

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 19 APRIL 2016

CRAIGMILL LODGE, STRATHMARTINE

REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a Review of the decision taken by the Planning Authority in respect of the refusal of planning permission for Section 42 Application to develop land without compliance with Condition 3 of planning permission 15/00081/FULL, application No 15/01036/FULL, at Craigmill Lodge, Strathmartine.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**); and
- (ii) review the case submitted by the Applicant (**Appendix 2**).

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

This Report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information from the Applicant and the Planning Authority to review the case. Members may also wish to inspect the site before full consideration of the Appeal.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

5. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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List of Appendices:

Appendix 1 – Submission by Planning Authority
Appendix 2 – Submission by Applicant

APPENDIX 1

ANGUS COUNCIL'S SUBMISSION

APPLICATION NUMBER – 15/01036/FULL

APPLICANT- Grants (Craigmills) Caravans

PROPOSAL & ADDRESS – Section 42 Application to Develop Land without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL at Craigmill Lodge Strathmartine Dundee DD3 0PH

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Angus Council

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| Application Number: | 15/01036/FULL |
| Description of Development: | Section 42 Application to Develop Land without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL |
| Site Address: | Craigmill Lodge Strathmartine Dundee DD3 0PH |
| Grid Ref: | 338385 : 735044 |
| Applicant Name: | Grants (Craigmills) Caravans |

Report of Handling**Site Description**

The application site, which measures 2998sqm, is located immediately to the west of Craigmill Lodge and is bound to the north by Craigmill Road, to the south by the Dighty Water and to the west by the applicant's caravan sales and service business. Vehicular access to the site is located at the east boundary of the site. The site sits below the level of Craigmill Road and is screened from the south due to the substantial landscaping along the south boundary.

Proposal

The application is submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (As amended). The applicant seeks planning permission to develop without complying with conditions subject to which a previous planning permission was granted, namely Condition 3 of planning permission ref: 15/00081/FULL (application for change of use of land to form 6 caravan pitches for holiday use). That condition was imposed by the Development Standards Committee at its meeting on 31 March 2015. Condition 3 restricts the occupancy of the caravans to ensure that no permanent residence is formed. The condition states:

1. No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.

The condition was attached for the following reason:

1. In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 4 December 2015 for the following reasons:

- Neighbouring Land with No Premises

The nature of the proposal did not require a site notice to be posted.

Planning History

Application 15/00081/FULL - Change of use of land to form 6 caravan pitches for holiday use – was approved by the Development Standards Committee at its meeting on 31 March 2015 (Report 143/15 refers).

Applicant's Case

A supporting statement was submitted by the applicants agent as part of the application. The content of this can be summarised as follows:

- o That application 15/00081/FULL was granted on 01 April 2015 for a change of use of land to form 6 caravan pitches for holiday use;
- o As it stand condition 3 only permits the same individual or group of individuals to use the caravans for less than half the year (24 weeks) which is considered to be overly restrictive and at odds with other holiday developments / caravan parks within Angus.
- o That the current wording of condition 3 implies that the caravan will be managed and let out and at this time the possibility is being explored of selling the caravans (as holiday accommodation only) which would not be permitted by this restrictive wording;
- o In light of this the applicant seeks variation of the wording of condition 3 to allow these to be used for up to 11 months in any calendar year;
- o Refers to circular 4/1998 and states that these conditions should not be imposed unless they are both necessary and effective and do not place unjustifiable burdens on the applicant. The agent acknowledges the need for restrictions but considered that he overly restrictive wording of condition 3 prevents their client from maximising the use of the site for tourism as it severely limits occupation of the caravans.
- o Refers to policies SC20 and SC21;
- o Advises that the applicant has no desire to establish a residential use;
- o Suggested the following wording for the condition :
"The site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan as permanent residential accommodation or as a permanent or principal residence. For the avoidance of doubt, no caravan shall be occupied during the period 1 February to 28 February in any given year. Within 14 days of the purchase of any caravan, the owner(s) shall submit details of their permanent residential address to Angus Council as Planning Authority and shall thereafter ensure that the Planning Authority is notified in the event of a change of address and/or owner."
- o Concludes that this proposed condition is precise in its requirements and would be simple to monitor and enforce;
- o That the proposed change in condition would ensure that the caravans are only used for holiday accommodation and would provide the owner with the option of either letting out the caravans or accommodation or alternatively selling each caravan pitch as holiday accommodation.

Following concerns raised by the Planning Authority regarding the proposed change the applicants agent submitted a further e-mail response on 11/01/16 and also on 15/01/16 and this can be summarised as follows:

- o That Circular 4/1998 states that a condition may be unreasonable because it is unduly restrictive (Annex A - paragraph 34). It warns that where a seasonal occupancy condition is proposed that care should be taken to allow a reasonable period of use. The agent considers that only permitting a maximum 12 weeks within the 6 key holiday months (April to September) is unnecessary and unreasonable;
- o Not aware of any formal policy change in terms of SC21;
- o That Angus Councils position is at odds with neighbouring authorities;

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - No objections

Scottish Water - There was no response from this consultee at the time of report preparation.

Representations

There were no letters of representation.

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries
 Policy S3 : Design Quality
 Policy S6 : Development Principles (Schedule 1)
 Policy SC19 : Rural Employment
 Policy SC20 : Tourism Development
 Policy SC21: Caravan Sites and Holiday Chalets
 Policy ER24 : Surface Water Disposal
 Policy ER27 : Flood Risk - Consultation

TAYplan Strategic Development plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at the Appendix to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and subsequently published for a statutory period for representations. The statutory period for representation has now expired and unresolved representations have been submitted to Scottish Ministers for consideration at an Examination. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP(June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to policies and proposals of the plan that are subject to unresolved objection. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation or decision.

The applicant seeks permission under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (As amended) to develop without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act states that on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted. Section 42 allows the planning authority only to decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was

granted or that permission should be granted unconditionally. If the decision is that the planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the application should be refused.

The Development Standards Committee resolved to grant planning permission ref: 15/00081/FULL at its meeting on 31 March 2015 and the permission was subsequently issued on 01 April 2015. Report 143/15 set out the planning policy context and assessment for that application and it is attached as an appendix to this report. The Angus Local Plan Review remains the adopted local plan and the general policy consideration of the proposal as outlined in Report 143/15 remains relevant.

The applicant has not questioned the other conditions that are associated with planning permission 15/00081/FULL and for the avoidance of doubt those conditions are considered to meet the tests for conditions set out in Circular 4/1998 which deals with the use of conditions in planning permissions. The application relates specifically to condition 3 as detailed above and this report focuses on that matter.

Circular 4/1998 sets out government policy on the use of conditions in planning permissions. The circular identifies six specific tests that a condition must meet; namely that the condition is necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects.

These matters are discussed in detail below: -

- 1) Necessary - the occupancy condition is necessary as the occupation of the caravans as permanent residential accommodation would give rise to different impacts and different planning considerations. Those impacts have not been assessed as the applicant has indicated that the caravans are for holiday occupation only. However, an occupancy condition is necessary in order to prevent permanent occupation of the caravans;
- 2) Relevant to planning - The adopted Angus Local Plan Review 2009 policy SC21 (caravan sites and holiday chalets) implies that a restriction will be imposed on permanent occupation of holiday accommodation. Circular 4/1998 also suggests that a restriction can be placed on the occupation of caravans for a period of time. A restriction is also required by Policy TC16 of the ALDP which represents the Council's most recent expression of policy in relation to this matter. The occupancy condition is therefore relevant to planning;
- 3) Relevant to the development to be permitted - the occupancy restriction relates to the occupation of the caravans which is clearly relevant to the development permitted;
- 4) & 5) Enforceable and Precise - The applicant does not contend that the condition is not enforceable or precise and the condition as attached clearly meets both tests;
- 6) Reasonable - the applicant questions the reasonableness of the condition and suggests that the form of condition the Council has used elsewhere would be more appropriate (condition suggested in the applicants supporting statement). However, Angus Council's experience has shown that individuals operate on the basis that provided they do not occupy a caravan during the month when a site is to be closed they can occupy the caravan at any other time for any duration and on any basis. In light of that experience operational practice has been reviewed and a revised condition that provides greater clarity and certainty for all parties has been adopted. It allows year round use of the caravans without the imposition of a closure period but at the same time ensures that the same individual or group of individuals do not occupy any caravan on the site for more than 12 weeks in any 26 week period. In essence it ensures that the same individual or group of individuals do not occupy any caravan at the site for more than 46% of the year. This ensures that the caravans/site is not used as permanent residential accommodation. This is the approach that has been approved by the Development Standards Committee at this site and is the approach that the Council has used with more recent cases.

Accordingly, the condition as imposed by the Development Standards Committee at its meeting on 31 March 2015 is considered to meet the relevant tests provided by the circular.

The applicant expresses concern that the Council has used a different condition on other sites. However, it is entirely reasonable and appropriate for a planning authority to review its practice over time and in light of operational experience. The applicant also indicates that the nature of the condition differs from that used by neighbouring authorities but again it is entirely appropriate for a planning authority to frame a condition in a different manner than a neighbouring authority.

The applicant expresses concern that the condition is overly restrictive. However, it allows 12-month occupation of the site and in this regard is less restrictive than the condition proposed by the applicant. The Council's condition ensures that a caravan cannot be occupied by the same individual or group of individuals for more than 12 weeks in any 26 week period. This ensures that the caravans cannot be occupied by the same individual or group of individuals for a period exceeding half a year. This is considered an appropriate mechanism to ensure that the caravans are not utilised as permanent residential accommodation.

In conclusion, the revised wording provided by the applicant is noted and reflects the approach previously used by the Council. However, as indicated above that approach has caused uncertainty for occupants of caravans and it is not unreasonable for the Council to amend its approach to planning practice and imposition of conditions over time in response to experience. The conditions attached to planning permission 15/00081/FULL meet the tests for conditions as set by Government and are appropriate for a caravan development at this site. There are no material considerations that justify approval of the application with conditions that differ from those previously applied and in these circumstances the application is refused.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Refused

Reason(s) for Decision:

1. That the conditions attached to planning permission 15/00081/FULL are considered necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects and that planning permission should not be granted for the use of the land to form 6 caravan pitches for holiday use without those conditions. The conditions are considered appropriate to secure compliance with relevant policies of the Angus Local Plan Review 2009.

Notes:

Case Officer: James Wright
Date: 21 January 2016

Appendix 1

Proposed Angus Local Development Plan

Policy TC16 Tourism Development

Proposals for new or improved tourism related facilities and tourist accommodation will be directed to sites within development boundaries. Such facilities will be supported in these locations where the development is of an appropriate scale and nature and is in keeping with the townscape and pattern of development.

Outwith development boundaries, proposals for new or improved tourism related facilities and accommodation will be supported where:

- it has been demonstrated that the proposals cannot be located within a development boundary; or
- there is a justifiable locational requirement for the development; and
- the scale and nature of the development is in keeping with the character of the local landscape and pattern of development; and
- there is no unacceptable impact on the built and natural environment, surrounding amenity, traffic levels, access or infrastructure.

Angus Council will attach occupancy conditions to prevent tourist accommodation being occupied as permanent residential accommodation. Applications to remove such occupancy conditions will not be supported.

Proposals to change the use or redevelop existing leisure or tourist facilities will only be supported where it is demonstrated:

- that the existing business is no longer viable and there is no requirement for alternative tourist facilities in the location; and
- that the existing business has been actively marketed for sale or lease as a going concern for a reasonable period at a reasonable market price.

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 31 MARCH 2015

PLANNING APPLICATION – CRAIGMILL LODGE, STRATHMARTINE, DUNDEE, DD3 0PH

GRID REF: 338385 : 735044

REPORT BY THE HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No. 15/00081/FULL for the Change of Use of Land to Form 6 Caravan Pitches for Holiday Use for Grants (Craigmills) Caravans at Craigmill Lodge, Strathmartine, Dundee. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that this listed building consent application is approved for the reasons and subject to the conditions detailed at Section 10 of this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 The applicant seeks planning permission for the change of use of land to form 6 caravan pitches for holiday use at Craigmill Lodge, Strathmartine, Dundee.

3.2 The application site which measures 2998sqm located immediately to the west of Craigmill Lodge and is bound to the north by Craigmill Road, to the south by the Dighty Water and to the west by the applicant's caravan sales and service business. The north boundary of the application site consists of a stonewall that is complemented by additional planting; the east boundary is undefined; the south boundary consists of substantial planting and the west boundary consists of a stonewall that is complemented by additional planting. Vehicular access to the site is located at the east boundary of the site. The application site sits below the level of Craigmill Road by approximately 6m and is screened from the south due to the substantial landscaping along the south boundary. The application site is understood to have comprised a part of the now demolished Baldovan Asylum and Orphanage and is now occupied by a large disused garage/workshop and its associated hardstanding.

3.3 The application seeks the change of the use of the land to form 6 caravan pitches for holiday use. The plan submitted in support of the application indicates the 6 caravans that have a footprint of 24sqm would be arranged in a north/south orientation with a separation distance of 5.8m between

each caravan. A raised timber deck some 1.8m wide would be erected around each caravan. The floor level of the caravans would be 84m AOD (caravan 1), 82.95m AOD (caravan 2) and 82.8m AOD (caravans 3 – 6). Each caravan would have parking for 2 vehicles and bin storage areas. An amenity area and soft landscaping area would be provided to the north of the proposed caravan pitches. The existing vehicular access would serve the development with the existing internal tarmac road within the site extended to incorporate a turning head.

- 3.4 The application has not been subject of variation.
- 3.5 The proposal has been advertised in the press as required by legislation.
- 3.6 This application requires to be determined by the Development Standards Committee due to the recommendation for approval whilst being subject to an objection from the Community Council.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning permission in principle application (ref: 11/00382/PPPL) for the erection of two dwellinghouses at the site was validated on 11 May 2011. The application was withdrawn on 30 June 2011.
- 4.2 Planning permission in principle application (ref: 12/00201/PPPL) for the erection of three dwellinghouses at the site was validated on 2 March 2012. The application was approved subject to conditions on 25 April 2012 under delegated powers.
- 4.3 Planning permission in principle application (ref: 15/00038/PPPL) for the erection of 3 dwellinghouses (renewal of planning permission 12/00201/PPPL) was validated on 20 January 2015. The application is still pending consideration.

5. APPLICANT'S CASE

- 5.1 A Flood Risk Assessment has been submitted in support of the proposal which concludes that the site would be developable with respect to flood risk, as the site is not within the 1 in 200 year flood plain of the Dighty Water. All finished floor levels should be set at, or above 82.8m AOD and any caravans/buildings proposed to be constructed within the flood envelope should be constructed using flood resilient materials and methods.
- 5.2 A transport statement has also been submitted in support of the proposal which indicates the trip generation associated with the proposed development would be significantly fewer than those associated with a three house development which has previously been granted planning permission in principle at the site. In relation to access the site access junction has a historic layout, and has not been designed to current design standards but notwithstanding this there is no history of accidents at this location therefore it is considered that road users are exercising the appropriate care in negotiating the historic road layout, and it is unlikely that the proposed development would exacerbate the existing situation.
- 5.3 A letter in support of the proposal considers that the proposal is in accordance with the Angus Local Plan Review, it will result in the reuse of redundant brownfield land, will do much to improve the visual amenity of the immediate area and will bring welcome tourism accommodation into the area. The proposed small scale holiday static caravan site will work well with the applicant's adjacent retail business, the consented larger holiday caravan site to the west and will generate a modest level of employment and holiday expenditure within the local economy.

6. CONSULTATIONS

- 6.1 The Roads Service has not objected to the proposal in respect of traffic safety or flood risk. In relation to road safety, the Transport Statement has been considered. Taking account of the

level of traffic generated by the existing use relative to the proposed use, the Roads Service has confirmed that the proposal would not result in unacceptable impacts on the public road network. They have also considered the submitted information on flood risk and have confirmed no objection subject a number of planning conditions.

- 6.2 SEPA has not objected to the proposal in respect of flood risk. They have reviewed the flood risk assessment and support the recommendation that the finished floor levels are set to 82.8m AOD which provides 70mm freeboard above the 1 in 200 year plus climate change and allowance of blockage (full blockage of downstream culvert and 50% of Pitempton Road Bridge).
- 6.3 The Environmental Health Service has indicated no objections to the proposal.
- 6.4 Scottish Water has indicated no objections to the proposal.
- 6.5 Strathmartine Community Council has objected to the application with their concerns relating to the approval for mass housing at the former Strathmartine Hospital they consider that any further developments, whether housing or holiday caravans, will place undue strain on what is a rural road network and effectively contribute to urbanisation of the area through ribbon development. *'The full representation from the community council will be circulated to members of the Development Standards Committee and copies are available to view in the local library or on the council's Public Access website'.*

7. LETTERS OF REPRESENTATION

No objections have been received.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 In this case the development plan comprises:-
- TAYplan (Approved 2012)
 - Angus Local Plan Review (Adopted 2009)
- 8.3 The development plan policies relevant to consideration of this application are provided in Appendix 1 and have been taken into account in the preparation of this report.
- 8.4 Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Draft Proposed Angus Local Development Plan was considered by Angus Council at its meeting on 11 December with a view to it being approved and published as the Proposed ALDP for a statutory period for representations. The Draft Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP (June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP, as approved by Angus Council, will be subject to a 9 week period for representation commencing in February 2015. Any unresolved representations received during this statutory consultation period are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it will be a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the

statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to its contents. This may change following the period of representation when the level and significance of any objection to policies and proposals of the plan will be known.

- 8.5 The site is not allocated for development and lies to contiguous with the Strathmartine Hospital development boundary. The local plan indicates that development boundaries are defined around settlements to protect the landscape setting of towns and villages and to prevent uncontrolled growth. On such sites, Policy S1(c) indicates that proposals will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary. The proposal involves the diversification of the existing caravan sales and storage operation on an existing commercial site. The site benefits from peripheral landscaping and the proposal would not appear visually to create additional uncontrolled growth adjacent to the development boundary. It would be located within the existing storage yard area and would be contained between Craigmill Road to the north and the Dighty Burn to the south. The proposal could be beneficial in providing additional tourist accommodation which offers potential economic benefits to the local economy and would be located on previously developed land. This is an existing business operation and that diversification of the business would provide continued employment opportunities in the rural area and that this would provide some public interest. I also accept that there is some business efficiency associated with the operation being linked to the existing caravan sales business and note that permission exists for the siting of static caravans further west along Craigmill Road. As this is an existing site, I do not consider the proposal to be inconsistent with the intentions of Policy S1(c) which is to protect the landscape setting of settlements and prevent uncontrolled growth.
- 8.6 Policy SC19 deals with rural employment uses. The supporting letter submitted on behalf of the applicant indicates the proposed developments would generate a modest level of employment and would also complement their existing business. In this case the proposal is directly associated with an existing tourism facility. The proposed development is likely to assist the existing business and in this respect I consider that the development will make a positive contribution to the rural economy. I consider that the general principle of supporting an existing business is compatible with the general aims of this policy. Issues regarding the scale and nature of the development are discussed below in association with other policy considerations.
- 8.7 The primary policy considerations for tourism developments are SC20 and SC21 of the Angus Local Plan Review. Policy SC20 encourages tourism development, including accommodation, where it would improve the range and quality of the facilities or extend the tourist season; would have no unacceptable detrimental impact on the landscape or rural environment; would be in keeping with the scale and character with the adjacent buildings or surrounding countryside; and would be compatible with surrounding land uses. The application provides for the reuse of an existing brownfield site adjacent to the applicant's existing caravan retail business and is also within close proximity to a consented larger holiday caravan site to the west of the caravan retail business (refs: 09/00854/FUL & 12/01054/FULL). Provided the caravans were used for holiday and tourism purposes, I am satisfied that this would increase the amount of tourist accommodation in the area. The proposed development would support the Council's strategy to increase the variety and quality of visitor accommodation in Angus. On this basis I consider that the principle of the development is generally compatible with Policy SC20.
- 8.8 Policy SC21 contains a number of criteria for the assessment of holiday caravan and chalet sites. Criterion (a) seeks to support such development in unobtrusive locations and avoid the undeveloped coastline. The site is considered to be in an unobtrusive location and avoids skylines, prominent hillsides and exposed flat sites and is not located on the undeveloped coast. Criterion (b) states that the development should fit into the surrounding landscape and incorporate substantial landscaping and planting, appropriate density of pitches, satisfactory access arrangements and adequate parking, waste management facilities and suitable water

supply and drainage arrangements. The indicative layout indicates soft landscaping would be introduced to the north of the proposed caravans which would help to create an appropriate setting within the site for the caravans as well as an amenity area. In relation to how the proposals would be accommodated within the surrounding landscape the site is not readily visible from Craigmill Road due to the difference in ground levels and the stone wall at the north boundary of the application site which restricts views into the site. Substantial landscaping exists along the south boundary of the site which restricts any views into the application site from this direction. As such, the proposed location is considered to be a suitable location for the scale and nature of development proposed.

- 8.9 In relation to appropriate density of pitches, the indicative layout indicates 6 caravans can be suitably accommodated within the site without any negative impacts on the amenity of the proposed occupants. In respect of roads, parking and access the Roads Service has considered the application in terms of the traffic likely to be generated by it and its impact on the public road network. Concerns have been raised by the Community Council in relation to the inadequacy of the local road network. In terms of access and parking, the development proposes to utilise the existing access to the site and 2 parking spaces would be associated with each of the 6 caravans. The Roads Service has considered the submitted transport statement and has offered no objections to the proposed development.
- 8.10 In terms of waste management, the indicative layout indicates each caravan would have their own facilities. The Environmental Health Service has not raised any concerns relating to the waste management arrangements but a condition would be attached to any approval to ensure these details are submitted and approved prior to the proposal coming into use. In relation to water supply/drainage arrangements the application form states that a connection to the public water supply is proposed. Scottish Water has offered no objections to the proposal. I am satisfied that acceptable foul drainage arrangements could be made for the caravan pitches. Similarly the application form states that surface water would be managed within the site through the provision of appropriate SUDS. No details of the SUDS has been provided therefore a condition is proposed requiring agreement of the detail of this system prior to the commencement of development.
- 8.11 Policy SC21 also indicates that accommodation will be restricted to ensure that it is only occupied for holiday purposes and to prevent permanent residential accommodation. This is appropriate in this case as permanent residential accommodation on this site would not be compatible with the Council's policies for housing in the countryside and would give rise to different impacts on infrastructure, as noted by the Community Council. Conditions are therefore proposed to limit occupation of caravans on the site to holiday accommodation only and the length of time they can be occupied by any individual or group of individuals.
- 8.12 In terms of amenity impacts a development of this nature is likely to increase visitor numbers and movement in the wider area and as such has potential to impact on amenity. The closest property to the site is located at Craigmill Lodge which is located approximately 10 metres from the closest caravan. The mutual boundary between the application site and the aforementioned property is currently undefined however the provision an acceptable form of screening would be required to minimise the impacts on Craigmill Lodge. On this basis the proposal would not introduce a use or degree of overlooking that would result in unacceptable impacts on the amenity of Craigmill Lodge. It should also be noted that there are other residential properties in the general vicinity of the site but it is not unusual for holiday parks and residential properties to be located close to one another and I do not see any reason why these uses should not be compatible in this case. In relation to the siting of the caravans within the application site a condition is proposed requiring the caravan pitches/ hard standing areas to be sited and formed in accordance with the Council's Model Caravan Standards. Such a condition should ensure the caravans are appropriately sited to ensure the amenity of the neighbouring residential property is not adversely affected.

- 8.13 In terms of Policy ER27: Flood Risk Consultation and Policy ER28: Flood Risk Assessment, both SEPA and the Roads Service have been consulted on the Flood Risk Assessment (FRA). In this instance both SEPA and the Roads Service agree with the recommendations of the FRA and have raised no objections to the proposal.
- 8.14 In respect of Policy S6 only certain criteria from this policy would be relevant in the determination of this application. Issues in relation to amenity; visual impact; roads/parking/access; landscaping; flood risk; drainage and waste management have been addressed in the discussion above and I do not consider the other elements of Policy S6 to be relevant in this instance and consider that the proposal is consistent with the development principles established under Policy S6.
- 8.15 It should be noted that the current proposal is for a change of use only and no operational development is currently proposed. The plans submitted as part of the application do show various landscaping, caravan layouts and roads. Class 17 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 (As Amended) indicates that development required by the conditions of a site licence issued in terms of the Caravan Sites and Control of Development Act 1960 would be permitted and the agent has indicated this in their supporting statement. However at present no site licence has been issued and it is therefore considered appropriate to attach a condition requiring details of the layout of the site to be submitted for the approval of the planning authority.
- 8.16 In conclusion, the proposal is considered to comply with the relevant policies of the development plan and there are no material considerations which would justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The decision to grant permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that application be approved for the following reasons and subject to the following conditions:

Reason(s) for Approval:

That the proposed development will provide a tourist facility that will assist the economic development of Angus in a manner that complies with relevant policies of the development plan and there are no material considerations that would justify refusal of the planning application.

Conditions:

1. That the number of caravans permitted on site shall be limited to a maximum of 6 in total unless otherwise agreed in writing by the planning authority.
Reason: In order to clarify the terms of this permission and to ensure that the use of the site is appropriately controlled in the interests of the amenity of the area.
2. That the site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan or other structure as permanent residential accommodation or as a permanent or principal residence.
Reason: In order to define the consent and ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
3. No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.
Reason: In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
4. That the development be undertaken in accordance with the mitigation measures identified in the Proposed Caravan Site at Craigmills, Strathmartine - Flood Risk Assessment dated January 2015 by Millard Consulting (reference 12197/AB/284), namely:
 - (a) All finished floor levels should be set at, or above 82.8m AOD, a minimum of 70mm above the adjacent Q200 + 20% flood level, including blockages.
 - (b) Any caravans/buildings proposed to be constructed within the flood envelope of the Q200 + 20% + blockage, should be constructed using flood resilient materials and methods.*Reason: In order to ensure that the development is not subject to an unacceptable level of flood risk.*
5. That prior to the commencement of development, the following details require to be submitted to and approved in writing by the Planning Authority: -
 - The submission of a plan that provides the precise location of each caravan pitch/ hard standing area having regard to the Council's Model Standards in relation to existing landscaping and neighbouring residential property. The site should be laid out only in accordance with the approved details and the layout retained thereafter unless otherwise approved in writing by the Planning Authority.
 - A scheme for the assessment of surface water flooding for the development. Thereafter the assessment shall be undertaken in accordance with approved scheme and any mitigation measures contained within it shall be implemented prior to the approved use of the site commencing. For the avoidance of doubt the submitted assessment should demonstrate that the development is not at risk and that appropriate contingencies have been put in place to account for exceedance.
 - Full details of the proposed means of surface water disposal from the development. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be occupied unless the agreed drainage scheme has been provided in its entirety.
 - A scheme of hard and soft landscaping, including an indication of all existing trees and hedgerows on the land and details of these to be retained and cleared, together with the

measures for their protection in the course of development. All planting indicated on the approved plans shall be carried out in the first planting season following the commencement of the use hereby approved or at earlier stages and any plants or trees which within a period of five years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

- A waste management plan to include details of where and how waste would be stored, segregated, collected and managed within the site. Thereafter, the approved details shall be implemented prior to the commencement of the use hereby approved.
- Details of the means of site enclosure proposed to be used at the east boundary. Thereafter the approved boundary enclosure shall be erected or formed on or before the commencement of the use hereby approved.

Reason: In order to ensure an acceptable layout having regard to the model standards and neighbouring residential amenity; in order to reduce the potential of flooding within and outwith the application site; to ensure the provision of an acceptable drainage system in the interests of the amenity of the area; in order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council; to ensure adequate waste management facilities; in the interests of the amenity of the occupiers of adjacent dwellings and the visual amenity of the area.

6. That from the date of this permission none of the existing trees or hedges within the site be felled, topped, lopped or otherwise interfered with without advance discussion with and without the prior written consent of this Planning Authority.

Reason: In order that the general amenity of the area shall not be affected.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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Date: 19.03.2015

Appendix 1: Relevant Development Plan Policies

APPENDIX 1 – RELEVANT DEVELOPMENT PLAN POLICIES

Angus Local Plan Review 2009

Policy S1: Development Boundaries

- (a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- (b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.
- (c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3: Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S6: Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- (d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- (e) Access to housing in rural areas should not go through a farm court.

- (f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.
- (g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

Supporting Information

- (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC19: Rural Employment

Employment opportunities throughout rural Angus will be supported where they make a positive contribution to the rural economy and are of a scale and nature appropriate to the location. Proposals which reuse existing buildings and sites and those which assist diversification of an existing rural business will be encouraged. There may also be scope for mixed use developments incorporating staff accommodation and/or home/work units.

Policy SC20: Tourism Development

Development proposals to provide new or improved tourist related facilities/attractions and accommodation will be permitted and encouraged where they:

- improve the range and quality of visitor attractions and tourist facilities and/or extend the tourist season;
- have no unacceptable detrimental effect on the local landscape or rural environment;
- are in keeping with the scale and character of adjacent buildings or surrounding countryside;
- are generally compatible with surrounding land uses; and
- accord with other relevant policies of the Local Plan.

Policy SC21: Caravan Sites and Holiday Chalets

Development proposals for static holiday and touring caravan sites will not be permitted on undeveloped coastline or in the Angus Glens. Holiday chalet developments will not be permitted on undeveloped coastline. Outwith these areas such development will be generally supported where:-

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;
- (b) the site is designed to fit into surrounding landscape and incorporates:-
 - (i) substantial landscaping and tree/shrub planting;
 - (ii) appropriate density of chalets/pitches;
 - (iii) satisfactory access arrangements and adequate parking;
 - (iv) waste management facilities; and
 - (v) suitable and adequate water supply and drainage arrangements.

Angus Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation.

Policy ER24: Surface Water Disposal

Sustainable Urban Drainage Systems are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water run-off collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water.

Policy ER27: Flood Risk - Consultation

- (a) Angus Council will routinely consult with SEPA on all development proposals adjacent to or potentially affected by:-
 - (a) the North Esk, south of Edzell;
 - (b) the South Esk;
 - (c) the Brothock Burn, south of Leysmill;
 - (d) the Elliot Water, south of Arbirlot;
 - (e) the catchment of the Dighty Water and its tributaries; and
 - (f) other watercourses and lochs of known potential flood risk.

Angus Council may require developers to submit a flood risk assessment in support of a planning application.

Policy ER28: Flood Risk Assessment

Proposals for development on land at risk from flooding, including any functional flood plain, will only be permitted where the proposal is supported by a satisfactory flood risk assessment. This must demonstrate

to the satisfaction of Angus Council that any risk from flooding can be mitigated in an environmentally sensitive way without increasing flood risk elsewhere. In addition, limitations will be placed on development according to the degree of risk from coastal, tidal and watercourse flooding.

The following standards of protection, taking account of climate change, will be applied:-

- In Little or No Risk Areas where the annual probability of flooding is less than 0.1% (1:1000 years) there will be no general constraint to development.
- Low to Medium Risk Areas where the annual probability of flooding is in the range 0.1% - 0.5% (1:1000 – 1:200 years) are suitable for most development. Subject to operational requirements these areas are generally not suitable for essential civil infrastructure. Where such infrastructure has to be located in these areas, it must be capable of remaining operational during extreme flood events.
- Medium to High Risk Areas (see 2 sub areas below) where the probability of flooding is greater than 0.5% (1:200 years) are generally not suitable for essential civil infrastructure, schools, ground based electrical and telecommunications equipment.
 - (a) Within areas already built up sites may be suitable for residential, institutional, commercial and industrial development where an appropriate standard of flood prevention measures exist, are under construction or are planned.
 - (b) Undeveloped or sparsely developed areas are generally not suitable for additional development.

DEVELOPMENT BOUNDARIES

1.29 Angus Council has defined development boundaries around settlements to protect the landscape setting of towns and villages and to prevent uncontrolled growth. The presence of a boundary does not indicate that all areas of ground within that boundary have development potential.

Development boundaries:

Generally provide a definition between built-up areas and the countryside, but may include peripheral areas of open space that are important to the setting of settlements.

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Public interest: Development would have benefits for the wider community, or is justifiable in the national interest.

Proposals that are solely of

commercial benefit to the proposer would not comply with this policy.

DESIGN QUALITY

1.37 High quality, people-friendly surroundings are important to a successful development. New development should add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also

provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity;
- create energy efficient developments that make good use of land
- and finite resources.

1.38 Design is a material consideration in determining planning applications. In all development proposals consideration should be given to the distinctive features and character of the local area. This includes taking account of existing patterns of development, building forms and materials, existing features such as hedgerows, trees, treelines and walls and distinctive landscapes and skylines.

1.39 The preparation of a design statement to be submitted alongside a planning application is encouraged, particularly for major developments or those affecting listed buildings or conservation areas. Early contact with Planning and Transport is recommended so that the requirement for a design statement can be determined.

Designing Places - A policy statement for Scotland – Scottish Executive 2001 This is the first policy statement on designing places in Scotland and marks the Scottish Executive's determination to raise standards of urban and rural development. Good design is an integral part of a confident, competitive and compassionate Scotland.

Good design is a practical means of achieving a wide range of social, economic and environmental goals, making places that will be successful and sustainable.

PAN 68 Design Statements Design Statements should explain the design principles on which the development is based and illustrate the design solution.

The PAN explains what a design statement is, why it is a useful tool, when it is required and how it should be prepared and presented.

The aim is to see design statements used more effectively in the planning process and to

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- **site location and how the development fits with the local landscape character and pattern of development;**
- **proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;**
- **use of materials, textures and colours that are sensitive to**
- **the surrounding area; and**
- **the incorporation of key views into and out of the development.**

Innovative and experimental designs will be encouraged in appropriate locations.

DEVELOPMENT PRINCIPLES

1.44 The principles in Schedule 1 provide a 'checklist' of factors which should be considered where relevant to development proposals. They include amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information. The Local Plan includes more detailed policies relating to some principles set out. Not all development proposals will require to comply with all of the principles.

Policy S6 : Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles**Amenity**

- a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- b) Proposals should not result in unacceptable visual impact.
- c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- e) Access to housing in rural areas should not go through a farm court.
- f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17: Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary
- g) Development should not result in the loss of public access rights. (Policy SC36)

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- h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- k) The planting of native hedgerows and tree species is encouraged.
- l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).

Waste Management

- q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38).
- r) Development should minimise waste by design and during construction.

Supporting Information

- s) (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Rural Employment

2.54 Angus Council recognises the need and aspirations for economic diversification in the rural areas. The Local Plan takes account of the dynamics of the countryside and aims to help create the conditions that will encourage sustainable and prosperous rural communities. This is an ongoing process involving a wide range of activities throughout Angus. Rather than attempt to channel economic activity to identified sites, it is acknowledged that development opportunities are likely to be spread throughout the rural area. In many cases proposals will involve the re-use of existing buildings or will be developed because of a particular locational need or advantage.

2.55 The development of new technologies, tourism projects and niche markets offer potential for innovative proposals that can assist in the diversification of the rural economy and create employment throughout rural Angus. There is also scope to develop integrated living/working accommodation, where this accords with the housing policies in this Local Plan.

2.56 In accordance with NPPG15 : Rural Development, new build housing is not considered to be an acceptable diversification proposal. However, housing proposals which meet the countryside housing policies of this plan e.g. for farm building conversion may be acceptable.

NPPG15: Rural Development (1999)
It is European and Government Policy to promote diversification in agriculture and fishing to create alternative income generating opportunities and rural employment, subject to appropriate environmental safe-guards being taken.

Policy SC19 : Rural Employment

Employment opportunities throughout rural Angus will be supported where they make a positive contribution to the rural economy and are of a scale and nature appropriate to the location, including proposals that assist diversification of an existing rural business.

Policy SC20 : Tourism Development

Development proposals to provide new or improved tourist related facilities/attractions and accommodation will be permitted and encouraged where they:

- **improve the range and quality of visitor attractions and tourist facilities and/or extend the tourist season;**
- **have no unacceptable detrimental effect on the local landscape or rural environment;**
- **are in keeping with the scale and character of adjacent buildings or surrounding countryside;**
- **are generally compatible with surrounding land uses; and**
- **accord with other relevant policies of the Local Plan.**

Policy SC21 : Caravan Sites and Holiday Chalets

Development proposals for static holiday and touring caravan sites will not be permitted on undeveloped coastline or in the Angus Glens. Holiday chalet developments will not be permitted on undeveloped coastline. Outwith these areas such development will be generally supported where:-

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;
- (b) the site is designed to fit into surrounding landscape and incorporates:-
 - (i) substantial landscaping and tree/shrub planting;
 - (ii) appropriate density of chalets/pitches;
 - (iii) satisfactory access arrangements and adequate parking;
 - (iv) waste management facilities; and
 - (v) suitable and adequate water supply and drainage arrangements.

Angus Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation.

Surface Water Management

3.49 In the Angus towns and villages much of the existing drainage network is a combined system which deals with both foul water and surface water run-off from roads, roofs and other impermeable surfaces. This significantly reduces the capacity of the foul drainage network during storm water conditions. Scottish Water does not accept surface water run-off from new greenfield development into the foul drainage network and separate arrangements are required for surface water disposal. Depending on local circumstances such arrangements will also be required for brownfield redevelopment sites.

3.50 Developers are required to make appropriate provision for the collection, treatment, decontamination and disposal of all surface water arising from development sites to the standards and requirements of SEPA, Angus Council Planning & Transport and Roads Departments and Scottish Water as appropriate. Isolating pollutants at source and providing the necessary treatment can reduce the potential for pollution. The use of permeable surfaces and other water attenuation measures designed to slow surface water run-off from the development site can reduce the risk of flooding in water catchment areas. Detailed guidance on the effective management of surface water run-off through the use of Sustainable Urban Drainage Systems (SUDS) is provided by PAN61: Planning and Sustainable Urban Drainage Systems (2001) and the Sustainable Urban Drainage Systems - Design Manual for Scotland and Northern Ireland (2002).

PAN 61: Planning and Sustainable Urban Drainage Systems (2001)

Sustainable Urban Drainage Systems (SUDS) aim to deal in an integrated way with surface water, based on the following principles:

- *managing surface water run-off on-site as near to source as possible;*
- *slowing down run-off;*
- *treating it naturally; and*
- *releasing good quality surface water to watercourses or groundwater.*

Sustainable Urban Drainage Systems - Design Manual for Scotland and Northern Ireland (2002):

prepared by the Sustainable Urban Drainage Scottish Working Party the Manual provides a definitive source of advice for SUDS design, planning and implementation in Scotland.

Policy ER24 : Surface Water Disposal

Sustainable Urban Drainage Systems are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water run-off collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water.

Proposals that adopt ecological solutions to surface water management which promote local biodiversity by the formation of ponds and/or wetlands for example, and create or improve habitats will also be encouraged.

Policy ER27 : Flood Risk - Consultation

Angus Council will routinely consult with SEPA on all development proposals adjacent to or potentially affected by:-

- (a) the North Esk, south of Edzell;**
- (b) the South Esk;**
- (c) the Brothock Burn, south of Leysmill;**
- (d) the Elliot Water, south of Arbirlot;**
- (e) the catchment of the Dighty Water and its tributaries; and**
- (f) other watercourses and lochs of known potential flood risk.**

Angus Council may require developers to submit a flood risk assessment in support of a planning application.

ANGUS COUNCIL

COMMUNITIES PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

15/01036/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

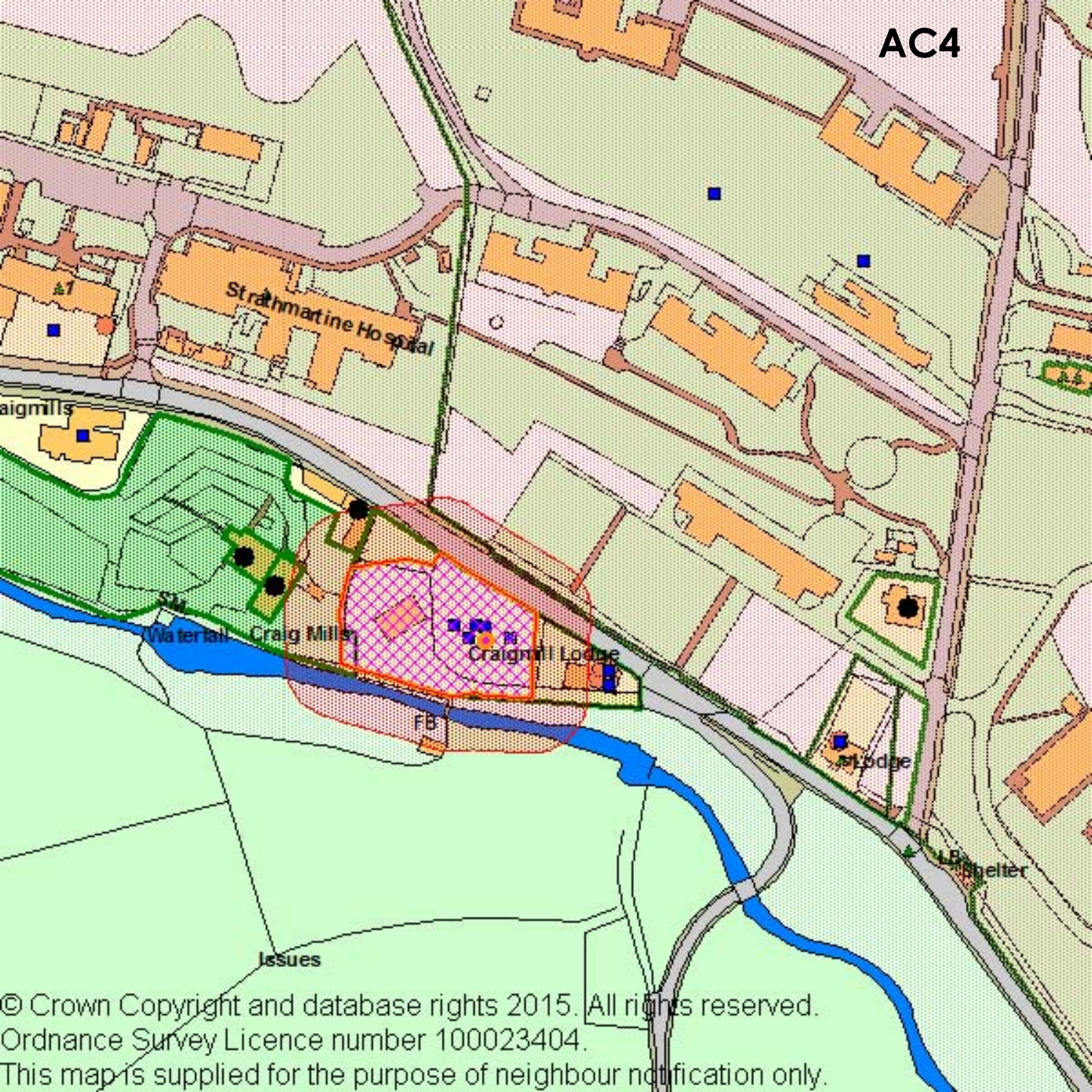
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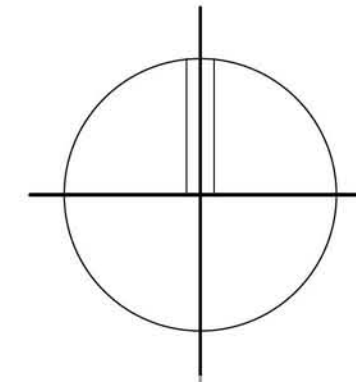
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Refused

STRATHMARTINE

MONTGOMERY . FORGAN . ASSOCIATES

ARCHITECTS +
TOWN PLANNING
CONSULTANTS

EDEN PARK HOUSE
CUPAR, FIFE, KY15 4HS. TEL.01334-654936
e-mail. admin@montgomery-forgan.co.uk



Project

SECTION 42 APPLICATION TO DEVELOP LAND
WITHOUT COMPLIANCE WITH CONDITION 3
OF PLANNING PERMISSION REF 15/00081/FULL
AT LAND TO THE WEST OF CRAIGMILL LODGE,
STRATHMARTINE BY DUNDEE

Drawing

LOCATION / SITE PLAN

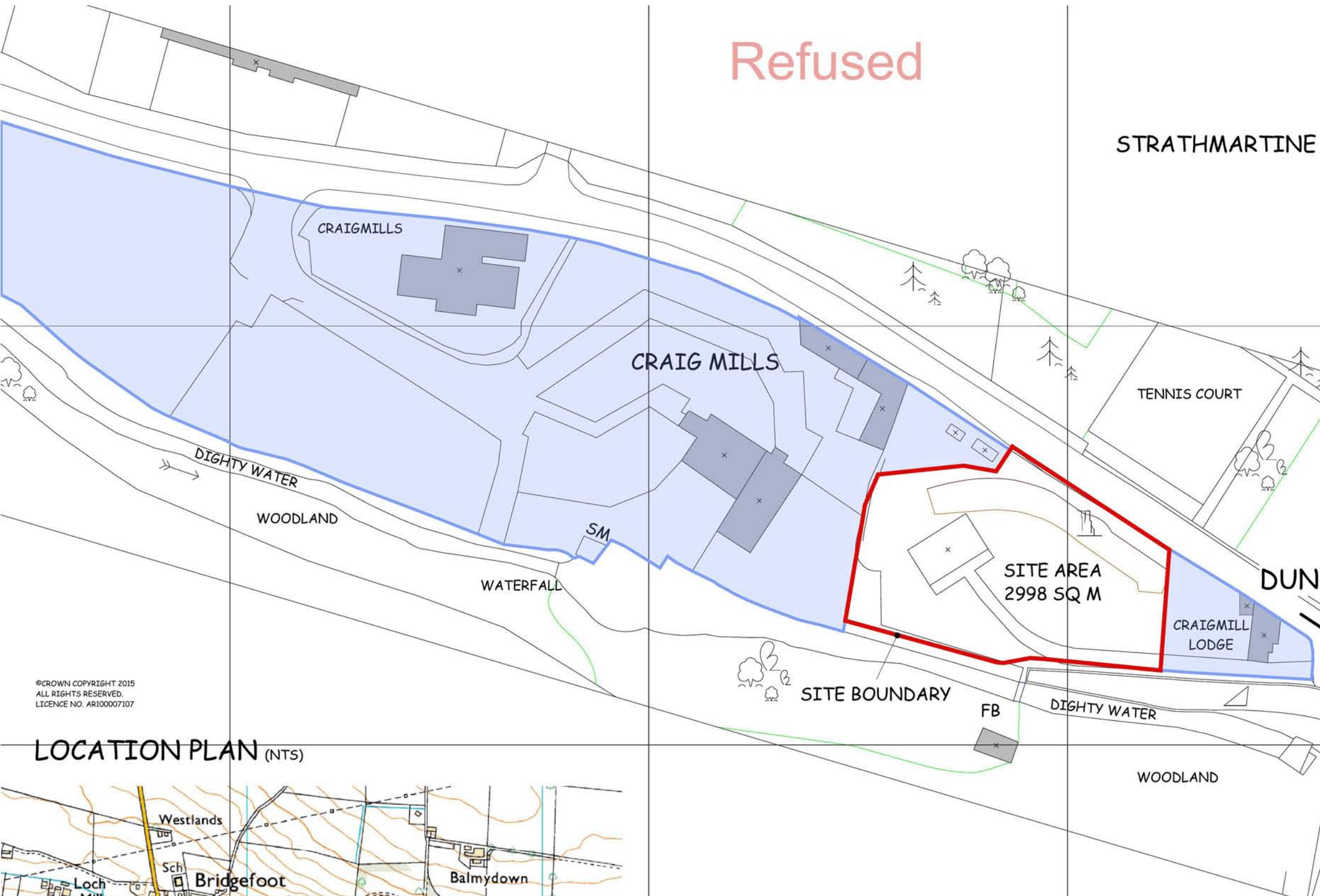
Scale Date OCTOBER 2015

1:1000 @ A3 Drawn Checked

Drawing Number Revision

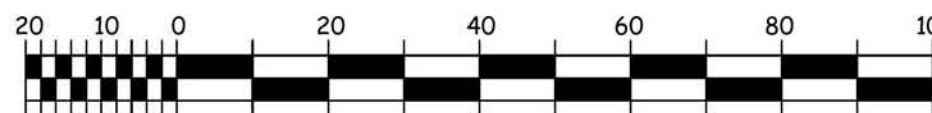
5483 / C / 11

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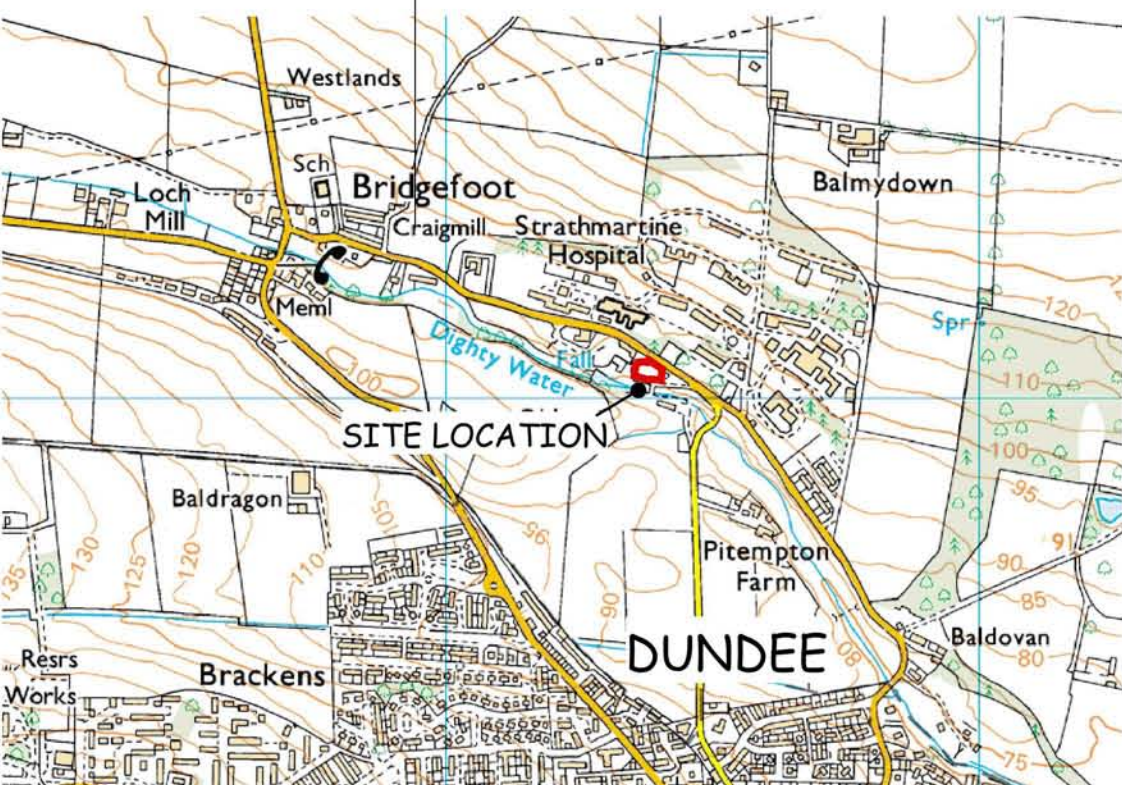
LOCATION / SITE PLAN

LOCATION PLAN 1:1000



SCALE 1:1000 m

LOCATION PLAN (NTS)



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ANGUS COUNCIL



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE 15/01036/FULL

To **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
Eden Park House
Cupar
Fife
KY15 4HS

With reference to your application dated 23 November 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Section 42 Application to Develop Land without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL at Craigmill Lodge Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docquetted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 That the conditions attached to planning permission 15/00081/FULL are considered necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects and that planning permission should not be granted for the use of the land to form 6 caravan pitches for holiday use without those conditions. The conditions are considered appropriate to secure compliance with relevant policies of the Angus Local Plan Review 2009.

Amendments:

The application has not been subject of variation.

Dated this **3 February 2016**

Iain Mitchell - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG









ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (SCOTLAND) REGULATIONS 2013

PLANNING PERMISSION - CONDITIONAL APPROVAL
Reference 15/00081/FULL



To: **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
FAO David Queripel
Eden Park House
Eden Park
Cupar
KY15 4HS

With reference to your application dated **30 January 2015** for planning permission under the above mentioned Acts and Regulations for the following development viz:-

Change of use of land to form 6 caravan pitches for holiday use at Craigmill Lodge Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission (Committee Decision)** for the said development in accordance with the particulars given in the application and plans docquetted as relative hereto in paper or identified as approved on the Public Access portal.

The permission is subject to the following conditions, namely:-

- 1 That the number of caravans permitted on site shall be limited to a maximum of 6 in total unless otherwise agreed in writing by the planning authority.
- 2 That the site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan or other structure as permanent residential accommodation or as a permanent or principal residence.
- 3 No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.
- 4 That the development be undertaken in accordance with the mitigation measures identified in the Proposed Caravan Site at Craigmills, Strathmartine - Flood Risk Assessment dated January 2015 by Millard Consulting (reference 12197/AB/284), namely:
 - (a) All finished floor levels should be set at, or above 82.8m AOD, a minimum of 70mm above the adjacent Q200 + 20% flood level, including blockages.
 - (b) Any caravans/buildings proposed to be constructed within the flood envelope of the Q200 + 20% + blockage, should be constructed using flood resilient materials and methods.
- 5 That prior to the commencement of development, the following details require to be submitted to and approved in writing by the Planning Authority: -
 - o The submission of a plan that provides the precise location of each caravan pitch/ hard standing area having regard to the Council's Model Standards in relation to existing landscaping and neighbouring residential property. The site should be laid out only in accordance with the approved details and the layout retained thereafter unless otherwise approved in writing by the Planning Authority.
 - o A scheme for the assessment of surface water flooding for the development. Thereafter the assessment shall be undertaken in accordance with approved scheme and any mitigation

measures contained within it shall be implemented prior to the approved use of the site commencing. For the avoidance of doubt the submitted assessment should demonstrate that the development is not at risk and that appropriate contingencies have been put in place to account for exceedance.

o Full details of the proposed means of surface water disposal from the development. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be occupied unless the agreed drainage scheme has been provided in its entirety.

o A scheme of hard and soft landscaping, including an indication of all existing trees and hedgerows on the land and details of these to be retained and cleared, together with the measures for their protection in the course of development. All planting indicated on the approved plans shall be carried out in the first planting season following the commencement of the use hereby approved or at earlier stages and any plants or trees which within a period of five years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

o A waste management plan to include details of where and how waste would be stored, segregated, collected and managed within the site. Thereafter, the approved details shall be implemented prior to the commencement of the use hereby approved.

o Details of the means of site enclosure proposed to be used at the east boundary. Thereafter the approved boundary enclosure shall be erected or formed on or before the commencement of the use hereby approved.

- 6 That from the date of this permission none of the existing trees or hedges within the site be felled, topped, lopped or otherwise interfered with without advance discussion with and without the prior written consent of this Planning Authority.

The foregoing conditions are imposed by the Council for the following reasons :-

- 1 In order to clarify the terms of this permission and to ensure that the use of the site is appropriately controlled in the interests of the amenity of the area.
- 2 In order to define the consent and ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
- 3 In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
- 4 In order to ensure that the development is not subject to an unacceptable level of flood risk.
- 5 In order to ensure an acceptable layout having regard to the model standards and neighbouring residential amenity; in order to reduce the potential of flooding within and outwith the application site; to ensure the provision of an acceptable drainage system in the interests of the amenity of the area; in order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council; to ensure adequate waste management facilities; in the interests of the amenity of the occupiers of adjacent dwellings and the visual amenity of the area.
- 6 In order that the general amenity of the area shall not be affected.

The reason(s) for the foregoing decision by the Council are as follows:-

1. That the proposed development will provide a tourist facility that will assist the economic development of Angus in a manner that complies with relevant policies of the development plan and there are no material considerations that would justify refusal of the planning application.

Dated this **1 April 2015**

Iain Mitchell
Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

NOTES

The decision was based on the following amendment(s):-

Amendments:

The application has not been subject of variation.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 as amended.

WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS

Date: 19 November 2015

Our Ref: 5483/DOH

Your Ref:

ARCHITECTS &
TOWN PLANNING
CONSULTANTS

EDEN PARK HOUSE
CUPAR, FIFE KY15 4HS. TEL. 01334-654936
Email: admin@montgomery-forgan.co.uk

Planning and Transportation
Infrastructure Services
Angus Council
County Buildings
Market Street
FORFAR
DD8 3LG



Dear Sirs

Section 42 Application to Develop Land Without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL at Land to the West of Craigmill Lodge, Strathmartine

On behalf of our client, we hereby enclose a Section 42 application to not comply with condition 3 of planning permission ref. 15/00081/FULL. We can confirm that the planning application fee of £202 will follow under separate cover.

Background

Planning permission (Ref. 15/00081/FULL) was granted on 1 April 2015 for the change of use of land to form 6 caravan pitches for holiday use. Work on purifying the suspensive conditions of this permission are ongoing and it is anticipated that works will commence on site early next year to create the pitch hardstandings, etc.

As matters stand, Condition 3 only permits the same individual or groups of individuals to use the caravans for less than half the year (24 weeks) which we consider to be overly restrictive and is at odds with other holiday developments/caravan parks within the Angus Council area. In addition, the current wording of the condition implies that the caravans will be managed and let out. At this time, our client is exploring the possibility of selling the caravans (as holiday accommodation only) which would not be permitted by the current restrictive wording of the condition.

Proposal

In light of the above, our client seeks a variation to the wording of condition 3 to allow the 6 static caravans to be used for holiday accommodation for up to 11 months of the year.

Condition 3

Circular 4/1998 states that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. The Circular sets out tests, namely that conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other aspects.

Condition 3 states ***“No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name,***



address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection."

The reason stated for this condition was in order to ensure **"that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside."**

Whilst we fully recognise the concern of the planning authority with regards to preventing permanent residential occupation taking place at this and similar sites, we would contend that the current restrictive wording of Condition 3 prevents our client from maximising the use of this site for tourism as it severely limits the occupation of the caravans. We would suggest that the condition fails the necessity and reasonableness tests of Circular 4/1998.

Having reviewed the terms of the Development Plan, we note that the supporting text to Policies SC20 and SC21 of the Adopted Angus Local Plan Review acknowledges that **"Tourism is a major source of income and employment throughout Angus. There is a need to extend and maintain both the range and quality of visitor attractions and accommodation to satisfy visitor aspirations"** and that the **"range and quality of accommodation is vital to developing tourism and extending the length of the tourist season."**

Policy SC21 of the Adopted Angus Local Plan Review advises that development proposals for static holiday and touring caravan sites or holiday chalet developments will generally be supported where:

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;
- (b) the site is designed to fit into surrounding landscape and incorporates substantial landscaping and tree/shrub planting; appropriate density of chalet/pitches; satisfactory access arrangements and adequate parking; waste management facilities; and suitable and adequate water supply and drainage arrangements.

In addition, with respect to holiday chalets, the policy makes it clear that the Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation however no such restriction is placed on static holiday and touring caravan sites.

Notwithstanding the above, we would advise that our client has absolutely no desire to establish a residential use on the site and our client accepts that a condition is necessary to ensure that the caravans are not permanently occupied. In addition, our client is required to apply to Angus Council as licencing authority for a holiday caravan site licence and not a residential caravan site licence. In our view, it is a relatively simple matter to ensure that the static caravans are used for holiday and leisure purposes only and not as residences. We would suggest that the wording of condition 3 on application 15/00081/FUL is varied as follows, or such other form of words which achieve the same ends:

"The site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan as permanent residential accommodation or as a permanent or principal residence. For the avoidance of doubt, no caravan shall be occupied during the period 1 February to 28 February in any given year. Within 14 days of the purchase of any caravan, the owner(s) shall submit details of their permanent residential address to Angus Council as Planning Authority and shall thereafter ensure that the Planning Authority is notified in the event of a change of address and/or owner."

The suggested condition places an occupancy restriction on the caravans including a period of non occupancy. The proposed condition is precise in its requirements and would be simple to monitor and enforce. We would therefore contend that it meets all of the tests of Circular 4/1998. Furthermore, the proposed condition would ensure that the caravans are only used for holiday accommodation and would provide our client with the option of either letting out the caravans or

alternatively selling each caravan pitch as holiday accommodation. We would suggest that this minor variation would still meet the aims and objective of both national and local plan policy which support tourist related developments in rural areas. Indeed, we note that both Barry Downs Holiday Park (Ref. 11/00759/FULM) as well as a proposed holiday village at Newtyle (Ref. 10/00997/PPPM) both permit 11 month holiday occupation with a 4 week closure period during February which we would contend sets a reasonable precedent.

We look forward to the application being registered and if Angus Council requires any further information, please do not hesitate to contact us.

Yours faithfully

MONTGOMERY FORGAN ASSOCIATES

Encl

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**SECTION 42 APPLICATION TO DEVELOP LAND WITHOUT
COMPLIANCE WITH CONDITION 3 OF PLANNING PERMISSION REF
15/00081/FULL AT CRAIGMILL LODGE, STRATHMARTINE**

APPLICATION NO 15/01036/FULL

APPLICANT'S SUBMISSION

- ITEM 1** Notice of Review
- ITEM 2** Appeal Statement and Supporting Documents



County Buildings Market Street Forfar DD8 3LG Tel: 01307 461 460 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100004320-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

| | | | |
|-----------------------|---|--|--|
| Company/Organisation: | <input type="text" value="Montgomery Forgan Associates"/> | | |
| Ref. Number: | <input type="text"/> | You must enter a Building Name or Number, or both: * | |
| First Name: * | <input type="text" value="David"/> | Building Name: | <input type="text" value="Eden Park House"/> |
| Last Name: * | <input type="text" value="Queripel"/> | Building Number: | <input type="text"/> |
| Telephone Number: * | <input type="text" value="01334654936"/> | Address 1 (Street): * | <input type="text" value="Eden Park"/> |
| Extension Number: | <input type="text"/> | Address 2: | <input type="text"/> |
| Mobile Number: | <input type="text"/> | Town/City: * | <input type="text" value="Cupar"/> |
| Fax Number: | <input type="text"/> | Country: * | <input type="text" value="Scotland"/> |
| | | Postcode: * | <input type="text" value="KY15 4HS"/> |
| Email Address: * | <input type="text" value="davidq@montgomery-forgan.co.uk"/> | | |

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | | | |
|----------------------|---|--|--|
| Title: | <input type="text"/> | You must enter a Building Name or Number, or both: * | |
| Other Title: | <input type="text"/> | Building Name: | <input type="text" value="Grants Caravans"/> |
| First Name: * | <input type="text"/> | Building Number: | <input type="text"/> |
| Last Name: * | <input type="text"/> | Address 1 (Street): * | <input type="text" value="Strathmartine"/> |
| Company/Organisation | <input type="text" value="Grants (Craigmills) Caravans"/> | Address 2: | <input type="text"/> |
| Telephone Number: * | <input type="text"/> | Town/City: * | <input type="text" value="Dundee"/> |
| Extension Number: | <input type="text"/> | Country: * | <input type="text" value="Scotland"/> |
| Mobile Number: | <input type="text"/> | Postcode: * | <input type="text" value="DD3 0PH"/> |
| Fax Number: | <input type="text"/> | | |
| Email Address: * | <input type="text"/> | | |

Site Address Details

| | |
|---|--|
| Planning Authority: | <input type="text" value="Angus Council"/> |
| Full postal address of the site (including postcode where available): | |
| Address 1: | <input type="text" value="CRAIGMILL LODGE"/> |
| Address 2: | <input type="text" value="STRATHMARTINE"/> |
| Address 3: | <input type="text"/> |
| Address 4: | <input type="text"/> |
| Address 5: | <input type="text"/> |
| Town/City/Settlement: | <input type="text" value="DUNDEE"/> |
| Post Code: | <input type="text" value="DD3 0PH"/> |

Please identify/describe the location of the site or sites

| | | | |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="735028"/> | Easting | <input type="text" value="338447"/> |
|----------|-------------------------------------|---------|-------------------------------------|

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Section 42 application to develop land without compliance with condition 3 of planning permission ref. 15/00081/FULL

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of 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 review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to 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 should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See papers apart

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

See papers apart

Application Details

Please provide details of the application and decision.

What is the application reference number? *

15/01036/FULL

What date was the application submitted to the planning authority? *

23/11/2015

What date was the decision issued by the planning authority? *

03/02/2016

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ms Kerry Heggie

Declaration Date: 08/03/2016

Notice of Review

Refusal of Section 42 Application
to Develop Land without Compliance with Condition 3
of Planning Permission Ref. 15/00081/FULL
at Craigmill Lodge, Strathmartine, Dundee, DD3 0PH



on behalf of Grants (Craigmill) Caravans
March 2016

INDEX

- 1.0 INTRODUCTION
- 2.0 BACKGROUND
- 3.0 PLANNING HISTORY
- 4.0 CONSIDERATIONS OF EXISTING AND PROPOSED CONDITION 3
- 5.0 THE DEVELOPMENT PLAN, THE EMERGING DEVELOPMENT PLAN AND SCOTTISH GOVERNMENT GUIDANCE
- 6.0 CONCLUSIONS

DOCUMENTS

- | | |
|------------|---|
| Document 1 | Planning permission for the 6 holiday caravan pitches (Ref. 15/00081/FULL) and the refusal notice and report of handling associated with the Section 42 application to amend condition 3 (Ref. 15/01036/FULL) |
| Document 2 | Section 42 application form, submitted plans, supporting Planning Statement and follow on correspondence |
| Document 3 | Copy of planning permission in principle and approved layout for 3 dwellinghouses within application site (Ref. 15/00038/PPPL) |
| Document 4 | Copy of planning permission and approved layout for adjacent 28 holiday caravan site (Ref. 09/00854/FULL and 12/01054/FULL) |
| Document 5 | Sample purchase agreement |
| Document 6 | Relevant extracts of the adopted Angus Local Plan Review, the proposed Angus Local Development Plan and Circular 4/1998 |

1.0 INTRODUCTION

- 1.1 The Local Review Body is asked to review the decision taken by the appointed person not to approve a Section 42 application (Ref. 15/01036/FULL) to develop a small holiday caravan site without compliance with condition 3 of planning permission Ref. 15/00081/FULL.
- 1.2 The Local Review Body should note that the applicant has proposed an alternative wording for condition 3 which will allow the development to proceed and succeed commercially whilst also entirely safeguarding the interests and objectives of Angus Council as planning authority.

2.0 BACKGROUND

2.1 Detailed planning permission (Ref. 15/00081/FULL) was granted by Angus Council on 1 April 2015 for a change of use of land to form 6 caravan pitches for holiday use at Craigmill Lodge, Strathmartine.

2.2 Condition 3 of the planning permission stated that:

“No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, the guest register shall be made available to the Council as planning authority for inspection.

Reason: In order to ensure that no permanent residence is formed at the site as this would be contrary to the council’s policies for housing in the countryside.”

2.3 The condition is intended to ensure that the holiday caravans are not used as permanent residences, and the applicant has absolutely no issue with this intention. However, what the condition also means is that the applicant will find it almost impossible to sell the holiday caravans.

2.4 This condition was placed on the planning permission as the appointed person (wrongly) assumed that the holiday caravans would remain in the ownership of the applicant and rented out for short periods to holidaymakers. Hence the reference in the condition to *“register of guests”* and crucially the restriction in the condition limiting occupation of the holiday caravans by the same individual or group of individuals to no more than 12 weeks in any 26 week period.

2.5 Like the vast majority of small family owned and run holiday caravan park operators, Grants (Craigmills) Caravans sell holiday caravans to individuals/families who use them as holiday homes. Grants (Craigmills) Caravans already run successful holiday caravan parks at Monifieth (which is leased from Angus Council) and at Calvine in Perth and Kinross. Grants (Craigmills) Caravans also run a very successful and long established caravan retail outlet at Craigmills itself.

2.6 Condition 3 of the planning permission effectively prevents the applicant selling the caravans as holiday homes. This is because during the peak holiday period (April to September) the holiday caravans can only be occupied by the same individual or group of individuals for no more than 12 weeks. No individual or family would contemplate purchasing a holiday caravan with such a draconian restriction placed upon it.

- 2.7 The applicant therefore applied to Angus Council to have the wording of the condition amended to allow the caravans to be sold as holiday accommodation, but still to have safeguards in place to ensure that the caravans could not be used as permanent residences.
- 2.8 A Section 42 application was submitted (Ref. 15/01036/FULL) to effectively amend condition 3. The amended condition suggested in the application is as follows:
- “The site hereby approved shall be used as holiday accommodation only and no person shall occupy the caravan as permanent residential accommodation or as permanent or principal residence. For the avoidance of doubt, no caravan shall be occupied during the period of 1 February to 28 February in any given year. Within 14 days of the purchase of any caravans, the owner(s) shall submit details of their permanent residential address to Angus Council as Planning Authority and shall thereafter ensure that the Planning Authority is notified in the event of a change of address and/or owner.”*
- 2.9 The appointed person determined to refuse the Section 42 application as he considered the existing conditions (including existing condition 3) to be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other aspects. The appointed person chose to determine that the foregoing alternative to condition 3 was not appropriate.
- 2.10 A copy of the planning permission for the 6 caravan pitches for holiday use (Ref. 15/00081/FULL) and the refusal decision notice and report of handling associated with the section 42 application to amend condition 3 (Ref. 15/01036/FULL) is attached as **Document 1**.
- 2.11 A copy of the Section 42 application form, submitted plans, supporting Planning Statement and follow on correspondence is attached as **Document 2**.
- 2.12 The following section of this statement will demonstrate to the Local Review Body that the existing condition 3 is neither enforceable nor reasonable, and therefore fails the conditions test set out in Scottish Government Circular 4/1998: Use of Conditions in Planning Permission. Additionally, the following section of this statement will demonstrate that the alternative condition 3 proposed is enforceable and reasonable and will still provide Angus Council with the safeguards it seeks to ensure that the holiday caravans are not used as permanent residences.

3.0 PLANNING HISTORY

3.1 As detailed earlier in this statement, the site was granted planning permission for 6 caravan pitches for holiday use (Ref. 15/00081/FULL) on 1 April 2015. However, condition 3 of the planning permission restricts the occupancy of the holiday caravans for an individual or group of individuals to no more than 12 weeks in any 26 weeks period. It is this condition which is the subject of this notice of review.

3.2 Planning permission in principle also exists for the erection of 3 dwellinghouses within essentially the same site. The planning permission in principle was renewed on 20 November 2015 (Ref. 15/00038/PPPL) (Document 3).

3.3 Planning permission (Ref. 09/00854/FULL and 12/01054/FULL) has also been granted to the applicant (and a material start made on site) for a holiday caravan site (28 caravans) on an adjacent site at Craigmills (Document 4). There are two conditions attached to this permission which restricts occupancy. These are:

“Condition 4: That the site hereby approved be used for holiday accommodation only and no person shall occupy any part of the site on a permanent residential basis. The maximum stay by any individual, family or group is restricted to 8 weeks continuous stay on the site unless otherwise approved in writing by the planning authority.”

Condition 8: That no caravan on the site hereby approved shall be occupied by any individual whatsoever during the month of February in any year, or for any alternative four week period as may first be approved in writing by the planning authority.”

3.4 Should this notice of review be upheld by the Local Review Body, it would be the applicant's intention to seek to amend condition 4 of planning permission Ref. 15/00038/PPL to reflect the amended condition associated with this notice of review.

3.5 In conclusion of the planning history of the site, Angus Council as planning authority has already established that the site which is the subject of this notice of review is suitable as both a holiday caravan site and as a housing (residential) site.

4.0 CONSIDERATIONS OF EXISTING AND PROPOSED CONDITION 3

4.1 Of critical importance to the consideration of this notice of review is Scottish Government Circular 4/1998: The Use of Conditions in Planning Permissions.

4.2 Circular 4/1998 states that while the power to impose conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. Planning conditions should only be imposed where they are:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other aspects.

4.3 The applicant fully agrees with Angus Council that there should be a condition placed on the planning permission which ensures that there is no opportunity for purchasers of holiday caravans to use them as permanent residences. The applicant owns and runs two other holiday caravan parks (including one in Monifieth which is leased from Angus Council) and strict holiday rules are in place (beyond any planning or caravan site licence conditions) to ensure that no holiday caravans are used as permanent residences. These strict holiday rules will be detailed later.

4.4 However, condition 3 which has been placed on the planning permission is not reasonable and is not enforceable and therefore fails the tests set out in Circular 4/1998. On the other hand the alternative condition proposed by the applicant is reasonable and enforceable, and importantly, it will still ensure that the holiday caravans can never be used as permanent residences.

4.5 The current condition 3 is not reasonable because the applicant's business model is to sell the caravans as holiday homes. The majority of small to medium sized holiday caravan parks in Scotland rely on this model. As the caravans will be sold as holiday homes, families will want to come and go for holiday purposes as they please, particularly in the more clement months of April to September. As matters stand an individual or family would only be able to use their holiday caravan for 12 weeks during April to September. Nobody will be prepared to buy a holiday caravan with such a draconian and unreasonable restriction attached to it.

4.6 The alternative condition proposed by the applicant will allow individuals or families to buy a holiday caravan and use it for holiday purposes for 11 months of the year. Importantly, the condition will ensure that no holiday caravans are occupied during the month of February (thereby ensuring that they cannot be used on a year round residential basis) and secondly and most importantly, each

and every purchaser will at the time of purchase, be required to submit evidence to Angus Council as planning authority that their permanent residential address is elsewhere. This alternative wording for condition 3 is considered to be reasonable, and fair on the applicant and occupiers of the holiday caravans.

- 4.7 The current condition 3 is not enforceable. The condition (wrongly) assumes that the holiday caravans on the site will be retained by the applicant and rented out to guests, and therefore a register of guests' arrivals and departures can be maintained. In fact the holiday caravans are proposed to be sold and individuals and families would come and go as they please for holiday purposes. Therefore, it will be impossible for the applicant to keep a register of guests that can be made accessible to the Council as planning authority for inspection. The Council therefore will not be in a position to determine whether a holiday caravan has been used by the same individual or group of individuals for more than 12 weeks in any 26 week period.
- 4.8 The alternative condition proposed by the applicant would be enforceable. It would be straight forward for the Council to inspect the site during the month of February to confirm no caravans were being occupied. Additionally, the Council would have a permanent and up to date record of the principal residences of all of the owners of the holiday caravans.
- 4.9 In addition to the security afforded by the alternative condition 3, the site will require a holiday caravan licence to be issued by Angus Council as licencing authority. The site licence conditions will stipulate that the caravans can only be used for holiday purposes. The purchasers of the caravans will be advised of the caravan site licence conditions by the applicant, and that these conditions are required to be adhered to.
- 4.10 Likewise, each purchaser of a holiday caravan on the site is required by law to enter into a purchase agreement with the applicant. The purchase agreement has a clause which clearly states that the holiday caravan is not to be used as a permanent residence. A sample of a purchase agreement is attached as **Document 5**.
- 4.11 It is evident from the foregoing that the existing condition 3 with its overly restrictive wording is not necessary to ensure the holiday caravans are not used for residential purposes. The proposed condition 3 will ensure there can be no residential use of caravans. Likewise the holiday caravan site licence issued by Angus Council will ensure there is no residential use. The purchase agreement entered into by the purchasers of the holiday caravans will ensure there is no residential use. And lastly, the applicant would not tolerate any form of residential use on the site. When the applicant took over the lease of Monifeith Caravan Site (which is leased from the Council), the applicant spent £150,000 in legal fees in evicting unlawful residential occupiers from the site. The applicant has no wish whatsoever of allowing residential use of the holiday caravans. However, the

applicant has to be allowed to sell the holiday caravans that is on terms that is acceptable to prospective purchasers.

5.0 THE DEVELOPMENT PLAN, THE EMERGING DEVELOPMENT PLAN AND SCOTTISH GOVERNMENT GUIDANCE

- 5.1 The relevant development plan provisions affecting this proposal are contained within the adopted Angus Local Plan Review (2009).
- 5.2 Policy SC21: Caravan Sites and Holiday Chalets, states that in locations such as this, development proposals for static holiday caravan sites will be generally supported, subject to conditions being imposed to prevent the use of holiday chalets (and caravans) for permanent residential occupation. Policy SC21 does not stipulate that holiday caravans can only be occupied by the same individual or group of individuals for a maximum of 12 weeks in any 26 week period. It only stipulates that conditions will be imposed to prevent holiday caravans being used for permanent residential occupation. The proposed alternative condition 3 will entirely satisfy Policy SC21.
- 5.3 The proposed Angus Local Development Plan was published in February 2015, and was submitted to Scottish Ministers on 6 November 2015 for examination. It represents Angus Council's most up to date planning policy position concerning tourism development and holiday caravans.
- 5.4 Policy TC16: Tourism Development, states that outwith development boundaries, proposals for new and improved tourism related facilities and accommodation will be supported subject to certain criteria being met, which is the case with the current proposal as planning permission for holiday caravans has already been granted. Policy TC16 also states that Angus Council will attach occupancy conditions to prevent tourist accommodation being occupied as permanent residential accommodation. Applications to remove such occupancy conditions will not be supported.
- 5.5 Like Policy SC21 of the adopted Local Plan, Policy TC16 does not stipulate that holiday caravans can only be occupied by the same individual or group of individuals for a maximum of 12 weeks in any 26 week period. It only stipulates that occupancy conditions will be attached to prevent tourist accommodation being occupied as permanent residential accommodation. The proposed alternative condition 3 will entirely satisfy policy TC16.
- 5.6 Scottish Government policy in the form of Circular 4/1998: The Use of Conditions in Planning Permissions, gives essential guidance on conditions attached to planning permissions. Circular 4/1998 gives guidance on the reasonableness of conditions. It states that conditions should not be attached to a planning permission if the restriction effectively nullifies the benefit of the permission. This is exactly what has happened in this case. The applicant will find it almost impossible to sell the holiday caravans because of the severe and unnecessary restriction placed on the planning permission by condition 3.

- 5.7 In relation to seasonal and holiday occupational conditions, Circular 4/1998 gives further guidance. It states that in relation to a holiday caravan site, the planning authority may think it necessary to impose a condition to ensure that during winter months the caravans are not occupied, but care should be taken to see that the condition allows a reasonable period of use of the caravans in each year. In relation to this piece of guidance the applicant is happy to accept a condition preventing the occupation of caravans during the month of February.
- 5.8 Circular 4/1998 also states that there may be circumstances where it will be reasonable for the planning authority to grant planning permission for holiday accommodation (including holiday caravans) with a condition specifying its use as holiday accommodation only. Again the applicant is happy to accept a condition preventing permanent residential use of holiday caravans.
- 5.9 Relevant extracts of the adopted Angus Local Plan Review, the proposed Angus Local Development and Circular 4/1998 are attached as **Document 6**.
- 5.10 Although not strictly relevant to the consideration of this proposal, it should be borne in mind that the site is considered suitable for residential use by Angus Council, and planning permission in principle has already been granted for 3 dwellinghouses within the site (Ref. 15/00038/PPPL). The reason given by Angus Council for placing the existing condition 3 on the planning permission is *“In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.”* Yet Angus Council has already granted planning permission for 3 permanent residences at the site precisely because an appropriate level of residential development within the site does comply with the Council's housing in the countryside policies. However, we would strongly emphasise again that the applicant owns and runs holiday caravan sites. The applicant only wants to run a holiday caravan site and to sell caravans for holiday use.

6.0 CONCLUSIONS

- 6.1 Like Angus Council, the applicant wants to ensure that none of the holiday caravans within the site can every be used as permanent residences. However, the applicant cannot reasonably sell the caravans for holiday use because the current condition 3 is so restrictive.
- 6.2 Likewise, even if the caravans could be sold, Angus Council would find it almost impossible to monitor and enforce the current condition 3.
- 6.3 We would respectfully suggest that the appointed person has (wrongly) assumed that the ownership of the holiday caravans would be retained by the applicant, and the caravans would be rented out for short holiday periods, thereby allowing a guest register to be maintained. The appointed person was advised at the time that the application to amend condition 3 was being considered that this was not the case, and like the applicant's other two holiday caravan sites, the caravans would be sold as holiday accommodation.
- 6.4 Consequently, the applicant suggested an amended wording for condition 3 which would meet all of the 6 tests for conditions and would safeguard both Angus Council, and just as importantly, the applicant and owners of the holiday caravans, as the amended condition 3 would ensure that there would be no opportunity for the holiday caravans to be used as permanent residences.
- 6.5 Layered on to this will be the caravan site licence which will be issued and enforced by Angus Council as licencing authority. The licence will permit occupation of the caravans for holiday purposes only and not as permanent residences.
- 6.6 Finally, the applicant will be entering into a legally binding purchase agreement with each of the purchasers of the caravans. The agreement will clearly stipulate that the caravans cannot be used as permanent residences. The applicant will also ensure that a permanent and up to date record of each of the purchaser's principal residences is kept on the file. The amended condition 3 also requires this information to be submitted to Angus Council as planning authority.
- 6.7 We trust that the information contained in this statement ably demonstrates that with an amended condition 3, there will be no prospect of the holiday caravans being used for residential purposes but will allow the applicant to fairly and reasonably offer the caravans for sale as holiday homes.
- 6.8 We would ask that this notice of review is upheld and that condition 3 is amended accordingly.

DOCUMENTS

Document 1

Planning permission for the 6 holiday caravan pitches (Ref. 15/00081/FULL)
and the refusal notice and report of handling associated with the
Section 42 application to amend condition 3 (Ref. 15/01036/FULL)

ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (SCOTLAND) REGULATIONS 2013
PLANNING PERMISSION - CONDITIONAL APPROVAL
Reference 15/00081/FULL



To: **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
FAO David Queripel
Eden Park House
Eden Park
Cupar
KY15 4HS

With reference to your application dated **30 January 2015** for planning permission under the above mentioned Acts and Regulations for the following development viz:-

Change of use of land to form 6 caravan pitches for holiday use at Craigmill Lodge Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission (Committee Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as approved on the Public Access portal.

The permission is subject to the following conditions, namely:-

- 1 That the number of caravans permitted on site shall be limited to a maximum of 6 in total unless otherwise agreed in writing by the planning authority.
- 2 That the site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan or other structure as permanent residential accommodation or as a permanent or principal residence.
- 3 No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.
- 4 That the development be undertaken in accordance with the mitigation measures identified in the Proposed Caravan Site at Craigmills, Strathmartine - Flood Risk Assessment dated January 2015 by Millard Consulting (reference 12197/AB/284), namely:
 - (a) All finished floor levels should be set at, or above 82.8m AOD, a minimum of 70mm above the adjacent Q200 + 20% flood level, including blockages.
 - (b) Any caravans/buildings proposed to be constructed within the flood envelope of the Q200 + 20% + blockage, should be constructed using flood resilient materials and methods.
- 5 That prior to the commencement of development, the following details require to be submitted to and approved in writing by the Planning Authority: -
 - o The submission of a plan that provides the precise location of each caravan pitch/ hard standing area having regard to the Council's Model Standards in relation to existing landscaping and neighbouring residential property. The site should be laid out only in accordance with the approved details and the layout retained thereafter unless otherwise approved in writing by the Planning Authority.
 - o A scheme for the assessment of surface water flooding for the development. Thereafter the assessment shall be undertaken in accordance with approved scheme and any mitigation

measures contained within it shall be implemented prior to the approved use of the site commencing. For the avoidance of doubt the submitted assessment should demonstrate that the development is not at risk and that appropriate contingencies have been put in place to account for exceedance.

o Full details of the proposed means of surface water disposal from the development. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be occupied unless the agreed drainage scheme has been provided in its entirety.

o A scheme of hard and soft landscaping, including an indication of all existing trees and hedgerows on the land and details of these to be retained and cleared, together with the measures for their protection in the course of development. All planting indicated on the approved plans shall be carried out in the first planting season following the commencement of the use hereby approved or at earlier stages and any plants or trees which within a period of five years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

o A waste management plan to include details of where and how waste would be stored, segregated, collected and managed within the site. Thereafter, the approved details shall be implemented prior to the commencement of the use hereby approved.

o Details of the means of site enclosure proposed to be used at the east boundary. Thereafter the approved boundary enclosure shall be erected or formed on or before the commencement of the use hereby approved.

- 6 That from the date of this permission none of the existing trees or hedges within the site be felled, topped, lopped or otherwise interfered with without advance discussion with and without the prior written consent of this Planning Authority.

The foregoing conditions are imposed by the Council for the following reasons :-

- 1 In order to clarify the terms of this permission and to ensure that the use of the site is appropriately controlled in the interests of the amenity of the area.
- 2 In order to define the consent and ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
- 3 In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
- 4 In order to ensure that the development is not subject to an unacceptable level of flood risk.
- 5 In order to ensure an acceptable layout having regard to the model standards and neighbouring residential amenity; in order to reduce the potential of flooding within and outwith the application site; to ensure the provision of an acceptable drainage system in the interests of the amenity of the area; in order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council; to ensure adequate waste management facilities; in the interests of the amenity of the occupiers of adjacent dwellings and the visual amenity of the area.
- 6 In order that the general amenity of the area shall not be affected.

The reason(s) for the foregoing decision by the Council are as follows:-

1. That the proposed development will provide a tourist facility that will assist the economic development of Angus in a manner that complies with relevant policies of the development plan and there are no material considerations that would justify refusal of the planning application.

Dated this 1 April 2015



Iain Mitchell
Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

NOTES

The decision was based on the following amendment(s):-

Amendments:

The application has not been subject of variation.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 as amended.

WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS

ANGUS COUNCIL



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE 15/01036/FULL

To **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
Eden Park House
Cupar
Fife
KY15 4HS

With reference to your application dated 23 November 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Section 42 Application to Develop Land without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL at Craigmill Lodge Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 That the conditions attached to planning permission 15/00081/FULL are considered necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects and that planning permission should not be granted for the use of the land to form 6 caravan pitches for holiday use without those conditions. The conditions are considered appropriate to secure compliance with relevant policies of the Angus Local Plan Review 2009.

Amendments:

The application has not been subject of variation.

Dated this **3 February 2016**

[Redacted signature]

Iain Mitchell - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

Angus Council

| | |
|------------------------------------|--|
| Application Number: | 15/01036/FULL |
| Description of Development: | Section 42 Application to Develop Land without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL |
| Site Address: | Craigmill Lodge Strathmartine Dundee DD3 0PH |
| Grid Ref: | 338385 : 735044 |
| Applicant Name: | Grants (Craigmills) Caravans |

Report of Handling

Site Description

The application site, which measures 2998sqm, is located immediately to the west of Craigmill Lodge and is bound to the north by Craigmill Road, to the south by the Dighty Water and to the west by the applicant's caravan sales and service business. Vehicular access to the site is located at the east boundary of the site. The site sits below the level of Craigmill Road and is screened from the south due to the substantial landscaping along the south boundary.

Proposal

The application is submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (As amended). The applicant seeks planning permission to develop without complying with conditions subject to which a previous planning permission was granted, namely Condition 3 of planning permission ref: 15/00081/FULL (application for change of use of land to form 6 caravan pitches for holiday use). That condition was imposed by the Development Standards Committee at its meeting on 31 March 2015. Condition 3 restricts the occupancy of the caravans to ensure that no permanent residence is formed. The condition states:

1. No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.

The condition was attached for the following reason:

1. In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 4 December 2015 for the following reasons:

- Neighbouring Land with No Premises

The nature of the proposal did not require a site notice to be posted.

Planning History

Application 15/00081/FULL - Change of use of land to form 6 caravan pitches for holiday use – was approved by the Development Standards Committee at its meeting on 31 March 2015 (Report 143/15 refers).

Applicant's Case

A supporting statement was submitted by the applicants agent as part of the application. The content of this can be summarised as follows:

- o That application 15/00081/FULL was granted on 01 April 2015 for a change of use of land to form 6 caravan pitches for holiday use;
- o As it stand condition 3 only permits the same individual or group of individuals to use the caravans for less than half the year (24 weeks) which is considered to be overly restrictive and at odds with other holiday developments / caravan parks within Angus.
- o That the current wording of condition 3 implies that the caravan will be managed and let out and at this time the possibility is being explored of selling the caravans (as holiday accommodation only) which would not be permitted by this restrictive wording;
- o In light of this the applicant seeks variation of the wording of condition 3 to allow these to be used for up to 11 months in any calendar year;
- o Refers to circular 4/1998 and states that these conditions should not be imposed unless they are both necessary and effective and do not place unjustifiable burdens on the applicant. The agent acknowledges the need for restrictions but considered that he overly restrictive wording of condition 3 prevents their client from maximising the use of the site for tourism as it severely limits occupation of the caravans.
- o Refers to policies SC20 and SC21;
- o Advises that the applicant has no desire to establish a residential use;
- o Suggested the following wording for the condition :
"The site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan as permanent residential accommodation or as a permanent or principal residence. For the avoidance of doubt, no caravan shall be occupied during the period 1 February to 28 February in any given year. Within 14 days of the purchase of any caravan, the owner(s) shall submit details of their permanent residential address to Angus Council as Planning Authority and shall thereafter ensure that the Planning Authority is notified in the event of a change of address and/or owner."
- o Concludes that this proposed condition is precise in its requirements and would be simple to monitor and enforce;
- o That the proposed change in condition would ensure that the caravans are only used for holiday accommodation and would provide the owner with the option of either letting out the caravans or accommodation or alternatively selling each caravan pitch as holiday accommodation.

Following concerns raised by the Planning Authority regarding the proposed change the applicants agent submitted a further e-mail response on 11/01/16 and also on 15/01/16 and this can be summarised as follows:

- o That Circular 4/1998 states that a condition may be unreasonable because it is unduly restrictive (Annex A - paragraph 34). It warns that where a seasonal occupancy condition is proposed that care should be taken to allow a reasonable period of use. The agent considers that only permitting a maximum 12 weeks within the 6 key holiday months (April to September) is unnecessary and unreasonable;
- o Not aware of any formal policy change in terms of SC21;
- o That Angus Councils position is at odds with neighbouring authorities;

Consultations

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - No objections

Scottish Water - There was no response from this consultee at the time of report preparation.

Representations

There were no letters of representation.

Development Plan Policies

Angus Local Plan Review 2009

Policy S1 : Development Boundaries
Policy S3 : Design Quality
Policy S6 : Development Principles (Schedule 1)
Policy SC19 : Rural Employment
Policy SC20 : Tourism Development
Policy SC21: Caravan Sites and Holiday Chalets
Policy ER24 : Surface Water Disposal
Policy ER27 : Flood Risk - Consultation

TAYplan Strategic Development plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at the Appendix to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Proposed Angus Local Development Plan was approved by Angus Council at its meeting on 11 December 2014 and subsequently published for a statutory period for representations. The statutory period for representation has now expired and unresolved representations have been submitted to Scottish Ministers for consideration at an Examination. The Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP(June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it is a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to policies and proposals of the plan that are subject to unresolved objection. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation or decision.

The applicant seeks permission under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (As amended) to develop without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act states that on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted. Section 42 allows the planning authority only to decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was

granted or that permission should be granted unconditionally. If the decision is that the planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the application should be refused.

The Development Standards Committee resolved to grant planning permission ref: 15/00081/FULL at its meeting on 31 March 2015 and the permission was subsequently issued on 01 April 2015. Report 143/15 set out the planning policy context and assessment for that application and it is attached as an appendix to this report. The Angus Local Plan Review remains the adopted local plan and the general policy consideration of the proposal as outlined in Report 143/15 remains relevant.

The applicant has not questioned the other conditions that are associated with planning permission 15/00081/FULL and for the avoidance of doubt those conditions are considered to meet the tests for conditions set out in Circular 4/1998 which deals with the use of conditions in planning permissions. The application relates specifically to condition 3 as detailed above and this report focuses on that matter.

Circular 4/1998 sets out government policy on the use of conditions in planning permissions. The circular identifies six specific tests that a condition must meet; namely that the condition is necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects.

These matters are discussed in detail below: -

- 1) Necessary - the occupancy condition is necessary as the occupation of the caravans as permanent residential accommodation would give rise to different impacts and different planning considerations. Those impacts have not been assessed as the applicant has indicated that the caravans are for holiday occupation only. However, an occupancy condition is necessary in order to prevent permanent occupation of the caravans;
- 2) Relevant to planning - The adopted Angus Local Plan Review 2009 policy SC21 (caravan sites and holiday chalets) implies that a restriction will be imposed on permanent occupation of holiday accommodation. Circular 4/1998 also suggests that a restriction can be placed on the occupation of caravans for a period of time. A restriction is also required by Policy TC16 of the ALDP which represents the Council's most recent expression of policy in relation to this matter. The occupancy condition is therefore relevant to planning;
- 3) Relevant to the development to be permitted - the occupancy restriction relates to the occupation of the caravans which is clearly relevant to the development permitted;
- 4) & 5) Enforceable and Precise - The applicant does not contend that the condition is not enforceable or precise and the condition as attached clearly meets both tests;
- 6) Reasonable - the applicant questions the reasonableness of the condition and suggests that the form of condition the Council has used elsewhere would be more appropriate (condition suggested in the applicants supporting statement). However, Angus Council's experience has shown that individuals operate on the basis that provided they do not occupy a caravan during the month when a site is to be closed they can occupy the caravan at any other time for any duration and on any basis. In light of that experience operational practice has been reviewed and a revised condition that provides greater clarity and certainty for all parties has been adopted. It allows year round use of the caravans without the imposition of a closure period but at the same time ensures that the same individual or group of individuals do not occupy any caravan on the site for more than 12 weeks in any 26 week period. In essence it ensures that the same individual or group of individuals do not occupy any caravan at the site for more than 46% of the year. This ensures that the caravans/site is not used as permanent residential accommodation. This is the approach that has been approved by the Development Standards Committee at this site and is the approach that the Council has used with more recent cases.

Accordingly, the condition as imposed by the Development Standards Committee at its meeting on 31 March 2015 is considered to meet the relevant tests provided by the circular.

The applicant expresses concern that the Council has used a different condition on other sites. However, it is entirely reasonable and appropriate for a planning authority to review its practice over time and in light of operational experience. The applicant also indicates that the nature of the condition differs from that used by neighbouring authorities but again it is entirely appropriate for a planning authority to frame a condition in a different manner than a neighbouring authority.

The applicant expresses concern that the condition is overly restrictive. However, it allows 12-month occupation of the site and in this regard is less restrictive than the condition proposed by the applicant. The Council's condition ensures that a caravan cannot be occupied by the same individual or group of individuals for more than 12 weeks in any 26 week period. This ensures that the caravans cannot be occupied by the same individual or group of individuals for a period exceeding half a year. This is considered an appropriate mechanism to ensure that the caravans are not utilised as permanent residential accommodation.

In conclusion, the revised wording provided by the applicant is noted and reflects the approach previously used by the Council. However, as indicated above that approach has caused uncertainty for occupants of caravans and it is not unreasonable for the Council to amend its approach to planning practice and imposition of conditions over time in response to experience. The conditions attached to planning permission 15/00081/FULL meet the tests for conditions as set by Government and are appropriate for a caravan development at this site. There are no material considerations that justify approval of the application with conditions that differ from those previously applied and in these circumstances the application is refused.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Refused

Reason(s) for Decision:

1. That the conditions attached to planning permission 15/00081/FULL are considered necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other aspects and that planning permission should not be granted for the use of the land to form 6 caravan pitches for holiday use without those conditions. The conditions are considered appropriate to secure compliance with relevant policies of the Angus Local Plan Review 2009.

Notes:

Case Officer: James Wright
Date: 21 January 2016

Appendix 1

Proposed Angus Local Development Plan

Policy TC16 Tourism Development

Proposals for new or improved tourism related facilities and tourist accommodation will be directed to sites within development boundaries. Such facilities will be supported in these locations where the development is of an appropriate scale and nature and is in keeping with the townscape and pattern of development.

Outwith development boundaries, proposals for new or improved tourism related facilities and accommodation will be supported where:

- it has been demonstrated that the proposals cannot be located within a development boundary; or
- there is a justifiable locational requirement for the development; and
- the scale and nature of the development is in keeping with the character of the local landscape and pattern of development; and
- there is no unacceptable impact on the built and natural environment, surrounding amenity, traffic levels, access or infrastructure.

Angus Council will attach occupancy conditions to prevent tourist accommodation being occupied as permanent residential accommodation. Applications to remove such occupancy conditions will not be supported.

Proposals to change the use or redevelop existing leisure or tourist facilities will only be supported where it is demonstrated:

- that the existing business is no longer viable and there is no requirement for alternative tourist facilities in the location; and
- that the existing business has been actively marketed for sale or lease as a going concern for a reasonable period at a reasonable market price.

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 31 MARCH 2015

PLANNING APPLICATION – CRAIGMILL LODGE, STRATHMARTINE, DUNDEE, DD3 0PH

GRID REF: 338385 : 735044

REPORT BY THE HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No. 15/00081/FULL for the Change of Use of Land to Form 6 Caravan Pitches for Holiday Use for Grants (Craigmills) Caravans at Craigmill Lodge, Strathmartine, Dundee. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that this listed building consent application is approved for the reasons and subject to the conditions detailed at Section 10 of this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

3.1 The applicant seeks planning permission for the change of use of land to form 6 caravan pitches for holiday use at Craigmill Lodge, Strathmartine, Dundee.

3.2 The application site which measures 2998sqm located immediately to the west of Craigmill Lodge and is bound to the north by Craigmill Road, to the south by the Dighty Water and to the west by the applicant's caravan sales and service business. The north boundary of the application site consists of a stonewall that is complemented by additional planting; the east boundary is undefined; the south boundary consists of substantial planting and the west boundary consists of a stonewall that is complemented by additional planting. Vehicular access to the site is located at the east boundary of the site. The application site sits below the level of Craigmill Road by approximately 6m and is screened from the south due to the substantial landscaping along the south boundary. The application site is understood to have comprised a part of the now demolished Baldovan Asylum and Orphanage and is now occupied by a large disused garage/workshop and its associated hardstanding.

3.3 The application seeks the change of the use of the land to form 6 caravan pitches for holiday use. The plan submitted in support of the application indicates the 6 caravans that have a footprint of 24sqm would be arranged in a north/south orientation with a separation distance of 5.8m between

each caravan. A raised timber deck some 1.8m wide would be erected around each caravan. The floor level of the caravans would be 84m AOD (caravan 1), 82.95m AOD (caravan 2) and 82.8m AOD (caravans 3 – 6). Each caravan would have parking for 2 vehicles and bin storage areas. An amenity area and soft landscaping area would be provided to the north of the proposed caravan pitches. The existing vehicular access would serve the development with the existing internal tarmac road within the site extended to incorporate a turning head.

- 3.4 The application has not been subject of variation.
- 3.5 The proposal has been advertised in the press as required by legislation.
- 3.6 This application requires to be determined by the Development Standards Committee due to the recommendation for approval whilst being subject to an objection from the Community Council.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning permission in principle application (ref: 11/00382/PPPL) for the erection of two dwellinghouses at the site was validated on 11 May 2011. The application was withdrawn on 30 June 2011.
- 4.2 Planning permission in principle application (ref: 12/00201/PPPL) for the erection of three dwellinghouses at the site was validated on 2 March 2012. The application was approved subject to conditions on 25 April 2012 under delegated powers.
- 4.3 Planning permission in principle application (ref: 15/00038/PPPL) for the erection of 3 dwellinghouses (renewal of planning permission 12/00201/PPPL) was validated on 20 January 2015. The application is still pending consideration.

5. APPLICANT'S CASE

- 5.1 A Flood Risk Assessment has been submitted in support of the proposal which concludes that the site would be developable with respect to flood risk, as the site is not within the 1 in 200 year flood plain of the Dighty Water. All finished floor levels should be set at, or above 82.8m AOD and any caravans/buildings proposed to be constructed within the flood envelope should be constructed using flood resilient materials and methods.
- 5.2 A transport statement has also been submitted in support of the proposal which indicates the trip generation associated with the proposed development would be significantly fewer than those associated with a three house development which has previously been granted planning permission in principle at the site. In relation to access the site access junction has a historic layout, and has not been designed to current design standards but notwithstanding this there is no history of accidents at this location therefore it is considered that road users are exercising the appropriate care in negotiating the historic road layout, and it is unlikely that the proposed development would exacerbate the existing situation.
- 5.3 A letter in support of the proposal considers that the proposal is in accordance with the Angus Local Plan Review, it will result in the reuse of redundant brownfield land, will do much to improve the visual amenity of the immediate area and will bring welcome tourism accommodation into the area. The proposed small scale holiday static caravan site will work well with the applicant's adjacent retail business, the consented larger holiday caravan site to the west and will generate a modest level of employment and holiday expenditure within the local economy.

6. CONSULTATIONS

- 6.1 The Roads Service has not objected to the proposal in respect of traffic safety or flood risk. In relation to road safety, the Transport Statement has been considered. Taking account of the

level of traffic generated by the existing use relative to the proposed use, the Roads Service has confirmed that the proposal would not result in unacceptable impacts on the public road network. They have also considered the submitted information on flood risk and have confirmed no objection subject a number of planning conditions.

- 6.2 SEPA has not objected to the proposal in respect of flood risk. They have reviewed the flood risk assessment and support the recommendation that the finished floor levels are set to 82.8m AOD which provides 70mm freeboard above the 1 in 200 year plus climate change and allowance of blockage (full blockage of downstream culvert and 50% of Pitempton Road Bridge).
- 6.3 The Environmental Health Service has indicated no objections to the proposal.
- 6.4 Scottish Water has indicated no objections to the proposal.
- 6.5 Strathmartine Community Council has objected to the application with their concerns relating to the approval for mass housing at the former Strathmartine Hospital they consider that any further developments, whether housing or holiday caravans, will place undue strain on what is a rural road network and effectively contribute to urbanisation of the area through ribbon development. *'The full representation from the community council will be circulated to members of the Development Standards Committee and copies are available to view in the local library or on the council's Public Access website'.*

7. LETTERS OF REPRESENTATION

No objections have been received.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 In this case the development plan comprises:-
- TAYplan (Approved 2012)
 - Angus Local Plan Review (Adopted 2009)
- 8.3 The development plan policies relevant to consideration of this application are provided in Appendix 1 and have been taken into account in the preparation of this report.
- 8.4 Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Draft Proposed Angus Local Development Plan was considered by Angus Council at its meeting on 11 December with a view to it being approved and published as the Proposed ALDP for a statutory period for representations. The Draft Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP(June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP, as approved by Angus Council, will be subject to a 9 week period for representation commencing in February 2015. Any unresolved representations received during this statutory consultation period are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it will be a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the

statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to its contents. This may change following the period of representation when the level and significance of any objection to policies and proposals of the plan will be known.

- 8.5 The site is not allocated for development and lies to contiguous with the Strathmartine Hospital development boundary. The local plan indicates that development boundaries are defined around settlements to protect the landscape setting of towns and villages and to prevent uncontrolled growth. On such sites, Policy S1(c) indicates that proposals will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary. The proposal involves the diversification of the existing caravan sales and storage operation on an existing commercial site. The site benefits from peripheral landscaping and the proposal would not appear visually to create additional uncontrolled growth adjacent to the development boundary. It would be located within the existing storage yard area and would be contained between Craigmill Road to the north and the Dighty Burn to the south. The proposal could be beneficial in providing additional tourist accommodation which offers potential economic benefits to the local economy and would be located on previously developed land. This is an existing business operation and that diversification of the business would provide continued employment opportunities in the rural area and that this would provide some public interest. I also accept that there is some business efficiency associated with the operation being linked to the existing caravan sales business and note that permission exists for the siting of static caravans further west along Craigmill Road. As this is an existing site, I do not consider the proposal to be inconsistent with the intentions of Policy S1(c) which is to protect the landscape setting of settlements and prevent uncontrolled growth.
- 8.6 Policy SC19 deals with rural employment uses. The supporting letter submitted on behalf of the applicant indicates the proposed developments would generate a modest level of employment and would also complement their existing business. In this case the proposal is directly associated with an existing tourism facility. The proposed development is likely to assist the existing business and in this respect I consider that the development will make a positive contribution to the rural economy. I consider that the general principle of supporting an existing business is compatible with the general aims of this policy. Issues regarding the scale and nature of the development are discussed below in association with other policy considerations.
- 8.7 The primary policy considerations for tourism developments are SC20 and SC21 of the Angus Local Plan Review. Policy SC20 encourages tourism development, including accommodation, where it would improve the range and quality of the facilities or extend the tourist season; would have no unacceptable detrimental impact on the landscape or rural environment; would be in keeping with the scale and character with the adjacent buildings or surrounding countryside; and would be compatible with surrounding land uses. The application provides for the reuse of an existing brownfield site adjacent to the applicant's existing caravan retail business and is also within close proximity to a consented larger holiday caravan site to the west of the caravan retail business (refs: 09/00854/FUL & 12/01054/FULL). Provided the caravans were used for holiday and tourism purposes, I am satisfied that this would increase the amount of tourist accommodation in the area. The proposed development would support the Council's strategy to increase the variety and quality of visitor accommodation in Angus. On this basis I consider that the principle of the development is generally compatible with Policy SC20.
- 8.8 Policy SC21 contains a number of criteria for the assessment of holiday caravan and chalet sites. Criterion (a) seeks to support such development in unobtrusive locations and avoid the undeveloped coastline. The site is considered to be in an unobtrusive location and avoids skylines, prominent hillsides and exposed flat sites and is not located on the undeveloped coast. Criterion (b) states that the development should fit into the surrounding landscape and incorporate substantial landscaping and planting, appropriate density of pitches, satisfactory access arrangements and adequate parking, waste management facilities and suitable water

supply and drainage arrangements. The indicative layout indicates soft landscaping would be introduced to the north of the proposed caravans which would help to create an appropriate setting within the site for the caravans as well as an amenity area. In relation to how the proposals would be accommodated within the surrounding landscape the site is not readily visible from Craigmill Road due to the difference in ground levels and the stone wall at the north boundary of the application site which restricts views into the site. Substantial landscaping exists along the south boundary of the site which restricts any views into the application site from this direction. As such, the proposed location is considered to be a suitable location for the scale and nature of development proposed.

- 8.9 In relation to appropriate density of pitches, the indicative layout indicates 6 caravans can be suitably accommodated within the site without any negative impacts on the amenity of the proposed occupants. In respect of roads, parking and access the Roads Service has considered the application in terms of the traffic likely to be generated by it and its impact on the public road network. Concerns have been raised by the Community Council in relation to the inadequacy of the local road network. In terms of access and parking, the development proposes to utilise the existing access to the site and 2 parking spaces would be associated with each of the 6 caravans. The Roads Service has considered the submitted transport statement and has offered no objections to the proposed development.
- 8.10 In terms of waste management, the indicative layout indicates each caravan would have their own facilities. The Environmental Health Service has not raised any concerns relating to the waste management arrangements but a condition would be attached to any approval to ensure these details are submitted and approved prior to the proposal coming into use. In relation to water supply/drainage arrangements the application form states that a connection to the public water supply is proposed. Scottish Water has offered no objections to the proposal. I am satisfied that acceptable foul drainage arrangements could be made for the caravan pitches. Similarly the application form states that surface water would be managed within the site through the provision of appropriate SUDS. No details of the SUDS has been provided therefore a condition is proposed requiring agreement of the detail of this system prior to the commencement of development.
- 8.11 Policy SC21 also indicates that accommodation will be restricted to ensure that it is only occupied for holiday purposes and to prevent permanent residential accommodation. This is appropriate in this case as permanent residential accommodation on this site would not be compatible with the Council's policies for housing in the countryside and would give rise to different impacts on infrastructure, as noted by the Community Council. Conditions are therefore proposed to limit occupation of caravans on the site to holiday accommodation only and the length of time they can be occupied by any individual or group of individuals.
- 8.12 In terms of amenity impacts a development of this nature is likely to increase visitor numbers and movement in the wider area and as such has potential to impact on amenity. The closest property to the site is located at Craigmill Lodge which is located approximately 10 metres from the closest caravan. The mutual boundary between the application site and the aforementioned property is currently undefined however the provision an acceptable form of screening would be required to minimise the impacts on Craigmill Lodge. On this basis the proposal would not introduce a use or degree of overlooking that would result in unacceptable impacts on the amenity of Craigmill Lodge. It should also be noted that there are other residential properties in the general vicinity of the site but it is not unusual for holiday parks and residential properties to be located close to one another and I do not see any reason why these uses should not be compatible in this case. In relation to the siting of the caravans within the application site a condition is proposed requiring the caravan pitches/ hard standing areas to be sited and formed in accordance with the Council's Model Caravan Standards. Such a condition should ensure the caravans are appropriately sited to ensure the amenity of the neighbouring residential property is not adversely affected.

- 8.13 In terms of Policy ER27: Flood Risk Consultation and Policy ER28: Flood Risk Assessment, both SEPA and the Roads Service have been consulted on the Flood Risk Assessment (FRA). In this instance both SEPA and the Roads Service agree with the recommendations of the FRA and have raised no objections to the proposal.
- 8.14 In respect of Policy S6 only certain criteria from this policy would be relevant in the determination of this application. Issues in relation to amenity; visual impact; roads/parking/access; landscaping; flood risk; drainage and waste management have been addressed in the discussion above and I do not consider the other elements of Policy S6 to be relevant in this instance and consider that the proposal is consistent with the development principles established under Policy S6.
- 8.15 It should be noted that the current proposal is for a change of use only and no operational development is currently proposed. The plans submitted as part of the application do show various landscaping, caravan layouts and roads. Class 17 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 (As Amended) indicates that development required by the conditions of a site licence issued in terms of the Caravan Sites and Control of Development Act 1960 would be permitted and the agent has indicated this in their supporting statement. However at present no site licence has been issued and it is therefore considered appropriate to attach a condition requiring details of the layout of the site to be submitted for the approval of the planning authority.
- 8.16 In conclusion, the proposal is considered to comply with the relevant policies of the development plan and there are no material considerations which would justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The decision to grant permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that application be approved for the following reasons and subject to the following conditions:

Reason(s) for Approval:

That the proposed development will provide a tourist facility that will assist the economic development of Angus in a manner that complies with relevant policies of the development plan and there are no material considerations that would justify refusal of the planning application.

Conditions:

1. That the number of caravans permitted on site shall be limited to a maximum of 6 in total unless otherwise agreed in writing by the planning authority.
Reason: In order to clarify the terms of this permission and to ensure that the use of the site is appropriately controlled in the interests of the amenity of the area.
2. That the site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan or other structure as permanent residential accommodation or as a permanent or principal residence.
Reason: In order to define the consent and ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
3. No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name, address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection.
Reason: In order to ensure that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside.
4. That the development be undertaken in accordance with the mitigation measures identified in the Proposed Caravan Site at Craigmills, Strathmartine - Flood Risk Assessment dated January 2015 by Millard Consulting (reference 12197/AB/284), namely:
 - (a) All finished floor levels should be set at, or above 82.8m AOD, a minimum of 70mm above the adjacent Q200 + 20% flood level, including blockages.
 - (b) Any caravans/buildings proposed to be constructed within the flood envelope of the Q200 + 20% + blockage, should be constructed using flood resilient materials and methods.*Reason: In order to ensure that the development is not subject to an unacceptable level of flood risk.*
5. That prior to the commencement of development, the following details require to be submitted to and approved in writing by the Planning Authority: -
 - The submission of a plan that provides the precise location of each caravan pitch/ hard standing area having regard to the Council's Model Standards in relation to existing landscaping and neighbouring residential property. The site should be laid out only in accordance with the approved details and the layout retained thereafter unless otherwise approved in writing by the Planning Authority.
 - A scheme for the assessment of surface water flooding for the development. Thereafter the assessment shall be undertaken in accordance with approved scheme and any mitigation measures contained within it shall be implemented prior to the approved use of the site commencing. For the avoidance of doubt the submitted assessment should demonstrate that the development is not at risk and that appropriate contingencies have been put in place to account for exceedance.
 - Full details of the proposed means of surface water disposal from the development. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be occupied unless the agreed drainage scheme has been provided in its entirety.
 - A scheme of hard and soft landscaping, including an indication of all existing trees and hedgerows on the land and details of these to be retained and cleared, together with the

measures for their protection in the course of development. All planting indicated on the approved plans shall be carried out in the first planting season following the commencement of the use hereby approved or at earlier stages and any plants or trees which within a period of five years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

- A waste management plan to include details of where and how waste would be stored, segregated, collected and managed within the site. Thereafter, the approved details shall be implemented prior to the commencement of the use hereby approved.
- Details of the means of site enclosure proposed to be used at the east boundary. Thereafter the approved boundary enclosure shall be erected or formed on or before the commencement of the use hereby approved.

Reason: In order to ensure an acceptable layout having regard to the model standards and neighbouring residential amenity; in order to reduce the potential of flooding within and outwith the application site; to ensure the provision of an acceptable drainage system in the interests of the amenity of the area; in order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council; to ensure adequate waste management facilities; in the interests of the amenity of the occupiers of adjacent dwellings and the visual amenity of the area.

6. That from the date of this permission none of the existing trees or hedges within the site be felled, topped, lopped or otherwise interfered with without advance discussion with and without the prior written consent of this Planning Authority.

Reason: In order that the general amenity of the area shall not be affected.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

REPORT AUTHOR: VIVIEN SMITH, HEAD OF PLANNING & PLACE
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Date: 19.03.2015

Appendix 1: Relevant Development Plan Policies

APPENDIX 1 – RELEVANT DEVELOPMENT PLAN POLICIES

Angus Local Plan Review 2009

Policy S1: Development Boundaries

- (a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- (b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.
- (c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3: Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S6: Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Schedule 1 : Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

Roads/Parking/Access

- (d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- (e) Access to housing in rural areas should not go through a farm court.

- (f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.
- (g) Development should not result in the loss of public access rights. (Policy SC36)

Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

Supporting Information

- (s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

Policy SC19: Rural Employment

Employment opportunities throughout rural Angus will be supported where they make a positive contribution to the rural economy and are of a scale and nature appropriate to the location. Proposals which reuse existing buildings and sites and those which assist diversification of an existing rural business will be encouraged. There may also be scope for mixed use developments incorporating staff accommodation and/or home/work units.

Policy SC20: Tourism Development

Development proposals to provide new or improved tourist related facilities/attractions and accommodation will be permitted and encouraged where they:

- improve the range and quality of visitor attractions and tourist facilities and/or extend the tourist season;
- have no unacceptable detrimental effect on the local landscape or rural environment;
- are in keeping with the scale and character of adjacent buildings or surrounding countryside;
- are generally compatible with surrounding land uses; and
- accord with other relevant policies of the Local Plan.

Policy SC21: Caravan Sites and Holiday Chalets

Development proposals for static holiday and touring caravan sites will not be permitted on undeveloped coastline or in the Angus Glens. Holiday chalet developments will not be permitted on undeveloped coastline. Outwith these areas such development will be generally supported where:-

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;
- (b) the site is designed to fit into surrounding landscape and incorporates:-
 - (i) substantial landscaping and tree/shrub planting;
 - (ii) appropriate density of chalets/pitches;
 - (iii) satisfactory access arrangements and adequate parking;
 - (iv) waste management facilities; and
 - (v) suitable and adequate water supply and drainage arrangements.

Angus Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation.

Policy ER24: Surface Water Disposal

Sustainable Urban Drainage Systems are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water run-off collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water.

Policy ER27: Flood Risk - Consultation

- (a) Angus Council will routinely consult with SEPA on all development proposals adjacent to or potentially affected by:-
 - (a) the North Esk, south of Edzell;
 - (b) the South Esk;
 - (c) the Brothock Burn, south of Leysmill;
 - (d) the Elliot Water, south of Arbirlot;
 - (e) the catchment of the Dighty Water and its tributaries; and
 - (f) other watercourses and lochs of known potential flood risk.

Angus Council may require developers to submit a flood risk assessment in support of a planning application.

Policy ER28: Flood Risk Assessment

Proposals for development on land at risk from flooding, including any functional flood plain, will only be permitted where the proposal is supported by a satisfactory flood risk assessment. This must demonstrate

to the satisfaction of Angus Council that any risk from flooding can be mitigated in an environmentally sensitive way without increasing flood risk elsewhere. In addition, limitations will be placed on development according to the degree of risk from coastal, tidal and watercourse flooding.

The following standards of protection, taking account of climate change, will be applied:-

- In Little or No Risk Areas where the annual probability of flooding is less than 0.1% (1:1000 years) there will be no general constraint to development.
- Low to Medium Risk Areas where the annual probability of flooding is in the range 0.1% - 0.5% (1:1000 – 1:200 years) are suitable for most development. Subject to operational requirements these areas are generally not suitable for essential civil infrastructure. Where such infrastructure has to be located in these areas, it must be capable of remaining operational during extreme flood events.
- Medium to High Risk Areas (see 2 sub areas below) where the probability of flooding is greater than 0.5% (1:200 years) are generally not suitable for essential civil infrastructure, schools, ground based electrical and telecommunications equipment.
 - (a) Within areas already built up sites may be suitable for residential, institutional, commercial and industrial development where an appropriate standard of flood prevention measures exist, are under construction or are planned.
 - (b) Undeveloped or sparsely developed areas are generally not suitable for additional development.

Document 2

Section 42 application form, submitted plans,
supporting Planning Statement and follow on correspondence



County Buildings Market Street Forfar DD8 3LG

Tel: 01307 461460

Fax: 01307 461 895

Email: plnprocessing@angus.gov.uk

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000133412-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

We strongly recommend that you refer to the help text before you complete this section.

- Application for Planning Permission (including changes of use and surface mineral working)
- Application for Planning Permission in Principle
- Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions

Please give the application reference no. of the previous application and date when permission was granted.

Application Reference No: *

Date (dd/mm/yyyy): *

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place? (Answer 'No' if there is no change of use.) * Yes No

Have the works already been started or completed? *

- No Yes - Started Yes - Completed

Applicant or Agent Details

Are you an applicant, or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application) Applicant Agent

Agent Details

Please enter Agent details

| | |
|-----------------------|--------------------------------|
| Company/Organisation: | Montgomery Forgan Associates |
| Ref. Number: | |
| First Name: * | Darren |
| Last Name: * | O'Hare |
| Telephone Number: * | 01334 654936 |
| Extension Number: | |
| Mobile Number: | |
| Fax Number: | |
| Email Address: * | darren@montgomery-forgan.co.uk |

You must enter a Building Name or Number, or both:*

| | |
|-----------------------|-----------------|
| Building Name: | Eden Park House |
| Building Number: | |
| Address 1 (Street): * | Eden Park |
| Address 2: | |
| Town/City: * | Cupar |
| Country: * | UK |
| Postcode: * | KY15 4HS |

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

| | |
|-------------------------|------------------------------|
| Title: | |
| Other Title: | |
| First Name: | |
| Last Name: | |
| Company/Organisation: * | Grants (Craigmills) Caravans |
| Telephone Number: | |
| Extension Number: | |
| Mobile Number: | |
| Fax Number: | |
| Email Address: | |

You must enter a Building Name or Number, or both:*

| | |
|-----------------------|-----------------|
| Building Name: | Grants Caravans |
| Building Number: | |
| Address 1 (Street): * | Strathmartine |
| Address 2: | |
| Town/City: * | Dundee |
| Country: * | Scotland |
| Postcode: * | DD3 0PH |

Site Address Details

Planning Authority:

Angus Council

Full postal address of the site (including postcode where available):

Address 1:

Address 5:

Address 2:

Town/City/Settlement:

Address 3:

Post Code:

Address 4:

Please identify/describe the location of the site or sites.

Land to the west of Craigmill Lodge, Strathmartine

Northing

735132

Easting

338135

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

Correspondence regarding varying the wording of condition 3

Title:

Mr

Other title:

First Name:

Ruari

Last Name:

Kelly

Correspondence Reference Number:

Date (dd/mm/yyyy):

15/05/15

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

0.29

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

Vacant brownfield land

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *

12

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- Yes – connecting to public drainage network
- No – proposing to make private drainage arrangements
- Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) *

Yes No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
- No, using a private water supply
- No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Darren O'Hare

On behalf of: Grants (Craigmills) Caravans

Date: 19/11/2015

Please tick here to certify this Certificate. *

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Covering letter

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

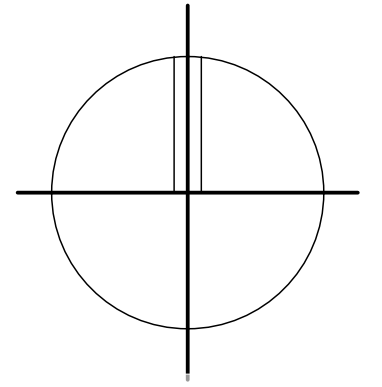
Declaration Name: Darren O'Hare
Declaration Date: 19/11/2015
Submission Date: 19/11/2015

Payment Details

Cheque: Montgomery Forgan Associates, 10603

Created: 19/11/2015 10:22

NORTH



STRATHMARTINE

MONTGOMERY . FORGAN . ASSOCIATES

ARCHITECTS +
TOWN PLANNING
CONSULTANTS

EDEN PARK HOUSE
CUPAR, FIFE, KY15 4HS. TEL.01334-654936
e-mail. admin@montgomery-forgan.co.uk



Project

SECTION 42 APPLICATION TO DEVELOP LAND
WITHOUT COMPLIANCE WITH CONDITION 3
OF PLANNING PERMISSION REF 15/00081/FULL
AT LAND TO THE WEST OF CRAIGMILL LODGE,
STRATHMARTINE BY DUNDEE

Drawing

LOCATION / SITE PLAN

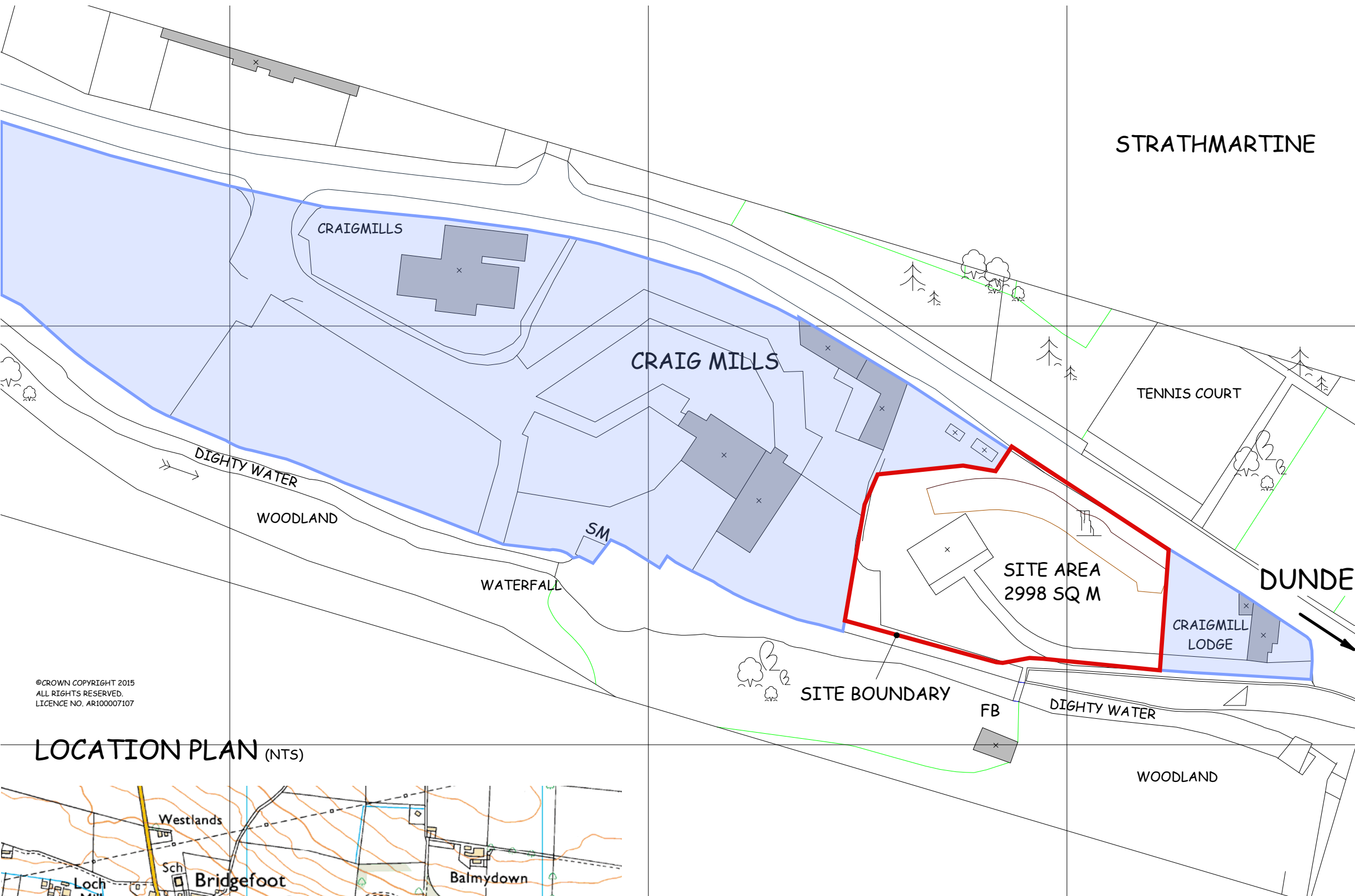
Scale Date OCTOBER 2015

1:1000 @ A3 Drawn Checked

Drawing Number Revision

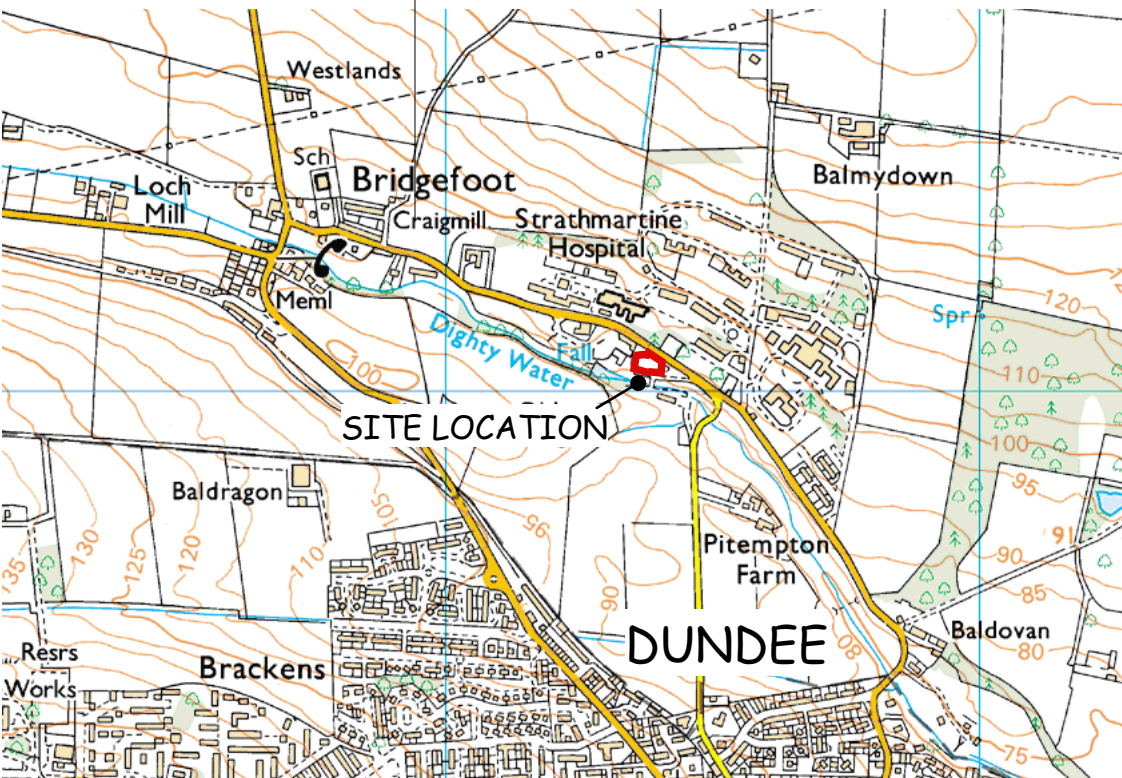
5483 / C / 11

1. THIS DRAWING IS COPYRIGHT, RESERVED AND REMAINS THE PROPERTY OF MONTGOMERY FORGAN ASSOCIATES.
2. THE CONTRACTOR AND HIS SUBCONTRACTORS/SUPPLIERS ARE TO VERIFY ALL DIMENSIONS AND LEVELS ON SITE PRIOR TO COMMENCING ON SITE/MANUFACTURE OF GOODS/MATERIALS.
3. THE CONTRACTOR IS TO BRING TO THE NOTICE OF THE ARCHITECT ANY DISCREPANCIES CONTAINED IN THIS DRAWING PRIOR TO WORK COMMENCING. WHERE RELEVANT THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT DESIGN DRAWINGS AND SPECIFICATIONS.



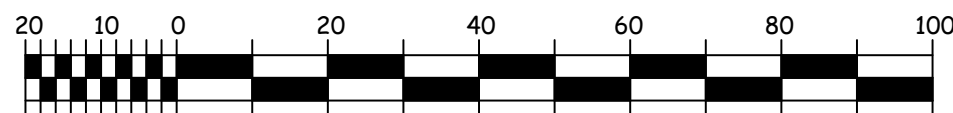
©CROWN COPYRIGHT 2015
ALL RIGHTS RESERVED.
LICENCE NO. AR100007107

LOCATION PLAN (NTS)



LOCATION / SITE PLAN

LOCATION PLAN 1:1000



SCALE 1:1000 m

Date: 19 November 2015

Our Ref: 5483/DOH

Your Ref:

Planning and Transportation
 Infrastructure Services
 Angus Council
 County Buildings
 Market Street
 FORFAR
 DD8 3LG



Dear Sirs

Section 42 Application to Develop Land Without Compliance with Condition 3 of Planning Permission Ref. 15/00081/FULL at Land to the West of Craigmill Lodge, Strathmartine

On behalf of our client, we hereby enclose a Section 42 application to not comply with condition 3 of planning permission ref. 15/00081/FULL. We can confirm that the planning application fee of £202 will follow under separate cover.

Background

Planning permission (Ref. 15/00081/FULL) was granted on 1 April 2015 for the change of use of land to form 6 caravan pitches for holiday use. Work on purifying the suspensive conditions of this permission are ongoing and it is anticipated that works will commence on site early next year to create the pitch hardstandings, etc.

As matters stand, Condition 3 only permits the same individual or groups of individuals to use the caravans for less than half the year (24 weeks) which we consider to be overly restrictive and is at odds with other holiday developments/caravan parks within the Angus Council area. In addition, the current wording of the condition implies that the caravans will be managed and let out. At this time, our client is exploring the possibility of selling the caravans (as holiday accommodation only) which would not be permitted by the current restrictive wording of the condition.

Proposal

In light of the above, our client seeks a variation to the wording of condition 3 to allow the 6 static caravans to be used for holiday accommodation for up to 11 months of the year.

Condition 3

Circular 4/1998 states that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. The Circular sets out tests, namely that conditions should only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other aspects.

Condition 3 states ***“No caravan hereby granted planning permission shall be occupied by the same individual or group of individuals for a period exceeding a total of 12 weeks in any 26 week period. The operator of the site shall maintain a register of guests (including the name,***



address, dates of arrival and departure) of those staying at the site. On request, this guest register shall be made available to the Council as planning authority for inspection."

The reason stated for this condition was in order to ensure **"that no permanent residence is formed at the site as this would be contrary to the council's policies for housing in the countryside."**

Whilst we fully recognise the concern of the planning authority with regards to preventing permanent residential occupation taking place at this and similar sites, we would contend that the current restrictive wording of Condition 3 prevents our client from maximising the use of this site for tourism as it severely limits the occupation of the caravans. We would suggest that the condition fails the necessity and reasonableness tests of Circular 4/1998.

Having reviewed the terms of the Development Plan, we note that the supporting text to Policies SC20 and SC21 of the Adopted Angus Local Plan Review acknowledges that **"Tourism is a major source of income and employment throughout Angus. There is a need to extend and maintain both the range and quality of visitor attractions and accommodation to satisfy visitor aspirations"** and that the **"range and quality of accommodation is vital to developing tourism and extending the length of the tourist season."**

Policy SC21 of the Adopted Angus Local Plan Review advises that development proposals for static holiday and touring caravan sites or holiday chalet developments will generally be supported where:

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;
- (b) the site is designed to fit into surrounding landscape and incorporates substantial landscaping and tree/shrub planting; appropriate density of chalet/pitches; satisfactory access arrangements and adequate parking; waste management facilities; and suitable and adequate water supply and drainage arrangements.

In addition, with respect to holiday chalets, the policy makes it clear that the Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation however no such restriction is placed on static holiday and touring caravan sites.

Notwithstanding the above, we would advise that our client has absolutely no desire to establish a residential use on the site and our client accepts that a condition is necessary to ensure that the caravans are not permanently occupied. In addition, our client is required to apply to Angus Council as licencing authority for a holiday caravan site licence and not a residential caravan site licence. In our view, it is a relatively simple matter to ensure that the static caravans are used for holiday and leisure purposes only and not as residences. We would suggest that the wording of condition 3 on application 15/00081/FUL is varied as follows, or such other form of words which achieve the same ends:

"The site hereby approved shall be used for holiday accommodation only and no person shall occupy any caravan as permanent residential accommodation or as a permanent or principal residence. For the avoidance of doubt, no caravan shall be occupied during the period 1 February to 28 February in any given year. Within 14 days of the purchase of any caravan, the owner(s) shall submit details of their permanent residential address to Angus Council as Planning Authority and shall thereafter ensure that the Planning Authority is notified in the event of a change of address and/or owner."

The suggested condition places an occupancy restriction on the caravans including a period of non occupancy. The proposed condition is precise in its requirements and would be simple to monitor and enforce. We would therefore contend that it meets all of the tests of Circular 4/1998. Furthermore, the proposed condition would ensure that the caravans are only used for holiday accommodation and would provide our client with the option of either letting out the caravans or

alternatively selling each caravan pitch as holiday accommodation. We would suggest that this minor variation would still meet the aims and objective of both national and local plan policy which support tourist related developments in rural areas. Indeed, we note that both Barry Downs Holiday Park (Ref. 11/00759/FULM) as well as a proposed holiday village at Newtyle (Ref. 10/00997/PPPM) both permit 11 month holiday occupation with a 4 week closure period during February which we would contend sets a reasonable precedent.

We look forward to the application being registered and if Angus Council requires any further information, please do not hesitate to contact us.

Yours faithfully

MONTGOMERY FORGAN ASSOCIATES

Encl

From: Darren O'Hare <darren@montgomery-forgan.co.uk> 
Subject: Re: 15/01036/FULL - Land to the west of Craigmill Lodge, Strathmartine
Date: 15 January 2016 12:09:04 GMT
To: WrightJ@angus.gov.uk
Cc: David Queripel <davidq@montgomery-forgan.co.uk>, Grants Caravans <info@grantscaravans.co.uk>

1 Attachment, 860 KB

Dear Mr Wright

Further to my email response earlier this week (copy below), I have now had the opportunity to discuss your concerns with my client. I would like to take this opportunity to bring to your attention matters which I think are material to the proposal. Once you have considered these matters, I would welcome a further response from you.

Circular 4/1998 states that a condition may be unreasonable because it is unduly restrictive (Annex A - paragraph 34). It also warns that where a seasonal occupancy condition is imposed that particular care is taken to allow a reasonable period of use of the caravans in each year. We consider that only permitting a maximum stay of 12 weeks within the 6 key holiday months (April to September) is unnecessary and unreasonable which would also be difficult to monitor and enforce. Indeed we are not aware of any formal change in policy on this matter from that set out in Angus Policy SC21 of the Adopted Angus Local Plan Review. This policy states that "**Angus Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation.**" My client's proposal relates to static holiday caravans and not chalets and whilst my client fully accepts that a planning condition is necessary to ensure that the caravans are not permanently occupied, my client feels that it is entirely unreasonable for the Council to place such a restrictive condition on the site which in effect will make the holiday static caravans unsaleable.

I would suggest that the 4 week closure period, as suggested in my supporting letter of 19 November which accompanied the Section 42 application, is a far more reasonable approach which would be effective, easy to monitor and enforce and would achieve the desired holiday use restriction by virtue of a period of non occupancy. In this regard, I would also advise that my client has already applied to Angus Council, as licencing authority, for a holiday caravan site licence which will also stipulate that the caravans can only be occupied for holiday purposes. In addition, there will also be a holiday only contract between the site owner and the purchaser which is based on the BH&HPA licence agreement (copy attached). I would suggest that these additional controls on occupancy would ensure that the site is used for holiday purposes only.

My client has leased from the Council and operated Riverview Holiday Caravan Park in Monifieth for a considerable number of years. When my client took over the site from the Council she spent a considerable amount of time and nearly £150,000 in legal fees in ridding the site of unauthorised residents. My client now requires each caravan owner on an annual basis to provide her with proof that their principal residence is elsewhere. My client does not want residential occupiers due to the management difficulties that can result. However, my client also feels very strongly that she should be able to market the sale of holiday caravans with only the correct amount of planning regulation to satisfy the Council that they cannot be used for residential purposes. My client is quite content to provide to the Council, on an annual basis, proof from the owners of the holiday caravans that their principal residence is elsewhere.

I trust that you will give the above points your full consideration and I look forward to your further response.

Regards,
Darren

Darren O'Hare
Associate - Planner
Montgomery Forgan Associates
Eden Park House
Eden Park
Cupar
KY15 4HS

Tel: 01334 654936
Email: darren@montgomery-forgan.co.uk



[BH&HPA – S...ent \(860 KB\)](#)

From: Darren O'Hare <darren@montgomery-forgan.co.uk>
Subject: **Re: 15/01036/FULL - Land to the west of Craigmill Lodge, Strathmartine**
Date: 11 January 2016 14:55:44 GMT
To: WrightJ@angus.gov.uk

Dear Mr Wright

Thank you for your response. I will need to discuss your email with my client and would intend to come back to you by the end of this week.

I am however extremely disappointed to note that your service does not consider that the current wording of condition 3 to be overly restrictive. Angus Council's position with respect to holiday occupancy is completely at odds with other neighbouring authorities including Fife Council, Perth and Kinross Council and Stirling Council who support year round holiday occupancy with very limited breaks between occupation periods.

My client aims to sell these holiday caravans to individuals/couples who are retired and are looking to own holiday accommodation where they can come and go as they see fit. I think it is entirely unfair for the council to apply such a blanket approach to all holiday accommodation developments within the region just because there have been *"issues arising on other sites regarding permanent occupation of caravans."* Whilst it is certainly not my client's intention to establish a residential use on the site, you will be aware that this site has an extant consent for 3 dwellinghouses therefore the use of the site for residential purposes has previously been established and considered acceptable to the planning authority (Ref. 15/00038/PPPL). I would suggest that this is a material consideration in this particular case. I intend to respond more fully however in the meantime I trust you will consider the above points.

Regards,
Darren

Darren O'Hare
Associate - Planner
Montgomery Forgan Associates
Eden Park House
Eden Park
Cupar
KY15 4HS

Tel: 01334 654936
Email: darren@montgomery-forgan.co.uk

On 7 Jan 2016, at 15:10, WrightJ wrote:

Mr O'Hare,

Thank you for your e-mail. The application has been assessed and I would comment as follows.

I acknowledge that other conditions had been attached previously to older applications. However the current wording of condition 3 (12 weeks in any 26 week period) is now used as standard on all applications of this nature. As well as the current application (15/00081/FULL), this condition has been attached to more recent applications including applications 15/00837/FULL, 15/00566/PPPL, 14/00998/FULL. This approach has been adopted due to issues arising on other sites regarding permanent occupation of caravans. This Division does not consider the current condition (condition 3 of application

Document 3

Copy of planning permission in principle and approved layout
for 3 dwellinghouse within application site (Ref. 12/01054/FULL)

ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013



PLANNING PERMISSION IN PRINCIPLE APPROVAL
REFERENCE 15/00038/PPPL

To: **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
FAO Darren O'Hare
Eden Park House
Eden Park
Cupar
KY15 4HS

With reference to your application dated **20 January 2015** for planning permission in principle under the above mentioned Acts and Regulations for the following development viz:-

Planning permission in principle for the erection of 3 dwellinghouses (renewal of planning permission 12/00201/PPPL) at Craigmill Lodge Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission in Principle (Committee Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as approved on the Public Access portal. The permission is subject to the following conditions, namely:-

- 1 That plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. No work shall begin until the written approval of the authority has been given and the development shall be carried out in accordance with that approval. The matters are:
 - o The siting of the building(s);
 - o The design and external appearance of the building(s);
 - o The means of drainage for the development;
 - o A scheme for the assessment of surface water flooding for the development. The scheme shall demonstrate that the development is not at risk and that appropriate contingencies have been put in place to account for exceedance;
 - o A scheme for the landscaping of the site. The scheme shall include an indication of all existing trees and hedgerows on the site, those to be retained, removed and/or relocated within the site as well as new planting arrangements;
 - o The existing and proposed ground levels and floor levels relative to a fixed ordnance datum;
 - o The layout of the site, including access, car parking, turning space, street lighting, surface water drainage and the means of site enclosure.
 - o Any necessary remediation of the site having regard to previous land use and adjacent land uses. In this respect any further application shall be accompanied by a comprehensive assessment of contaminated land in accordance with a scheme approved by the Planning Authority.
- 2 That the development shall be undertaken in accordance with the conclusions identified in the Flood Risk Assessment: Proposed Housing Development at Craigmills, Strathmartine by Millard Consulting (Doc Ref: 12197/AB/099):
 - o All finished floor levels shall be set at 83.40m AOD or such higher height as may be approved in writing by the Planning Authority;
 - o The finished ground level outside each property shall be set above 82.73m AOD i.e. above the Q200 + 20% + blockage flood level, for a minimum width of 2 m to enable safe pedestrian access around the houses;
 - o A dry vehicular emergency access/egress route shall be maintained throughout a 1 in 200 year flood event;
 - o The site levels shall not be lowered as part of the proposed development;

- o Any new building proposed to be constructed within the flood envelope of the Q200 + 20% + blockage flood level shall be constructed using flood resilient materials and methods.
- 3 That notwithstanding the provisions of any Development Order no dwelling hereby approved shall be enlarged by way of extension at ground floor level and no building or engineering works shall be undertaken within the curtilage of any such dwelling unless first approved through the grant of planning permission following submission of an application to the Planning Authority.
- 4 The development permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in section 26(4)(a)-(f) of the Town and Country (Scotland) Planning Act 1997 in relation to the development, until a planning obligation pursuant to s.75(1)(a) of the said Act relating to the land has been registered in the Land Register of Scotland or recorded in the General Register of Sasines, as appropriate, to the written satisfaction of the planning authority. The said planning obligation will provide that the sum of £33,000 will be paid to the local planning authority for the purpose of the provision of primary and secondary school educational facilities.

The foregoing conditions are imposed by the Council for the following reasons:-

- 1 To ensure that the matters referred to are given full consideration and to accord with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 In order to reduce the potential of flooding within and outwith the site.
- 3 In order that issues regarding flood risk associated with any development may be considered by the Planning Authority.
- 4 To ensure that the proposed development does not put undue pressure on the existing education facilities.

The reason(s) for the foregoing decision by the Council are as follows:-

- 1. The proposal will provide for new dwellinghouses on a rural brownfield site in a manner that complies with relevant policies of the development plan. The site has previously been granted permission for a similar development and there are no material considerations that justify refusal of planning permission.

Dated this **20 November 2015**

[REDACTED]

Iain Mitchell - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

NOTES

The decision was based on the following amendment(s):-

Amendments:

The application has not been subject of variation.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 as amended.

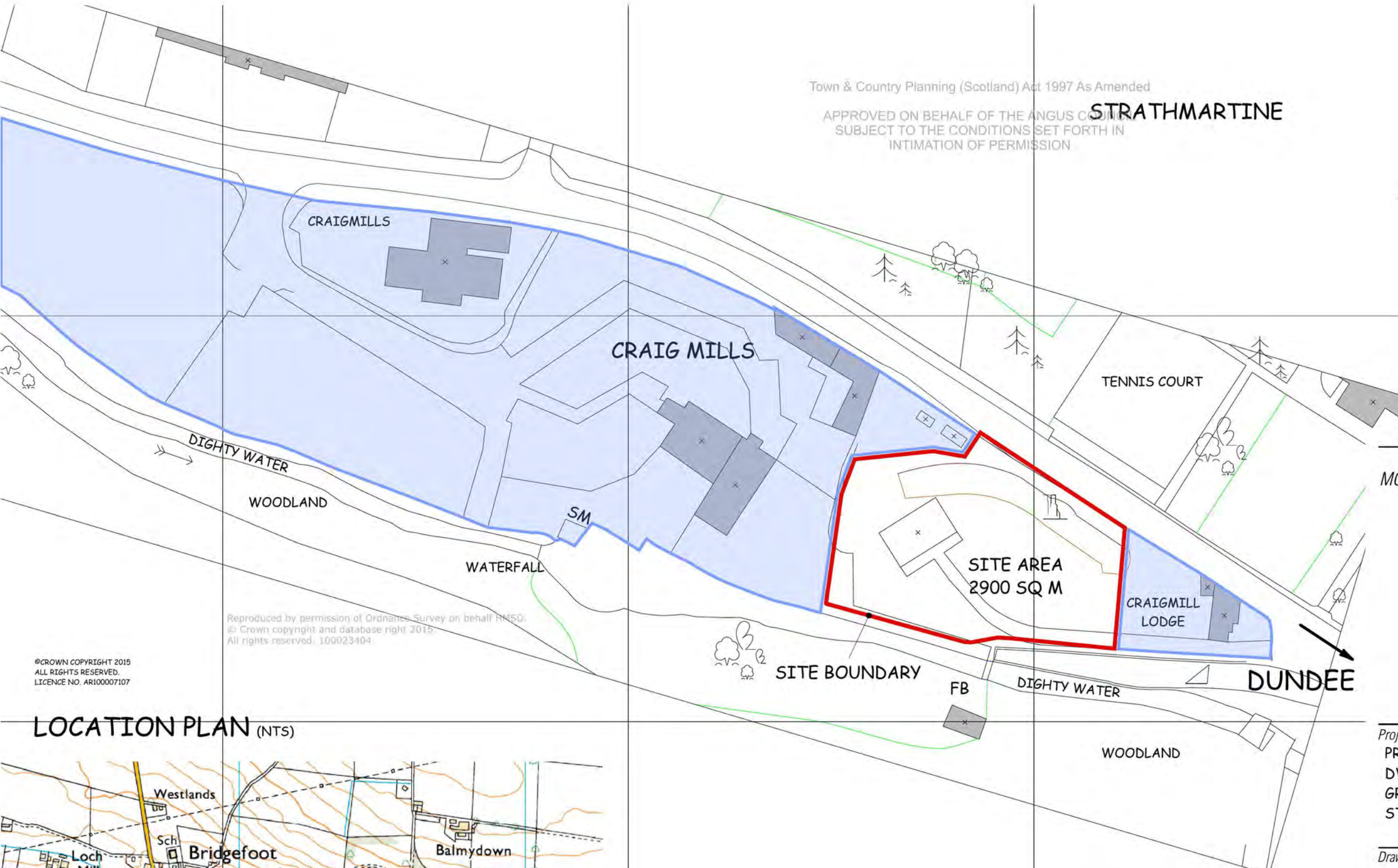
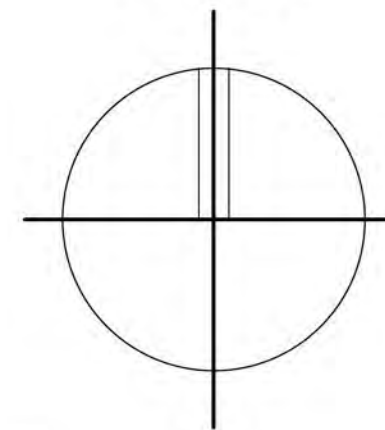
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Town & Country Planning (Scotland) Act 1997 As Amended

APPROVED ON BEHALF OF THE ANGUS COUNCIL
SUBJECT TO THE CONDITIONS SET FORTH IN
INTIMATION OF PERMISSION

STRATHMARTINE

NORTH



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CUPAR, FIFE, KY15 4HS. TEL. 01334-654936
e-mail. admin@montgomery-forgan.co.uk



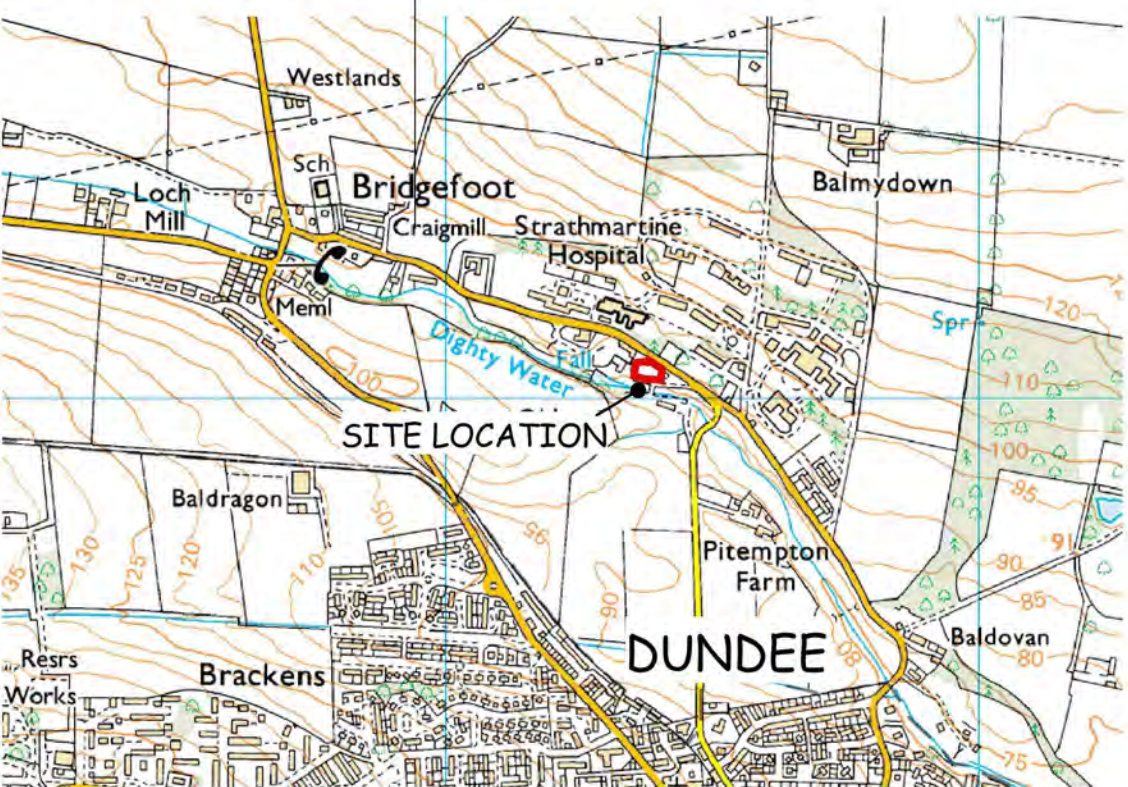
Project
**PROPOSED ERECTION OF THREE
DWELLING HOUSES AT
GRANTS (CRAIGMILLS) CARAVANS,
STRATHMARTINE BY DUNDEE**

Drawing
LOCATION / SITE PLAN

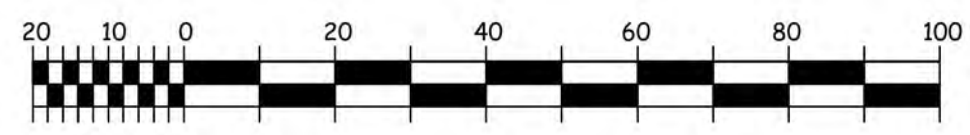
Scale 1:1000 Date JANUARY 2015
Drawn Checked

Drawing Number Revision
5111 / C / 02 A

LOCATION PLAN (NTS)



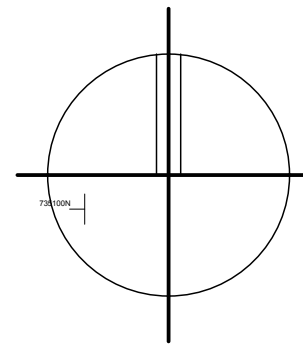
LOCATION PLAN 1:1000



SCALE 1:1000 m

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ARCHITECTS +
TOWN PLANNING
CONSULTANTS

EDEN PARK HOUSE
CUPAR, FIFE, KY15 4HS. TEL.01334-654936 FAX 01334-656629
e-mail: admin@montgomery-forgan.co.uk



Project
PROPOSED ERECTION OF THREE
DWELLING HOUSES AT
GRANTS (CRAIGMILLS) CARAVANS,
STRATHMARTINE BY DUNDEE

Drawing
BLOCK PLAN

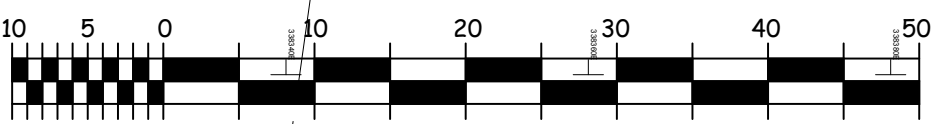
Scale Date
1:500 @ A3 FEBRUARY 2012
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Drawing Number Revision
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Document 4

Copy of planning permission and approved layout for adjacent
28 holiday caravan site (Ref. 09/00854/FULL and 12/01054/FULL)

ANGUS COUNCIL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008



PLANNING PERMISSION APPROVAL
Reference 12/01054/FULL

To: **Grants (Craigmills) Caravans**
c/o Montgomery Forgan Associates
Eden Park House
Eden Park
Cupar
KY15 4HS

With reference to your application dated **15 November 2012** for planning permission under the above mentioned Acts and Regulations for the following development viz:-

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (As Amended) so as not to comply with Condition 1 of Planning Permission Ref. 09/00854/FUL Request a Further 3 Years to Commence Development at Grants Caravan Park Strathmartine Dundee DD3 0PH for Grants (Craigmills) Caravans

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as approved on the Public Access portal. The permission is subject to the following conditions, namely:-

- 1 That the development granted planning permission under the provisions of planning permission reference 09/00854/FUL shall be begun before 7 January 2016.
- 2 That the discharge of surface water to the water environment be in accordance with the principles of SUDS (Sustainable Drainage Systems) Manual (C697) published by CIRIA, or as subsequently amended unless otherwise approved in writing by the planning authority.

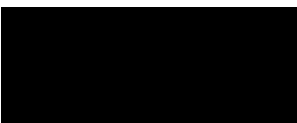
The foregoing conditions are imposed by the Council for the following reasons:-

- 1 In order that the planning authority may review the suitability of the development having regard to relevant development plan policy in the event that the development does not commence within the specified period.
- 2 In order that surface water from the development is dealt with in an acceptable manner.

The reason(s) for the foregoing decision by the Council are as follows:-

The proposal will allow an extended time period for implementation of planning permission ref: 09/00854/FUL which provides for a holiday caravan site which is in accordance with the development plan. There are no material considerations that justify refusal of the application.

Dated this **11 January 2013**



Head of Planning and Transport,
Infrastructure Services,
County Buildings,
Market Street,
FORFAR DD8 3LG

NOTES

The decision was based on the following amendment(s):-

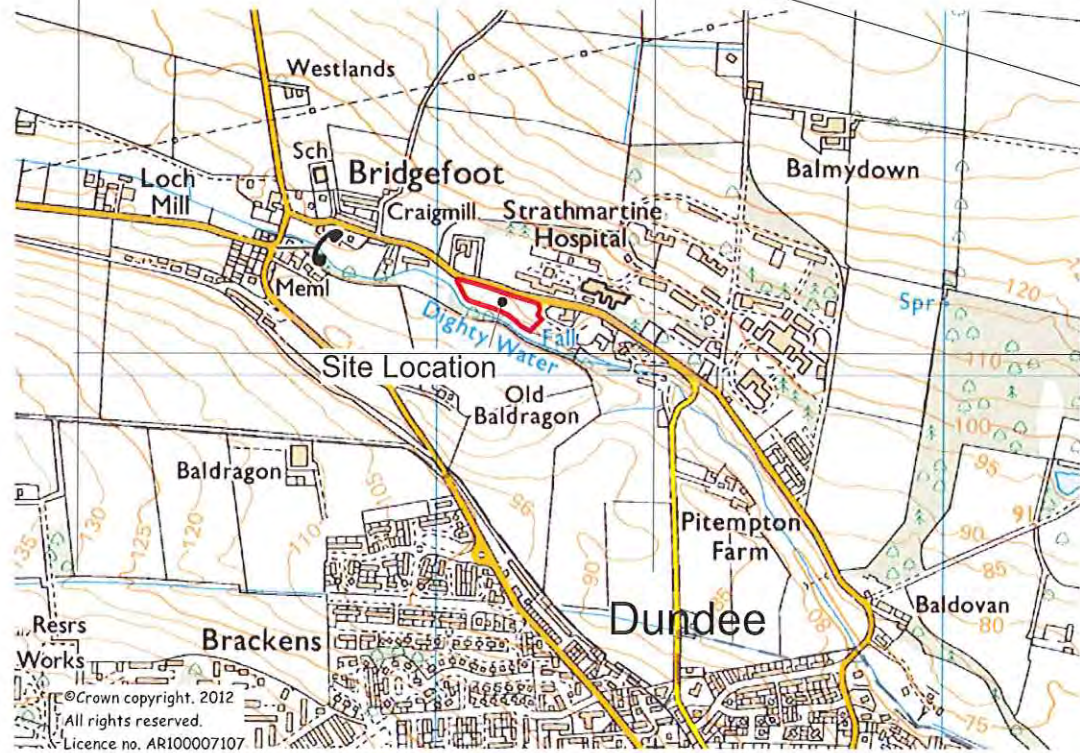
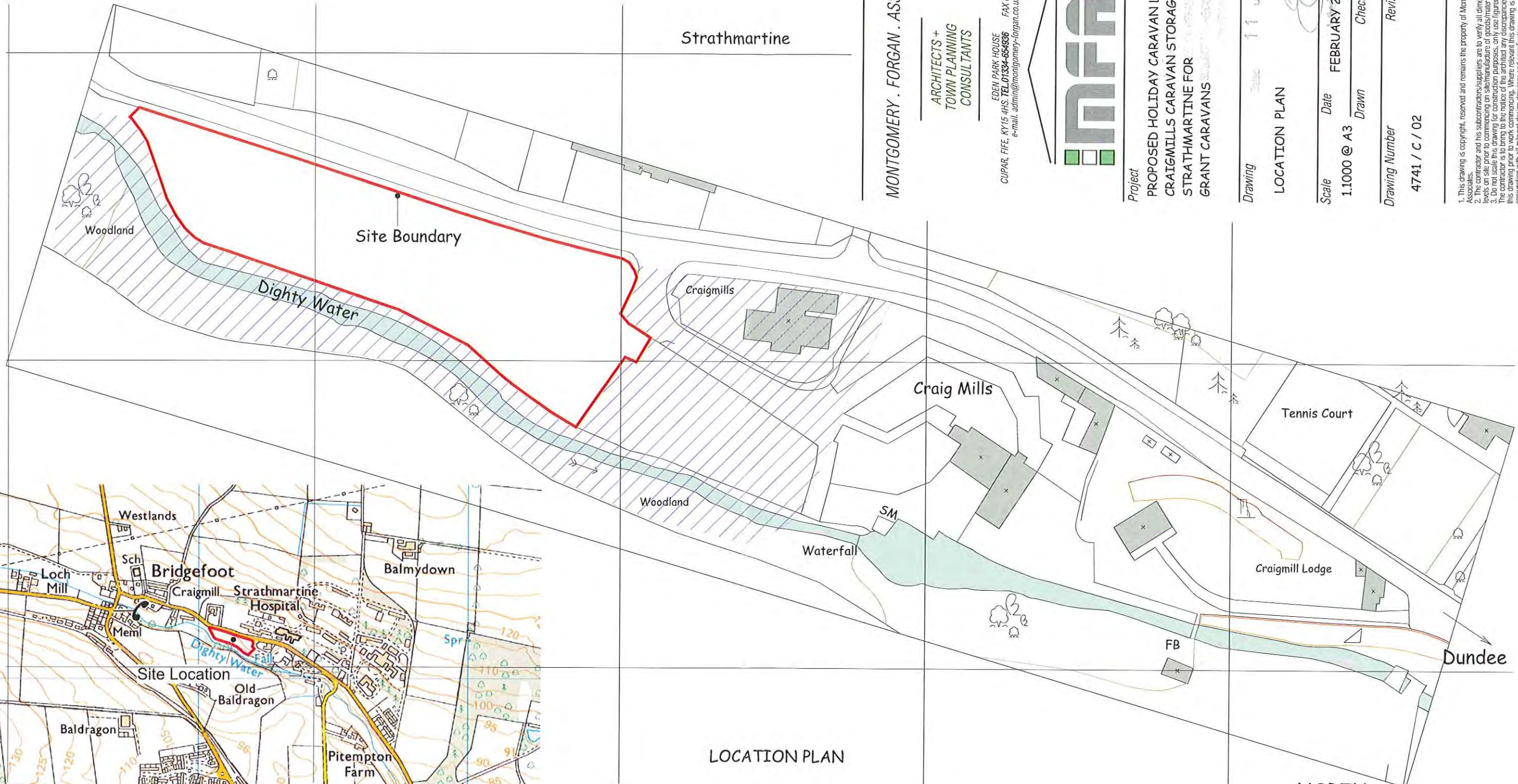
1. None.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Acts 1959 and 1970, Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004.

WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS

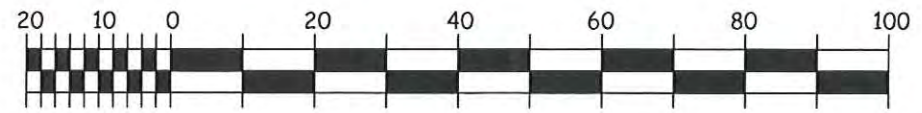
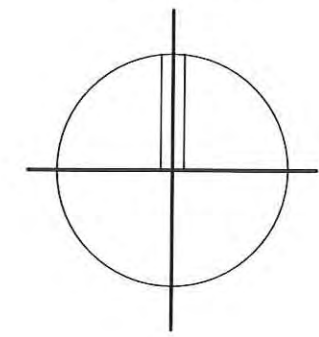
Craigmill

Strathmartine



LOCATION PLAN

NORTH



SCALE 1:1000 m

MONTGOMERY . FORGAN . ASSOCIATES

ARCHITECTS + TOWN PLANNING CONSULTANTS

EDEN PARK HOUSE CUPAR, FIFE, KY15 4HS. TEL: 01334-654566 e-mail: admin@montgomery-forgan.co.uk FAX: 01334-656629



Project

PROPOSED HOLIDAY CARAVAN LAYOUT CRAIGMILLS CARAVAN STORAGE SITE STRATHMARTINE FOR GRANT CARAVANS

Drawing

11 JAN 2013

LOCATION PLAN

Scale

Date FEBRUARY 2009

Drawn

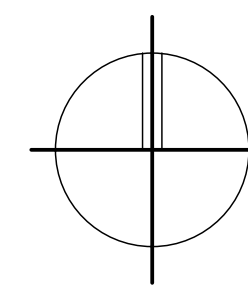
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Drawing Number

Revision

4741 / C / 02

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1. Soft Landscaping Specification

1.1 General

All soft landscaping operations to be undertaken in accordance with best horticultural practice and in compliance with BS 4428 - General Landscape Operations. Works shall be carried out in strict compliance with the conditions of the planning permission.

1.2 Work to and Protection of Existing Trees and Hedges

All arboricultural work shall be carried out by an experienced and qualified arborist, in accordance with best practice and in compliance with BS 2998 (1989). Following the approved tree felling and hedge removal programme, all remaining trees and hedges to be retained will be fully protected during the construction period in strict accordance with BS 5837 (2005). This will involve the erection of robust protective fencing (1.2 metre high chestnut pale on post and rail framework) and warning signs advising site operatives of the need to avoid damage to root zones and tree crowns.

1.3 Ground Preparation

Imported topsoil, if required, shall comply with B.S. 3882 and shall be a good quality top-split loam of medium texture, neutral to slightly acid reaction (pH 6.5 - 7.00), free from weeds, straw sticks, stones, clay lumps and other deleterious material. It shall be fertile, with a good humus and fibre content, and possess a good crumb structure.

Topsoil depths shall be as follows :-
 Seeded and turfed areas - 150mm min. depth
 Tree pits [standard trees] - 650mm dia. x 450mm depth
 Tree pits [heavy standard trees & conifers] - 900mm dia. x 500mm depth
 Shrub beds - 400mm depth

Trees The base of tree pits shall be well loosened to a depth of 150mm and the sides scarified before backfilling with 1 part peat-free compost, complying with BS PAS 100, to 3 parts approved quality topsoil.

Shrub beds The bases of the shrub beds shall be thoroughly loosened to a depth of 150mm and the sides scarified before backfilling. Shrub beds to be backfilled with 1 part peat-free compost, complying with BS PAS 100, to 3 parts approved quality topsoil.

1.4 Tree and Shrub planting

Tree and shrub planting shall take place during open weather and ground conditions between 1st November and 15th April. Container grown or rootballed stock may be planted out with this period subject to approval. All bare rooted plants to be treated with Alginate root dip immediately prior to planting and to receive Enmag, or equivalent slow release fertiliser at time of planting; rate to vary depending on size of plants. 900mm diameter area around each tree in grass to be kept wholly weed-free and all plants firmed in up to completion. All bare rooted trees and thicket plants will, at all times following lifting, be stored in coextruded bags until immediately before planting. Rootballed trees will have their roots firmly wrapped in natural hessian. Trees delivered with rootballs wrapped in polypropylene or other non-degradable mesh will be rejected. Heavy standard trees to be supported using 1 No. 65mm dia. round peeled larch stake and 2 No. non-chaffing rubber spacers and ties. Standard trees to have 50mm dia. round peeled larch stake and 2 No. non-chaffing rubber spacers and ties. Specimen conifers to be supported using 3 No. 50mm dia. round peeled larch stakes and rubber ties. Stakes for conifers to set in triangular fashion around each tree and tops to be a maximum of 300mm above finished ground levels. Holes excavated for planting trees and shrubs shall be large enough to allow root systems to be placed in the ground without constriction, prior to backfilling.

2. Maintenance

2.1 Establishment Maintenance

The following schedule of maintenance operations shall be carried out during the establishment period:

Trees & Shrubs: Weed control - 6 visits per growing season using hand and/or chemical weeding to keep weed free at all times.
 Check and re-firm plants each visit.
 Selective pruning - 1 visit per year.
 Hard cutting back - 1 visit per year.
 Check and adjust tree stakes and ties - 3 visits per year.
 Watering as necessary and where practicable.
 Selective treatment of any pests and diseases as necessary and appropriate.
 Reinstatement of all losses at the end of the first growing season.
 Apply 50mm depth of bark mulch to all tree pits and hedge trenches at end of the first growing season.

NOTE: All Pesticide and Herbicide use to be as low as possible and in strict accordance with COSHH regulations. Only operators holding a current certificate of competence must specify, handle, mix, apply and dispose of any herbicides and/or pesticides.

2.2 Plant Replacements and Hand Over to Long Term Maintenance

Prior to the end of the Defects Liability Period all plant losses will be reinstated using stock of equal quality to that originally specified. Thereafter there will be an annual inspection of planting and beating up where required. At the end of the establishment maintenance period and prior to hand over, all defects will have been made good and all soft and hard landscape areas will be in a neat and tidy condition. Tree surrounds and shrub beds will be free of all weeds and litter. Staked trees will have been inspected and ties adjusted as appropriate and any minor damage to branches neatly pruned.

2.3 Long Term Landscape Maintenance

On satisfactory completion of the works, arrangements will have been put in place for the maintenance of any common areas of hard and soft landscaping. The annual maintenance programme for the initial years following hand over will comprise:

Trees & Weed control - 6 visits per growing season using hand and/or
 Shrubs: chemical weeding to keep weed free at all times.
 Check and re-firm plants each visit.
 Selective pruning - 1 visit per year.
 Hard cutting back - 1 visit per year.
 Trimming - continuous.
 Check and adjust tree stakes and ties - 3 visits per year.
 Watering as necessary and where practicable.
 Selective treatment of any pests and diseases as necessary and appropriate.
 Reinstatement of all losses at the end of growing season.
 Top up bark mulch to all tree pits at end of growing season.

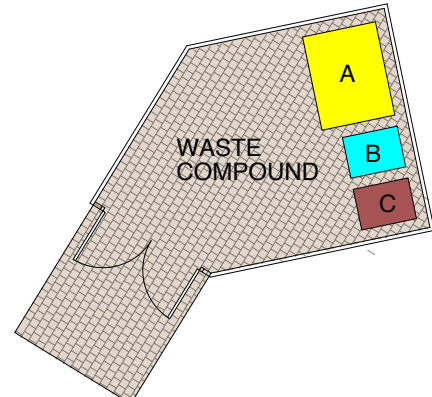
Health & Safety Note
 These landscaping proposals have been prepared without full knowledge of the location of underground services such as water, gas, electricity and the like. The positions of trees etc. may have to be altered in order to comply with safety clearance zones



PLANTING LEGEND

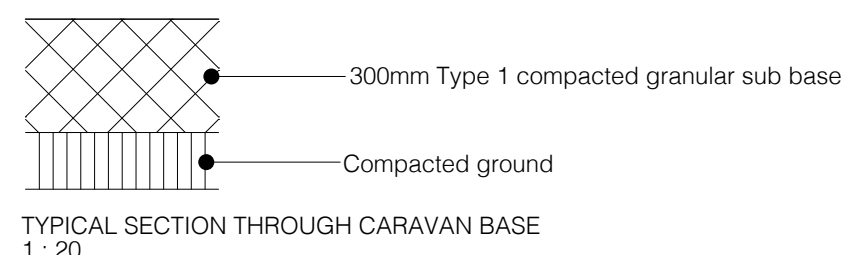
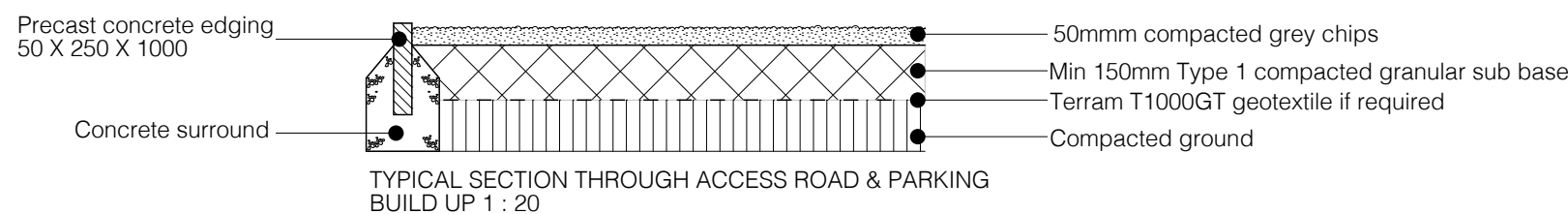
- Betula Pendula Youngii (Young's weeping Birch)
- Sorbus aucuparia Asplenifolia (Cut leaved Rowan)
- Chamaecyparis lawsoniana 'Pembury Blue' (False Cypress)
- Juniperus communis Hibernica (Juniper)
- Prunus laurocerasus Otto Luyken (Dwarf Laurel)
- Cedrus deodara Feelin' Blue (Blue Cedar)
- Vitis coignetiae (Crimson Glory Vine)
- Topsoil dressed with pebbles or bark

Waste Management

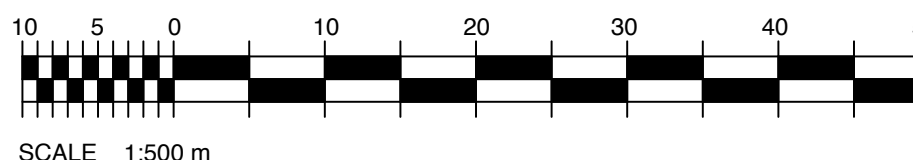


- A : 1 x 1280 litre wheeled container for landfill
- B : 1 x 240 litre wheeled container for paper / cardboard
- C : 1 x 240 litre wheeled container for glass & plastics

All containers emptied twice weekly by Angus Council Waste Management Service
 Compound to have concrete block paving base and 1.8m timber palisade fence & gates



SUDS : Surface water discharge from site to be dealt with via sub surface porous material providing natural drainage



Rev 'A' - November 2015
 Additional notes / details added

MONTGOMERY . FORGAN . ASSOCIATES

ARCHITECTS +
 TOWN PLANNING
 CONSULTANTS

EDEN PARK HOUSE
 CUPAR, FIFE, KY15 4HS. TEL. 01334 654936 FAX 01334 656629
 e-mail. admin@montgomery-forgan.co.uk



Project
 PROPOSED HOLIDAY CARAVAN LAYOUT
 CRAIGMILLS CARAVAN STORAGE SITE
 STRATHMARTINE FOR
 GRANT CARAVANS

Drawing
 SITE PLAN 28 UNITS
 12' X 40' (1 No 36' + 2 No 38')

Scale Date NOVEMBER 2015
 1.500 @ A3 Drawn Checked

Drawing Number Revision
 4741 / C / 01 'A'

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Document 5

Sample purchase agreement

PURCHASE AGREEMENT

for a Caravan Holiday Home at



PURCHASE AGREEMENT

for a Caravan Holiday Home

at

SELLER (PARK OWNER) (referred to as “we/us/our” throughout this Purchase Agreement):

| | | | |
|-----------------------|----------------------|----------------|----------------------|
| BUSINESS NAME: | <input type="text"/> | | |
| ADDRESS: | <input type="text"/> | | |
| CONTACT: | <input type="text"/> | | |
| TELEPHONE DAY: | <input type="text"/> | E-MAIL: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

(If different from business name, address and contact details above)

| | | | |
|-----------------------|----------------------|----------------|----------------------|
| PARK NAME: | <input type="text"/> | | |
| ADDRESS: | <input type="text"/> | | |
| CONTACT: | <input type="text"/> | | |
| TELEPHONE DAY: | <input type="text"/> | E-MAIL: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

BUYER (referred to as “you/your” throughout this Purchase Agreement):

| | | | |
|-----------------------|--|---------------------------|----------------------|
| NAME/S: | <input type="text"/> | | |
| ADDRESS | <i>This Agreement does not permit you to use the Caravan as a permanent residence. The address below must be the only or main residence of the Caravan Owner/s to which all correspondence relating to the Caravan will be sent. You will be required to provide documentary evidence of residence at the address given:</i> | | |
| <input type="text"/> | | | |
| POST CODE: | <input type="text"/> | EMAIL: | <input type="text"/> |
| TELEPHONE DAY: | <input type="text"/> | TELEPHONE EVENING: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

CARAVAN DETAILS:

| | | | |
|-----------------------------------|----------------------|-----------------------------|----------------------|
| MAKE: | <input type="text"/> | MODEL TYPE: | <input type="text"/> |
| LENGTH: | <input type="text"/> | WIDTH: | <input type="text"/> |
| SERIAL NUMBER: | <input type="text"/> | | |
| MAXIMUM SLEEPING CAPACITY: | <input type="text"/> | YEAR OF MANUFACTURE: | <input type="text"/> |
| LOCATION ON PARK: | <input type="text"/> | PITCH NUMBER: | <input type="text"/> |

| | | | |
|------------------------------|---|---|---|
| | AGREED PURCHASE PRICE | £ | <input style="width: 100%;" type="text"/> |
| OPTIONS | <input style="width: 100%;" type="text"/> | £ | <input style="width: 100%;" type="text"/> |
| | <input style="width: 100%;" type="text"/> | £ | <input style="width: 100%;" type="text"/> |
| | AGREED TOTAL PURCHASE PRICE (including VAT where charged) | £ | <input style="width: 100%;" type="text"/> |
| SPECIAL INSTRUCTIONS: | | | |

PAYMENT:

| | | | | | | |
|--|----------------|---|---|---------------|---|---|
| | DEPOSIT | £ | <input style="width: 100%;" type="text"/> | | PAID | <input style="width: 100%;" type="text"/> |
| | | | | | | (dd/mm/yyyy) |
| ALLOWANCE FOR PART EXCHANGE | £ | <input style="width: 100%;" type="text"/> | | | | |
| | BALANCE | £ | <input style="width: 100%;" type="text"/> | DUE BY | <input style="width: 100%;" type="text"/> | |
| | | | | | (dd/mm/yyyy) | |
| ESTIMATED AVAILABILITY FOR USE ON THE PARK: FROM DATE | | | | | <input style="width: 100%;" type="text"/> | |
| | | | | | (dd/mm/yyyy) | |

All funds must be cleared before you take possession of the Caravan.

PITCH FEE:

| | |
|--|--|
| ANNUAL PITCH FEE: £ <input style="width: 100%;" type="text"/> | PAYABLE ON: <input style="width: 100%;" type="text"/> |
| including VAT where charged | (Payment Date - dd/mm) |
| PITCH FEE YEAR: STARTS <input style="width: 100%;" type="text"/> | ENDS: <input style="width: 100%;" type="text"/> |
| (dd/mm) | (dd/mm) |
| THE PITCH FEE IS REVIEWED EACH YEAR ON: <input style="width: 100%;" type="text"/> | THE NEXT PITCH FEE REVIEW DATE WILL BE: <input style="width: 100%;" type="text"/> |
| (Review Date - dd/mm) | (dd/mm/yyyy) |
| PITCH FEE DUE FOR CURRENT YEAR: £ <input style="width: 100%;" type="text"/> | CURRENT YEAR'S PITCH FEE DUE ON: <input style="width: 100%;" type="text"/> |
| including VAT where charged | (dd/mm/yyyy) |

RATES (local authority):

| | |
|--|---|
| ANNUAL RATES FOR CARAVAN: £ <input style="width: 100%;" type="text"/> | THE RATES ARE REVIEWED EACH YEAR. |
| RATES DUE FOR CURRENT YEAR: £ <input style="width: 100%;" type="text"/> | CURRENT YEAR'S RATES DUE ON: <input style="width: 100%;" type="text"/> |
| | (dd/mm/yyyy) |

SUMMARY OF SOME IMPORTANT TERMS OF THE LICENCE AGREEMENT TO KEEP THE CARAVAN ON THE PITCH:

AGREEMENT PERIOD STARTS: / / **ENDS:** / /
(Estimated date): (dd/mm/yyyy) (dd/mm/yyyy)

This means that once the Agreement Period has expired, you must arrange with us for the Caravan to be removed from the park unless you and we enter into a fresh agreement. There will be no obligation to enter into such an agreement on you or us.

RATE OF COMMISSION PAYABLE TO US ON RESALE OF CARAVAN ON THE PITCH: % of selling price achieved plus VAT

RIGHT TO REPLACE CARAVAN Your right to replace the Caravan on the pitch is limited to replacement only following destruction by fire, natural disaster or other similar occurrence.

NO USE AS A PERMANENT RESIDENCE The Caravan is for holiday and recreational use only. It would break this Licence Agreement if the Caravan were used as a permanent residence. These obligations are set out in clause 4.2 of the Licence Agreement.

YOU ARE ENTITLED TO USE THE CARAVAN EACH YEAR **FROM:** / **TO:** /
(dd/mm) (dd/mm)

PARK RULES You must comply with the Park Rules (copy attached).

INSURANCE You must insure the Caravan in accordance with clause 4.5 of the Licence Agreement.

HIRING OUT THE CARAVAN is permitted is not permitted

Where hiring out the caravan is permitted, for holiday and recreational use only it is subject to a separate agreement between us and you and will be on the following basis:

voluntary voluntary and must be undertaken exclusively through us compulsory compulsory and must be undertaken exclusively through us

This Purchase Agreement is subject to the terms and conditions printed overleaf.
A copy of the Licence Agreement setting out the full terms under which the Caravan will be sited together with the Park Rules is attached to this agreement.

SIGNATURES:

Only sign this legally binding agreement if you fully understand its terms and conditions.

SELLER (PARK or representative):

(signature)

(name)

BUYER(S) (all parties must sign):

(signature/s)

(name/s)

DATE OF AGREEMENT:

(dd/mm/yyyy)

There should be two signed copies of this agreement, one kept by the buyer and one kept by the seller (Park).

TERMS AND CONDITIONS OF SALE

1. We are pleased to accept your order as set out above. You are encouraged to take time to read all the details of this Purchase Agreement and the related Licence Agreement. If you decide not to proceed within a period of 5 days from the date of this order, you can cancel by giving us notice in writing without penalty.

Where you have breached the agreement by cancelling outside the 5 day "cooling off" period, we will be entitled to recover our losses incurred in consequence.

2. We will notify you in writing when the Caravan is sited and ready for use. Any date given for the Start Date is approximate only and we shall not be liable for any delay if this occurs as the result of any cause beyond our reasonable control.

3. We expect you to pay the balance due for the purchase of the Caravan within 28 days after we have notified you under clause 2 above that it is ready for use. If you do not pay the balance due within 28 days after the day we inform you the Caravan is ready for use, we reserve the right to charge interest at 4% per annum over base rate from time to time of a London

clearing bank (in Northern Ireland, a Northern Irish Bank) nominated by us to cover the period from the end of that month until payment actually takes place.

4. If the rate of value added tax changes between the date of your order and the date of completion we will make the necessary adjustments to the amount of value added tax charged to you.

5. Risk of damage to or loss of the Caravan and ownership of the Caravan shall pass to you upon payment of the balance due actually taking place. You should therefore make your insurance arrangements to come into effect from that time. Please check your Licence Agreement to ensure you meet the insurance requirements and ask us about cover that may be available through our agency.

6. Nothing in these conditions will reduce your statutory rights relating to faulty or misdescribed goods. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens' Advice Bureau.

LICENCE AGREEMENT FOR A HOLIDAY CARAVAN PITCH

for a Caravan Holiday Home

at

Part I - Particulars

PARK OWNER (referred to as "we/us/our" throughout this Licence Agreement):

| | | | |
|-----------------------|----------------------|----------------|----------------------|
| BUSINESS NAME: | <input type="text"/> | | |
| ADDRESS: | <input type="text"/> | | |
| CONTACT: | <input type="text"/> | | |
| TELEPHONE DAY: | <input type="text"/> | E-MAIL: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

(If different from business name, address and contact details above)

| | | | |
|-----------------------|----------------------|----------------|----------------------|
| PARK NAME: | <input type="text"/> | | |
| ADDRESS: | <input type="text"/> | | |
| CONTACT: | <input type="text"/> | | |
| TELEPHONE DAY: | <input type="text"/> | E-MAIL: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

CARAVAN OWNER (referred to as "you/your" throughout this Licence Agreement):

| | | | |
|---|----------------------|---------------------------|----------------------|
| NAME/S : | <input type="text"/> | | |
| ADDRESS <i>This Agreement does not permit you to use the Caravan as a permanent residence. The address that you give below must be the only or main residence of the Caravan Owner/s to which all correspondence relating to the Caravan will be sent. You will be required to provide documentary evidence of residence at the address given:</i> | | | |
| <input type="text"/> | | | |
| POST CODE: | <input type="text"/> | EMAIL: | <input type="text"/> |
| TELEPHONE DAY: | <input type="text"/> | TELEPHONE EVENING: | <input type="text"/> |
| MOBILE: | <input type="text"/> | FAX: | <input type="text"/> |

CARAVAN DETAILS:

| | | | | |
|-----------------------------------|---|-----------------------------|----------------------|----------------------|
| MAKE: | <input type="text"/> | MODEL TYPE: | <input type="text"/> | |
| LENGTH: | <input type="text"/> | WIDTH: | <input type="text"/> | |
| | | SERIAL NUMBER: | <input type="text"/> | |
| MAXIMUM SLEEPING CAPACITY: | <input type="text"/> (number of persons) | YEAR OF MANUFACTURE: | <input type="text"/> | |
| LOCATION ON PARK: | <input type="text"/> | | PITCH NUMBER: | <input type="text"/> |

PITCH FEE:

| | |
|---|---|
| ANNUAL PITCH FEE : £ <input type="text"/> | PAYABLE ON: <input type="text"/> |
| including VAT where charged | (Payment Date - dd/mm) |
| PITCH FEE YEAR: STARTS <input type="text"/> | ENDS: <input type="text"/> |
| (dd/mm) | (dd/mm) |
| THE PITCH FEE IS REVIEWED EACH YEAR ON: <input type="text"/> | THE NEXT PITCH FEE REVIEW DATE WILL BE: <input type="text"/> |
| (Review Date - dd/mm) | (dd/mm/yyyy) |
| PITCH FEE DUE FOR CURRENT YEAR (apportioned): £ <input type="text"/> | CURRENT YEAR'S PITCH FEE DUE ON: <input type="text"/> |
| including VAT where charged | (dd/mm/yyyy) |

RATES [local authority]:

| | |
|---|--|
| ANNUAL RATES: £ <input type="text"/> | THE RATES ARE REVIEWED EACH YEAR. |
| RATES DUE FOR CURRENT YEAR: £ <input type="text"/> | CURRENT YEAR'S RATES DUE ON: <input type="text"/> |
| | (dd/mm/yyyy) |

SUMMARY OF SOME IMPORTANT TERMS OF THIS AGREEMENT:

AGREEMENT PERIOD STARTS:

(dd/mm/yyyy)

ENDS:

(dd/mm/yyyy)

This means that once the Agreement Period has expired, you must arrange with us for the Caravan to be removed from the park unless you and we enter into a fresh agreement. There will be no obligation to enter into such an agreement on you or us.

RATE OF COMMISSION PAYABLE TO US

ON RESALE OF CARAVAN ON THE PITCH:

% of resale price achieved plus VAT

RIGHT TO REPLACE CARAVAN

Your right to replace the Caravan under this agreement on the pitch is limited to replacement only following destruction by fire, natural disaster or other similar occurrence.

NO USE AS A PERMANENT RESIDENCE

The Caravan is for holiday and recreational use only. It would breach this Licence Agreement if the Caravan were used as a permanent residence. The consequences of breaching this Licence Agreement are set out in clause 4.2

YOU ARE ENTITLED TO USE THE CARAVAN EACH YEAR

FROM:

(dd/mm)

TO:

(dd/mm)

PARK RULES

You must comply with the Park Rules (copy attached).

INSURANCE

You must insure the Caravan in accordance with clause 4.5.

HIRING OUT THE CARAVAN

is permitted

is not permitted

Where hiring out the caravan is permitted for holiday and recreational use only, it is subject to a separate agreement between us and you and will be on the following basis:

voluntary

voluntary
and must be
undertaken
exclusively
through us

compulsory

compulsory
and must be
undertaken
exclusively
through us

PITCH SERVICES:

| | Available with payment included within the Pitch Fee | Available at additional charge | Not Available |
|--|---|---|--------------------------|
| Water | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Electricity | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gas | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Grounds Maintenance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sewerage | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Land Drainage | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Waste Management | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="text" value="other service"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="text" value="other service"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="text" value="other service"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SIGNATURES:

Only sign this legally binding agreement if you have read it and fully understand its terms and conditions. Please discuss with us any terms you do not understand or do not wish to agree to, before signing.

PARK OWNER (or representative):

(signature)

(name)

CARAVAN OWNER(S) [all parties must sign]:

(signature/s)

(name/s)

DATE OF AGREEMENT:

(dd/mm/yyyy)

There should be two signed copies of this Licence Agreement, one kept by you and one kept by us.

Part II Terms and Conditions of this Licence Agreement

I. Meaning of Expressions used in this Licence Agreement and Interpretation:

- I.1 “Agreement Period”** means the period shown as the Agreement Period in Part I.
- I.2 “Caravan”** means the caravan holiday home described in Part I.
- I.3 “Commission”** means the payment you must make to us if you sell the Caravan on the pitch and we issue a fresh agreement to the new owner. Clause 6 of this Licence Agreement sets out the procedure we and you must follow if you decide to sell the Caravan.
- I.4 “Family Member”** means your spouse, civil partner, parent, grandparent, child, grandchild, brother or sister, and the spouse of any of those persons and treating the stepchild of any person as his child.
- I.5 “Hire/Hiring out”** means the act of obtaining payment (whether in cash or in kind) for the use of the Caravan by persons (other than you).
- I.6 “Independent Surveyor”** means the surveyor appointed under clause 16 for the purpose of determining any dispute under clause 9 of this Licence Agreement or for the purpose of assessing the value of the Caravan under clause 13.
- I.7 “Inflation”** means the movement of the General Index of Retail Prices published by the Office of National Statistics starting from the date of this Agreement. The expression is referred to in the following provisions of this Agreement:
- The issue of a charge for noting policy details under clause 4.5.3 or
 - The review of the annual pitch fee under clause 8.4 or
 - Calculating the sum due from you before we are entitled to retain the Caravan under clause 13.5
- If it becomes impossible to measure Inflation by means of the General Index of Retail Prices then we agree to do so by some other index having a similar purpose published by a public body.
- I.8 “Park Rules”** means the rules of conduct and practice issued by us from time to time and applicable to the use of the Caravan and other

facilities at the Park. A copy of the Park Rules in force at the date of this Licence Agreement is attached.

- I.9 “Pitch”** does not include any part of the Park except that on which the Caravan stands.
- I.10 “Pitch Services”** means the services which we provide for you and which are listed in Part I.
- I.11 “Review Date”** means the day set out in Part I on which the Pitch Fee is changed under clause 8 below.
- I.12 “Site Licence”** means the caravan site licence applicable to the Park issued to us by the local authority under Section 3 of the Caravan Sites and Control of Development Act 1960 (or in the case of Northern Ireland under Section 3 of the Caravans (Northern Ireland) Act 1963) and other relevant statutes.
- I.13 “we/our/us”** means the Park Owner described in Part I.
- I.14 “Working Days”** means Monday, Tuesday, Wednesday, Thursday and Friday, unless these are Bank Holidays.
- I.15 “you/your”** means the Caravan Owner described in Part I. Where there is more than one person described as the Caravan Owner in this Licence Agreement each is fully responsible for the obligations under this agreement.
- ### 2. Permission to keep the Caravan on the Pitch
- 2.1** We permit you throughout the Agreement Period to keep the Caravan on the Pitch at the Park and to use it for holiday and recreational purposes during the period each year described in Part I.
- 2.2** This Licence Agreement is personal to you and may not be assigned or transferred to any other person.
- 2.2.1** The Licence Agreement comes to an end when you sell or transfer the Caravan to anyone else including a Family Member.
- 2.2.2** However, we will give a new licence agreement on the terms set out in clauses 6 and 7 below, giving equivalent permission to keep the Caravan on the Pitch on terms no less favourable than those contained in this Licence Agreement:
- To a buyer who is approved by us or
 - To a Family Member who is approved by us to whom you give the Caravan or

● To a Family Member who is approved by us and who inherits the Caravan. We will undertake any enquiries under this clause with reasonable diligence and we will notify you of our approval, or, in writing that our approval is to be withheld, as soon as is reasonably practicable. We will only withhold approval of a prospective buyer or Family Member on reasonable grounds.

2.2.3 The benefits of any payment made in relation to the pitch fees and charges made under the previous Licence Agreement will be transferred to the new licence agreement.

2.3 This Licence Agreement does not entitle you to purchase any alternative or replacement caravan except in the event of a total loss of the Caravan by fire or some similar occurrence. You will then be entitled to arrange for us to site a replacement caravan of a similar type and size as the Caravan.

3. Our Obligations

We agree with you as follows:

3.1 We will provide, maintain and keep in good state of repair the Pitch Services to the Caravan except where these have to be interrupted for the purposes of repair or for other reasons beyond our control such as interruptions in the supply of services to us.

3.2 We will move the Caravan from the Park or the Pitch only in accordance with the provisions of clauses 9, 11 and 13.

3.3 We will notify you of any changes to the Park Rules in writing as outlined in clause 14.

3.4 We will comply with our obligations if you terminate this Licence Agreement under clause 12.

3.5 We will insure the Park against usual third party risks to a minimum of £2m per claim.

4. Your Obligations

You agree with us as follows:

4.1 To comply with the terms of this Licence Agreement and the Park Rules.

4.2 To use the Caravan only for holiday and recreational purposes (and not as your only or main permanent residence). You agree to produce to us in response to a written request satisfactory proof that your main residence is

at the address registered with us (set out in Part I of this Licence Agreement), such as a council tax bill, utility bill or driving licence in your name. You agree to inform us in writing of any change in your permanent address.

4.3 To pay the Pitch Fee and other charges due to us on the days set out in Part I.

4.4 To pay to us interest at 4% per annum over base rate from time to time of a London clearing bank (in Northern Ireland, a Northern Irish Bank) nominated by us on any undisputed sums overdue.

4.5 To insure the Caravan against all usual risks including fire and smoke, explosion, lightning and thunderbolt, earthquake, riot, civil commotion, strikes and labour disturbances, aircraft and other aerial devices or anything dropped or falling from them, storm or flood, theft or attempted theft, escape of water or oil from any fixed domestic water or heating installation, collision by any vehicle or animal, breakage or collapse of television or radio aerials, satellite receiving dishes, their fittings or masts, malicious acts or vandalism, water freezing in any fixed domestic water or heating installation, falling trees, telegraph poles or lampposts or any parts of them, accidental damage to underground service pipes and cables for which you are responsible, accidental breakage to fixed glass in windows, doors, fanlights and skylights and ceramic hobs in fixed appliances, accidental breakage of sanitary fixtures, subsidence, heave or landslip of the site on which the Caravan stands, accidental damage, architects, surveyors legal and other fees to re-build or repair the Caravan, cost of removing debris, demolishing, propping up or supporting parts which have been damaged, the additional costs of rebuilding or repairing the damaged parts of the Caravan to meet any Government or Local Authority requirements, cost incurred in the delivery and/or re-siting of any structure at the insured premises, loss of rent and alternative accommodation, Property Owners Liability, Public and Employees Liability.

4.5.1 The sum insured for loss of or damage to the Caravan shall include the following:

4.5.1.1 the retail price on the Park of a new caravan of a similar type and size to the Caravan,

4.5.1.2 the cost of replacing any existing ancillary structures (for example steps),

4.5.1.3 the cost of clearing wreckage from the Pitch and disposing of the Caravan destroyed by fire, natural

disaster or other similar occurrence, and
4.5.1.4 the cost of delivery, siting and connecting the new caravan (if not included in the retail price).

4.5.2 The sum insured for Property Owners Liability, Public and Employees Liability shall not be less than £2,000,000.

4.5.3 Unless you insure through our agency or by using our brokers, you agree to provide proof of insurance by providing us with a copy of your insurance details each year and to pay us an annual fee of £35 plus VAT for verifying the level of cover, maintaining administrative records, copying and invoicing. This fee is to change each year in line with Inflation up to the previous Review Date.

- 4.6** To keep the Caravan in a good state of repair and condition both visually and structurally and so as to retain its mobility and in a safe, habitable state including the repair and maintenance of all installations and appliances and undertaking and/or commissioning all relevant periodic safety checks.
- 4.7** Not to do or omit to do anything which might put us in breach of any condition of the Site Licence which is available on the park in a conspicuous place and to comply with all statutory requirements (including any relevant planning permissions) in relation to the Caravan and its installations and furnishings. For example, the conditions of the Site Licence which are likely to affect you are those requiring the space between caravans to be kept clear, those prohibiting combustible structures between caravans, those regarding car parking and those requiring the underside of caravans to be kept clear.
- 4.8** Not to carry out any building works at the Park or to erect any extension to the Caravan or without our written permission to erect any hut, fence, structure, TV aerial or clothes line or to connect any services or utilities to the Caravan. We will only withhold our consent to such works on reasonable grounds.
- 4.9** To give us written notice of any work to be carried out to the Caravan by external contractors and to ensure all contractors employed by you provide us with the relevant documentation so that we can check their insurance and competence in order to maintain a safe environment on the Park at least seven days before the contractors start work (or in the case of emergency, as much notice as possible).

4.10 To permit us to remove the Caravan from the Pitch in accordance with the rights we have under clauses 9, 11 and 13 of this Licence Agreement.

4.11 You have an obligation to arrange with us the removal of the Caravan from the Park following the expiry of the Agreement Period (for whatever reason) in accordance with clause 13.1. To maintain standards on the Park and to prevent damage to the Park and its installations, any work in de-siting or removing the Caravan (even after termination of this Licence Agreement) must be done by us or by our contractors. You agree to pay us for removing the Caravan from the Park or for moving the Caravan at your request. Our charges will be reasonable and based on the time spent and the work done and shall not exceed those of a written quotation for having the work carried out by an appropriately competent and a suitably qualified and experienced independent contractor(s) and in accordance with industry guidance. We will provide you with a written quotation for any work in de-siting or removing the Caravan. If within 14 days of receiving our written quotation, you provide us with a written quotation for the same work to be carried out by an appropriately competent and experienced independent contractor(s) and in accordance with industry guidance, we will charge you no more than the independent contractor(s)' quotation for the work.

4.12 To comply with any requirement contained in Part I as to Hiring out the Caravan.

4.13 To comply with the provisions of clauses 6 and 7 below when selling or gifting the Caravan or when it is inherited.

4.14 To use the Caravan only during the period of year indicated in Part I of this Licence Agreement.

5. Behaviour Standards

By entering into this Licence Agreement you agree for yourself and all people who use or visit the Caravan (including in each case children in their party) to adopt the following standards of behaviour:

5.1 To act in a courteous and considerate manner towards anyone visiting, using or working on the Caravan or the Park including us, our staff, other customers of ours and users of other caravans and accommodation at the Park.

- 5.2** To supervise children properly so that they are not a nuisance or danger to themselves or others.
- 5.3** Not to:
- 5.3.1** commit any criminal offence at the Park or use the Caravan in connection with any criminal activity.
 - 5.3.2** commit any acts of vandalism or nuisance.
 - 5.3.3** use fireworks.
 - 5.3.4** keep or carry any firearm or any other weapon at the Park.
 - 5.3.5** use any unlawful drugs.
 - 5.3.6** create undue noise or disturbance.
 - 5.3.7** carry on any trade or business at the Park.
 - 5.3.8** permit anyone who is to your knowledge on the Sex Offenders Register compiled under the Sex Offenders Act 1997 to use or visit the Caravan.
- 5.4** You accept that any breach of these behaviour standards may bring about the termination of this Licence Agreement. Termination by us is dealt with by clause 11. Any serious breach may result in termination of this Agreement under clause 11.1.

6. Selling the Caravan

- 6.1** You may sell the Caravan in one of three ways:
- 6.1.1** To us if we agree
 - 6.1.2** Or on the Pitch to a buyer approved by us in accordance with the provisions of clause 6.2
 - 6.1.3** Or off the park so long as you arrange the removal of the Caravan through us and pay our charges for de-siting and removing the Caravan from the Pitch in accordance with clause 4.11 above.
- 6.2** You agree the procedure for selling the Caravan on the Pitch as follows:
- 6.2.1** You agree to write and tell us if you are putting the Caravan on the market for sale while it remains on the Park and to write to us again if you change your mind and decide not to sell the Caravan. You agree to tell us in writing whether the Caravan is subject to finance and if it is, to give us the name of the company and the reference number of the finance agreement.
 - 6.2.2** You arrange all relevant safety checks by competent contractors, for example for gas and electrical installations to ensure the safety of the Caravan and produce the certificates to us on request.
 - 6.2.3** You market the Caravan and find a buyer.

6.2.4 You agree to write to us telling us the price at which you intend to sell the Caravan to your buyer in which case we are entitled to buy the Caravan from you, for the same price, without charging you any Commission during the five Working Days after our receiving your letter. If we wish to buy the Caravan under this arrangement, we will notify you in writing by first class post. If we buy the Caravan from you in this way, we may only deduct from the purchase price we pay to you sums which are lawfully due to us under this Licence Agreement and any sum needed to settle outstanding finance. We shall send you the payment for the Caravan within five Working Days after sending you notification of our decision to purchase the Caravan.

6.2.5 If we decide not to purchase the Caravan, you agree to allow us to vet your prospective buyer by seeking suitable references and carrying out the enquiries we consider to be appropriate. As such, you agree to inform us of the name and address of your prospective purchaser. If we wish to we may require a meeting with your buyer in person. We will undertake any enquiries under this clause with reasonable diligence and we will notify you of our approval, or, in writing that our approval is to be withheld, as soon as is reasonably practicable. We will only withhold approval of a prospective buyer on reasonable grounds.

6.2.6 The transaction must be conducted through our office and you appoint us your agent for that purpose. We will receive all purchase moneys from your buyer and will promptly pay and account to you for the same, subject to discharging any finance outstanding on the Caravan of which you have notified us in writing and payment to us of the Commission and VAT.

6.2.7 Where we have approved your buyer and the sale has been transacted, we will give him a new agreement for the length of time the Agreement Period is still to run. In other respects the new agreement will contain no less favourable terms to your buyer than this Licence Agreement.

6.2.8 Before we issue the new agreement to your buyer we will charge you a Commission at the percentage rate (plus VAT) stated in Part 1 of this Licence Agreement of the price paid for the Caravan as explained in clause 6.2.6 unless we are proven to be in serious breach of our obligations under this Agreement.

6.2.9 Apart from the Commission, we will not make any other charges to you or to the buyer of the Caravan without your or

the buyer's express agreement or unless additional rights or services are agreed between the parties.

6.3 The rights to sell the Caravan contained in this clause 6 may be exercised by your personal representatives after your death.

7. Giving the Caravan away

7.1 You have the right to make a gift of the Caravan to a proven Family Member including on your death either by will or as the result of the operation of the law relating to intestacy as long as we approve the Family Member who receives the gift.

7.2 If you give the Caravan to a Family Member or a Family Member inherits the Caravan following your death, the Family Member may apply to us for an agreement to keep the Caravan on the Park, provided that

7.2.1 the Family Member permits us to seek suitable references and to carry out appropriate enquiries,

7.2.2 he attends a meeting with us should we require one and

7.2.3 we are reasonably satisfied that the Family Member will comply with equivalent obligations to your obligations under this Licence Agreement.

We will give that Family Member an agreement for the term of the Agreement Period which then remains unexpired, and otherwise containing no less favourable terms to the Family Member as this Licence Agreement is to you, without charge.

7.3 The rights contained in this clause 7 do not affect the right of your personal representatives to sell the Caravan in accordance with the procedure set out in clause 6 above as if "you" in that clause referred to the personal representative(s).

7.4 We will undertake that any enquiries that we may make under this clause are carried out with reasonable diligence and we will notify you of our approval, or, in writing, that our approval is to be withheld, as soon as is reasonably practicable. Our approval will not be unreasonably withheld.

8. Review of Pitch Fees

8.1 On the Review Date we are entitled to change the Pitch Fee. We must give you at least one month's notice in writing before the Review Date of a change in the Pitch Fee.

8.2 We will give you a written explanation of the reasons for any increase which is proposed.

8.3 The proposed reviewed Pitch Fee will become payable with effect from the Review Date unless not less than 51% of the owners of caravans affected by a proposed increase in the Pitch Fee write to us objecting to the proposal within 28 days. If that happens then you and we shall take the following steps:

8.3.1 Until the reviewed Pitch Fee is determined, you will continue to pay the Pitch Fee at the rate which was last payable under this Licence Agreement.

8.3.2 You will pay any shortfall between the rate at which Pitch Fees have been paid and the reviewed rate within 28 days after the reviewed Pitch Fee has been determined.

8.3.3 The question of the amount of the reviewed Pitch Fee will be determined either by agreement between you and us, or dealt with as a dispute under clause 16 below.

8.4 We will review the Pitch Fee having regard to the following criteria:

8.4.1 Any charges which are not within our control such as rates, water charges and other charges paid to third parties, including those caused by a change in the law or rates of taxation.

8.4.2 Inflation.

8.4.3 Sums spent by us on the Park and/or its facilities for the benefit of the owners of caravans.

8.4.4 Changes in our operating costs including those brought about by changes in the law or regulatory change and by taxation.

8.4.5 Market rates for pitch fees.

8.5 Clause 16 below applies in the event of dispute over a proposed increase in the Pitch Fee.

8.6 Where we review our charges so that you pay a separate charge for a service which was previously supplied and paid for through the Pitch Fee, we shall be obliged to reduce the Pitch Fee by an amount equivalent to the cost to us of supplying that service.

9. Moving the Caravan

9.1 Within the Agreement Period, we may wish to move the Caravan to another part of the Park and this clause sets out the basis on which we may do that, for example because we are redeveloping an area of the Park, or installing some facility or are required to comply with a Local Authority Site Licence condition or for

access to an area of the Park which cannot reasonably be gained by any other route.

9.2.1 We are allowed to move the Caravan for the purposes of redevelopment and/or maintenance of the Park and when this happens we will give you at least 28 days' notice in writing. If the Caravan has to be moved because of some emergency or because of works to be carried out by a third party over whom we have no control such as a water supply company or other utility company, we will give you as much notice as we can.

9.2.2 We will ensure that any temporary move to an alternative pitch of similar quality will be as short as reasonably practicable for the redevelopment and/or maintenance work.

- 9.3** We will be responsible for all reasonable costs incurred in moving the Caravan.
- 9.4** Following the movement of the Caravan, we are entitled to return the Caravan to its original Pitch or to site it permanently on another pitch. If the consequence of the redevelopment or maintenance work is that the original pitch is less pleasant, or if the move is permanent, we must offer an alternative pitch of similar quality to the original pitch as it was before the move.
- 9.5** Any dispute arising under clause 9.4 above as to the pleasantness of the alternative pitch or the question whether the original Pitch is of similar quality by reason of the development may be referred to the Independent Surveyor under clause 16 of this Licence Agreement. This does not restrict your right to seek dispute resolution through the courts.

10. Termination of the Licence Agreement

The Licence Agreement may come to an end in any of the following ways:

- 10.1** By you giving us notice in writing of your wish to end it.
- 10.2** Because the Agreement Period has come to an end.
- 10.3** By the sale of the Caravan or by you losing ownership of it.
- 10.4** By us terminating it because you have broken your obligations under this Licence Agreement.

11. When we may terminate the Licence Agreement

- 11.1** If you are in serious breach of your obligations under this Licence Agreement and the breach is not capable of being remedied or is such that it causes a breakdown in the relationship between you and us (for example violence or intentional damage to property), we may serve upon you reasonable notice in writing to terminate this Licence Agreement. In deciding what period of notice is reasonable, we shall have due regard to the nature of the breach.
- 11.2** If you are in breach of any of your obligations under this Licence Agreement which is capable of being remedied (for example such as a failure to comply with the behaviour standards in clause 5 or a failure to repair the Caravan (clause 4.6) or to pay Pitch Fees promptly (clause 4.3)), we may write giving you warning, specifying the breach and asking you to remedy the breach within a reasonable and specified time. If you do not comply with that warning and the breach is either serious and/or amounts to persistent breaches of obligation which taken individually would be minor but which taken together cause a breakdown in the relationship between us, we are entitled to write to you to end the Licence Agreement and to require you to make arrangements with us for the removal of the Caravan from the Park within 28 days.

12. When you may terminate the Licence Agreement

- 12.1** You are entitled to bring this Licence Agreement to an end by writing to us giving us not less than two months' notice. However if we have broken our obligations to you under this Licence Agreement and if as the result you are entitled to end this Licence Agreement you may give us a lesser period of notice but should still give us as much notice as possible.

13. The consequences of termination of the Licence Agreement

- 13.1** You will arrange with us for the removal of the Caravan and all other property of yours from the Park within one month after termination of this Licence Agreement however that comes about. In accordance with clause 4.11 above any work in de-siting or removing the Caravan must be done by us or through our contractors for which you agree to pay us our reasonable costs. Payment of our costs in the movement or de-siting of the Caravan will not be sought if we are proven to

be in serious breach of our obligations under this Agreement.

13.2 If following termination of the Licence Agreement you fail to arrange the removal of the Caravan through us, we are entitled to remove it ourselves after giving you not less than 14 days notice in writing of our intention to do so. If the Independent Surveyor confirms to us that the Caravan is not capable of selling for a sum sufficient to cover the costs of removal and sale, then you authorise us to dispose of the Caravan as we see fit and you will repay to us the costs we incur (acting reasonably) in removal and disposal of the Caravan.

13.3 Where you have terminated the Licence Agreement, we will repay to you at least on the scale set out below any Pitch Fees (excluding rates) and other charges which you have paid us for a period after the Licence Agreement has ended, less any sums properly due to us. Where the number of months since the payment date to the end of the month of termination is:

| Months since due payment date | Percentage refund due |
|--|------------------------------|
| Up to 1 | 80% |
| 1 to 2 | 70% |
| 2 to 3 | 60% |
| 3 to 4 | 50% |
| 4 to 5 | 40% |
| 5 to 6 | 30% |
| 6 to 7 | 20% |
| 7 to 8 | 10% |
| 8 to 9 or after 30th June each year | No refund |

The scale of percentage refund payments set out above does not prejudice any further action you take against us if we are proven to be in breach of our obligations under this Agreement.

13.4. Where we end the Licence Agreement, we will repay to you on the same scale set out in the table 13.3 above in full.

13.5 We have the right to retain the Caravan until you have paid any undisputed sum due to us on termination of this Agreement.

14. Park Rules

14.1 It may be necessary or desirable to change the Park Rules from time to time including for reasons of health and safety, the efficient running of the park, environmental issues or regulations imposed upon us, in which case

we will notify you in writing to your current address.

14.2 Any changes made after the signing of this Licence Agreement will not affect anything to which you are entitled under this Licence Agreement.

15. Hiring out the Caravan

15.1 Part I of this Licence Agreement makes it clear **15.1.1** whether or not you are allowed to Hire out the Caravan on a voluntary or a compulsory basis **15.1.2** and whether you must Hire out the Caravan exclusively through our agency.

15.2 If you are required to Hire out the Caravan exclusively through our agency, this means we can Hire out the Caravan for you. If Hiring out is permitted, whether compulsorily or voluntarily, it will take place on the basis of a separate agreement between us.

16. Disputes

16.1 In the event of a dispute that cannot be resolved between you and us, this Licence Agreement provides for disputes to be resolved by the following means:

16.1.1 We may agree between us to refer any dispute to an arbitrator (or in Scotland an arbiter) as an alternative to going to court but if you prefer to go to court this Licence Agreement does not in any way inhibit you from doing so.

16.1.2 We may refer questions arising under clause 9 or clause 13.2 to an Independent Surveyor.

17. Communications

17.1 We agree that any letters or other communications between us shall be sent to the address appearing in Part I unless we have told you or you have told us of another address to be used instead. Letters and other communications will not be addressed to you at the Caravan.

18. Statutory Rights

18.1 Nothing in these conditions will reduce your statutory rights relating to faulty or misdescribed goods. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens' Advice Bureau.

Attached: Park Rules



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Purchase Agreement with Licence Agreement (Reinsatement: 'New-for-Old')

Document 6

Relevant extracts of the adopted Angus Local Plan Review,
the proposed Angus Local Development Plan and Circular 4/1998

Angus Local Plan Review

2.58 The range and quality of accommodation is vital to developing tourism and extending the length of the tourist season. New build and conversions to provide growing and niche markets such as bunkhouses can add to choice of accommodation. Caravan and camping sites form an important part of the local tourist industry, particularly along the coastal strip and in some parts of Strathmore. Chalet developments are generally regarded as less visually intrusive than caravan parks and subject to meeting appropriate criteria they should be encouraged in suitable locations. It is important that developments are sensitively located and designed to provide quality facilities within the capacity of the environment and the local area.

Policy SC20 : Tourism Development

Development proposals to provide new or improved tourist related facilities/attractions and accommodation will be permitted and encouraged where they:

- **improve the range and quality of visitor attractions and tourist facilities and/or extend the tourist season;**
- **have no unacceptable detrimental effect on the local landscape or rural environment;**
- **are in keeping with the scale and character of adjacent buildings or surrounding countryside;**
- **are generally compatible with surrounding land uses; and**
- **accord with other relevant policies of the Local Plan.**

Policy SC21 : Caravan Sites and Holiday Chalets

Development proposals for static holiday and touring caravan sites will not be permitted on undeveloped coastline or in the Angus Glens. Holiday chalet developments will not be permitted on undeveloped coastline. Outwith these areas such development will be generally supported where:-

- (a) the site is in an unobtrusive location avoiding skylines, prominent hillsides and/or exposed flat sites;**
- (b) the site is designed to fit into surrounding landscape and incorporates:-**
 - (i) substantial landscaping and tree/shrub planting;**
 - (ii) appropriate density of chalets/pitches;**
 - (iii) satisfactory access arrangements and adequate parking;**
 - (iv) waste management facilities; and**
 - (v) suitable and adequate water supply and drainage arrangements.**

Angus Council will impose conditions on any planning permission to prevent the use of holiday chalets for permanent residential occupation.

ANGUS LOCAL DEVELOPMENT PLAN

Proposed Plan

February 2015



THE POLICY FRAMEWORK – PART 1

THRIVING & CONNECTED

TOURISM

Angus is an exciting and vibrant region, offering a highly varied tourism sector which includes its scenery and natural environment, its culture and heritage, and its opportunities for a range of sports and leisure activities. The tourism sector constitutes an important part of the Angus economy as it provides a major source of income, employment and in particular supports rural areas.

The aim of this Policy is to encourage and support opportunities for new or improved tourist related facilities and accommodation within Angus in order to satisfy visitor aspirations. In particular, it is important that Angus provides a range and quality of tourist accommodation to maintain and extend the length of the tourist season. However, whilst encouraging and supporting new tourism related development, it is essential that they are sensitively located and designed to ensure that the environmental qualities which attracted people to Angus in the first instance are not undermined.

Tourism developments can generate large amounts of visitors and should be located in areas and locations which are accessible by public transport and, where available, other modes such as cycling and walking.

Policy TC16 Tourism Development

Proposals for new or improved tourism related facilities and tourist accommodation will be directed to sites within development boundaries. Such facilities will be supported in these locations where the development is of an appropriate scale and nature and is in keeping with the townscape and pattern of development.

Outwith development boundaries, proposals for new or improved tourism related facilities and accommodation will be supported where:

- **it has been demonstrated that the proposals cannot be located within a development boundary; or**
- **there is a justifiable locational requirement for the development; and**
- **the scale and nature of the development is in keeping with the character of the local landscape and pattern of development; and**
- **there is no unacceptable impact on the built and natural environment, surrounding amenity, traffic levels, access or infrastructure.**

Angus Council will attach occupancy conditions to prevent tourist accommodation being occupied as permanent residential accommodation. Applications to remove such occupancy conditions will not be supported.

Proposals to change the use or redevelop existing leisure or tourist facilities will only be supported where it is demonstrated:

- **that the existing business is no longer viable and there is no requirement for alternative tourist facilities in the location; and**
- **that the existing business has been actively marketed for sale or lease as a going concern for a reasonable period at a reasonable market price.**

Circular 4/1998 Annex A

Circular 4/1998

Annex A THE USE OF CONDITIONS IN PLANNING PERMISSIONS POWERS Summary of Powers

to comply with it is *ultra vires* and must not be imposed. Vague expressions which sometimes appear in conditions, for example "keep the buildings in a tidy state" or "so as not to cause annoyance to nearby residents", give occupants little idea of what is expected of them. Furthermore, conditions should not be made subject to qualifications, such as "if called upon to do so" or "if the growth of traffic makes it desirable", because these do not provide any objective and certain criterion by which the applicant can ascertain what is required.

Discretionary or Vetting Conditions

31. Conditions which attempt to provide for an arbiter to interpret such expressions or qualifications do not avoid this difficulty. Conditions requiring that tidiness, for example, shall be "to the satisfaction of the planning authority" make the applicant no more certain of what is required. Conditions which are imprecise or unreasonable cannot be made acceptable by phrases such as "except with the prior approval of the planning authority" which purport to provide an informal procedure to waive or modify their effect. Similarly, conditions restricting the occupation of a building should not set up a vetting procedure for prospective occupiers. Conditions which raise these difficulties, however, are not to be confused with conditions which require the submission of a scheme or details for approval which will, when granted, provide the precise guidelines to be followed by the developer.

Clarity

32. Conditions should be not only precise but clear. Where the wording of a condition may be difficult to follow, it may be helpful to attach to the permission an illustrative plan (eg describing sight lines required at the entrance to an access road).

TEST: REASONABLENESS

33. A condition can be *ultra vires* on the grounds of unreasonableness, even though it may be precisely worded and apparently within the powers available.

Conditions Invalid on Grounds of Unreasonableness

34. A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect the amenity of the neighbourhood. However, it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run his business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the Courts, then planning permission should be refused altogether.

Avoidance of Onerous Requirements

35. Even where a condition would not be so unreasonably restrictive as to be *ultra vires*, it may still be so onerous that as a matter of policy it should be avoided. For example, a condition which would put a severe limitation on the freedom of an owner to dispose of his property, or which would obviously make it difficult to finance the erection of the permitted building by borrowing on mortgage, should be avoided on these grounds. An unduly restrictive condition can never be made acceptable by offering the

Circular 4/1998 Completion of Development

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Restoration of Sites

109. If the temporary permission is for development consisting of, or including, the carrying out of operations, it is important to make provision by condition for the removal of any buildings and works permitted- not merely for the cessation of the use- and for the reinstatement of the land when the permission expires. Where the permission is for temporary use of land as a caravan site, conditions may include a requirement to remove at the expiry of the permission any buildings or structures, such as toilet blocks, erected under Class17 of the General Permitted Development Order.

ACCESS FOR DISABLED PEOPLE

110. Where a building is new or is being altered, it is usually sufficient to rely on building regulations to ensure adequate access for disabled people. However, some new development does not require building regulation approval, eg development affecting the setting of buildings (layout of estates, pedestrianisation etc) rather than the buildings themselves. Where there is a clear planning need, it may be appropriate to impose a condition to ensure adequate access for disabled people.

SEASONAL USE Seasonal Occupancy Conditions

111. Occasionally it may be acceptable to limit the use of land for a particular purpose to certain seasons of the year. For example, where planning permission is being granted for a caravan site, the planning authority may think it necessary to impose a condition to ensure that during the winter months the caravans are not occupied and are removed for storage to a particular part of the site or away from the site altogether. Where such a condition is imposed, particular care should be taken to see that the condition allows a reasonable period of use of the caravans in each year. A similar approach may be taken where it is necessary to prevent the permanent residential use of holiday chalets, which by the character of their construction or design are unsuitable for continuous occupation. Seasonal occupancy conditions may also be appropriate to protect the local environment, or example, where the site is near a fragile habitat which requires peace and quiet to allow seasonal breeding or winter feeding to take place.

Holiday Occupancy Conditions

112. In recent years there has been an increased demand for self-catering holiday accommodation- whether new buildings (including mobile homes) or converted properties- which may be constructed to a standard that would equally support permanent residence in some comfort. But this accommodation may also be located in areas in which the provision of permanent housing would be contrary to national policies on development in the countryside or not in accordance with development plan policies, or both. The Secretary of State considers that the planning system should respond to these changes without compromising policies to safeguard the countryside.

113. There may be circumstances where it will be reasonable for the planning authority to grant planning permission for holiday accommodation as an exception to these policies, with a condition specifying its use as holiday accommodation only. For example, conversions of redundant buildings into holiday accommodation where conversion to residential dwellings would not be permitted may reduce the pressure on other housing in rural areas. A holiday occupancy condition would seem more appropriate in those circumstances than a seasonal occupancy condition. But authorities should

continue to use seasonal occupancy conditions to prevent the permanent residential use of accommodation which by the character of its construction or design is unsuitable for continuous occupation, particularly in the winter months.

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