level P1) and Ground Floor (Level G) Layout Plan
11. Basement Layout Plans (Levels P2 & P3)
12. North and South Elevations
13. East and West Elevations
14. Roof Layout Plan
15. Site Layout Plan (Proposed)
16. 3D Visualisations/Artists Impression 1
17. 3D Visualisations/Artists Impression 2
18. 3D Visualisations/Artists Impression 3
19. Design and Access Statement
20. Landscape and Visual Impact Assessment
21. Transport Statement (TS01 March 2018)
22. Drainage and Flooding Assessment (March 2018)
23. Aboricultural Assessment – Tree Management Protection Plan
24. Tree Survey Report
25. Environmental Walkover Report
26. Aboricultural Asessment – Existing Tree Plan
27. Processing Agreement
28. Planning Statement
29. Pre-Application Consultation Report
30. Landscape Design Framework
31. Application Form
32. Location Plan (Existing)
33. Location Plan (Proposed with Heights)
34. Location Plan (Proposed)
35. Detail Elevations – Block C – Sheet 2
36. Detail Elevations – Block C – Sheet 1
37. Detail Elevations – Block B – Sheet 2
38. Detail Elevations – Block B – Sheet 1
39. Detail Elevations – Block A – Sheet 2
40. Detail Elevations – Block A – Sheet 1
41. Transport Statement (TS02 – May 2018)
42. Illustrative Landscaping Scheme
43. Level 8 and 9 Layout Plans (Rev 2)



44. Level 6 & 7 Layout Plans (Rev 2)
45. Level 4 & 5 Layout Plan (Rev 2)
46. Level 2 & 3 Layout Plan (Rev 2)
47. Level 0 & 1 Layout Plan (Rev 2)
48. Basement (Level P1) and Ground Floor (Level G) Layout Plan (Rev 2)
49. Basement Layout Plans (Levels P2 & P3) (Rev 2)
50. Detail Elevations – Block C – Sheet 2 (Rev 2)
51. Detail Elevations – Block C – Sheet 1 (Rev 2)
52. Detail Elevations – Block B – Sheet 2 (Rev 2)
53. Detail Elevations – Block B – Sheet 1 (Rev 2)
54. Detail Elevations – Block A – Sheet 2 (Rev 2)
55. Detail Elevations – Block A – Sheet 1 (Rev 2)
56. North and South Elevations (Rev 2)
57. East and West Elevations (Rev 2)
58. Roof Layout Plan (Rev 2)
59. Site Layout Plan (Proposed) (Rev 2)
60. Site Quarry Cross Section
61. Proposed Footpath
62. Drainage and Flooding Assessment (revised June 2018)
63. Response to Objections

Report of Handling and Associated Documents

64. Decision Notice
65. Report of Handling
66. Consultee Comment – Education Consultation Response
67. Consultee Comment – Developer Obligations – 15 May
68. Consultee Comment – Developer Obligations – 5 June
69. Consultee Comment – Environmental Health
70. Consultee Comment – Flooding and Coastal Protection
71. Consultee Comment – Roads Development Management Team – 19 April
72. Consultee Comment – Roads Development Management Team – 18 May
73. Consultee Comment – Roads Development Management Team – 31 May
74. Consultee Comment – Scottish Natural Heritage
75. Consultee Comment – Scottish Water
76. Consultee Comment – SEPA 9 April
77. Consultee Comment – SEPA 18 May
78. Consultee Comment – SEPA 8 June
79. Consultee Comment – Transport Scotland 4 April
80. Consultee Comment – Transport Scotland 24 April
81. Consultee Comment – Waste Strategy Team

Confidential Reports

82. Badger Survey (CONFIDENTIAL)



Policy Documents

83. Aberdeen City and Shire Strategic Development Plan (2014)
84. Aberdeen Local Development Plan (2017)
85. Supplementary Guidance (SG) Big Buildings
86. Supplementary Guidance (SG) Transport and Accessibility
87. Supplementary Guidance (SG) Planning Obligations
88. Supplementary Guidance (SG) Affordable Housing
89. Supplementary Guidance (SG) Trees and Woodland
90. Supplementary Guidance (SG) Resources for New Development
91. Supplementary Guidance (SG) Landscape
92. Scottish Planning Policy 2014
93. National Planning Framework 3

Material Considerations referred to in Planning Statement

94. Scotland's Economic Strategy (2015)
95. Joint Housing Delivery Plan for Scotland (2015)
96. Infrastructure Investment Plan 2015
97. Planning Delivery Advice: Build to rent
98. Homes for Scotland – Demand patterns in the private rented sector in Scotland
99. Draft Planning Delivery Advice: Net economic benefit
100. Aberdeen City Council Local Housing Strategy 2012 to 2017

Additional documents referred to in appeal

101. BPF Report: Unlocking the benefits and potential of build-to-rent
102. A Strategy for the Private Rented Sector in Scotland (2013)
103. Badger Licence Application
104. SNH Species Licence under the Protection of Badgers Act 1992
105. ACC CPZ Committee Report
106. Decision Notice for planning application reference 150376

