

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 10 MAY 2016

PLANNING APPLICATION – THE ELMS, 49 BRECHIN ROAD, KIRRIEMUIR, DD8 4DE

GRID REF: 338927 : 754166

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 16/00247/PPPL which seeks planning permission in principle for the erection of two detached dwellinghouses within the garden ground of The Elms, 49 Brechin Road, Kirriemuir. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reasons and subject to the conditions given in 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 in principle for the erection of two detached dwellinghouses within the grounds of The Elms, 49 Brechin Road, Kirriemuir.
- 3.2 The application site measures approximately 1996sqm and occupies the southernmost lower area of garden ground of The Elms which is found in the east of Kirriemuir. The east and west boundaries of the site are lined with a mixture of high hedging, established trees, fencing and walls. The south of the site is bound by a high rhododendron hedge with Elm Road located beyond. The site is surrounded by residential properties on all sides.
- 3.3 The proposal relates to the principle of erecting two detached dwellinghouses within the southern garden ground of The Elms. The agent has submitted an indicative site layout which shows two 'T' shaped dwellings in the south of the application site. The site would be accessed from Elm Road to the south. This level of information is acceptable for a planning permission in principle application.
- 3.4 The application has not been subject of variation.
- 3.5 The application was advertised in the Dundee Courier as required by legislation.
- 3.6 This application requires to be determined by the Development Standards Committee due to the recommendation of approval, where more than 5 individual objections have been received.

4. RELEVANT PLANNING HISTORY

There is no relevant planning history.

5. APPLICANT'S CASE

5.1 A design statement was submitted by the agent in support of the application. The submitted document notes the indicative site layout proposes two 998sqm plots, each accommodating 159sqm single storey dwellinghouses with private garden areas in excess of 500sqm. The indicative layout also indicates 3 car parking spaces and turning head arrangements. It is also detailed that 49 Brechin Road would retain a plot measuring 2159sqm and over 1000sqm of private garden ground. The statement confirms the development would seek to retain the vast majority of the existing trees on the site as well as maintain the form and status of the existing east and west boundaries. The services access between the western site boundary and the rear of 3-11 Elm Street would also be retained. The existing southern boundary which currently consists of a rhododendron hedge would be removed to allow for a 1.8m wide service strip along this portion of Elm Road. It is also noted that further discussions with Angus Council Roads Department could see this area being utilised as a new public footpath or for road widening to aid traffic flow. The statement also discusses the proposal against the relevant policies of the local plan and deems the proposal to be in compliance with those policies.

5.2 The supporting information is available to view on the Council's Public Access system.

6. CONSULTATIONS

6.1 **Angus Council Roads** – has no objections to the proposal subject to conditions.

6.2 **Community Council** – there was no response from this consultee at the time of report preparation.

6.3 **Scottish Water** – there was no response from this consultee at the time of report preparation.

7. REPRESENTATIONS

7.1 Ten (10) letters of representation have been received in objection to the proposal. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's Public Access website.

7.2 The main points of objection are as follows:

- **Parking and road safety**
- **Loss of hedging**
- **Lack of consultation with residents**
- **Access of construction traffic to the site**

These matters will be addressed under Planning Considerations below.

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 2 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 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.

- 8.5 Policy S1(a) indicates that proposals within development boundaries, on sites which are not allocated for development will generally be supported where they are in accordance with the relevant policies of the Local Plan. The application relates to the erection of two detached dwellinghouses within the garden ground of a larger villa property within the Kirriemuir development boundary. I will return to this policy having considered other relevant policy tests.
- 8.6 Policy SC2: Small Sites is the primary policy for test for this application. The proposed residential development would be compatible with the existing residential land uses of the surrounding area. The indicative site layout indicates two plots equally splitting the application site in a north/south direction, where each plot would measure approximately 998sqm. The Elms would retain a site measuring 2159sqm and a private garden area in excess of 1000sqm. As the plot sizes in the vicinity range between 210-2500sqm, the proposed plot sizes would be deemed compatible with the existing. The indicative layout would also allow for over 100sqm of garden ground for each proposed dwelling. Notwithstanding the above it is noted the indicative site layout would not be approved, in part due to the proximity of the western dwellinghouse to the properties of 3-11 Elm Street. However it is considered the site could accommodate two dwellings in a manner that would not result in an unacceptable impact upon existing residential amenity and that could adhere to the recommended window to window distances as noted in Advice Note 14. The issues of design and external appearance would be considered as part of any subsequent Matters Specified in Conditions application and at this stage there are no issues that would indicate dwellings of an appropriate design and external appearance could not be accommodated on the site in a manner that complies with relevant policy and guidance.
- 8.7 Policy SC14 is also relevant to this proposal as the application site is within the garden ground of an existing stone villa. This policy supports such developments where they would not damage the character or appearance of the existing property, would respect the density, scale, form, siting, orientation and materials of the existing property, would not result in the unacceptable loss of important trees and would provide unobtrusive parking. The application site sits forward of the principal elevation of The Elms. However, the site sits at a lower ground level than The Elms and it is considered that appropriately designed dwellings could be accommodated within the application site without causing damage to the character or appearance of the existing villa. Indicative details of the proposed access and parking have been submitted and considered by the Roads Service with no objection. However the final assessment of this and the above design matters would be regulated as part of any subsequent Matters Specified in Conditions application. All other considerations within this policy have been discussed above under Policy SC2 or below under Policies ER6 and ER7, or would be regulated by planning condition.
- 8.8 The proposal also falls to be considered against Policies ER6: Trees, Woodlands and Hedgerows and ER7: Trees on Development Sites. In terms of these policies the submitted information indicates the vast majority of trees on the site would be retained and the hedge lining the south boundary would be replaced by a post and wire fence and alternative hedging. Some of the trees on the periphery of the site are of some townscape value and a condition of the permission would require a tree survey to accompany any subsequent application for further approval and the impact of the development on those trees would be considered at that time. A condition is also proposed that seeks to prevent removal of trees at the current time without the prior approval of the Planning Authority. While it is acknowledged the removal of the substantial southern hedge would impact upon the streetscape and biodiversity, the proposal to plant an alternative hedge in the area would minimise these impacts. It is therefore considered the proposal would not raise any significant policy issues.

- 8.9 Policy S6: 'Development Principles' identifies a number of factors which are relevant in the determination of this proposal. This includes considerations relating to amenity; roads/parking/access; landscaping/open space/biodiversity; drainage and flood risk; waste management; and supporting information. Residential and visual amenity matters have been addressed under Policy SC2 above and it should be noted that further application(s) would need to be submitted which would allow these matters to be fully considered. In terms of roads, access and parking, the Roads Service has considered the proposal, the traffic likely to be generated by it and its impact on the public road network and has offered no objection subject to conditions as detailed below. In terms of landscaping, open space and biodiversity, this has been considered in more detail under Policies ER6 and ER7 above. The proposal does not give rise to significant issues in terms of the remaining Schedule 1 criteria.
- 8.10 Returning to Policy S1, the proposal would not give rise to any significant issues in terms of the relevant policies of the local plan and would be appropriate within the proposed location.
- 8.11 The letters submitted in objection to the proposal by third parties raise concerns regarding the loss of parking, road safety issues and the loss of established hedging; these matters have been discussed and deemed acceptable above. Other concerns raised relate to the lack of consultation with residents and the access and movement of construction traffic. With regards to these matters the application was subject to statutory publicity and consultation as prescribed by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The development would generate traffic, movement and activity during the construction phase. However, it is not unusual to see small scale developments of this nature within existing urban areas. The Roads Service has raised no objection regarding road traffic safety and I do not consider that the construction vehicles associated with the proposed development would cause any unacceptable amenity impacts.
- 8.12 In conclusion, it is considered that two dwellinghouses could be accommodated on this site in a manner that complies with development plan policies subject to the conditions stated below. The concerns raised by third parties are recognised but it is considered that a proposal of the nature proposed could be accommodated at this location in a manner that would not result in unacceptable impacts on the amenity of surrounding residents. There are no material considerations that 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 the application be approved for the following reason, and subject to the following condition(s):

Reason(s) for Approval:

That the proposal provides for the erection of new houses within a development boundary in a manner that complies with the relevant policies of the development plan subject to conditions. There are no material considerations which justify refusal of the application.

Conditions:

1. 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.
 - a. The siting of the building(s);
 - b. The design and external appearance of the building(s);
 - c. The means of drainage for the development. For the avoidance of doubt the foul drainage shall be directed to the public sewage system and surface water shall be directed to a Sustainable Urban Drainage System;
 - d. A scheme for hard and soft landscaping of the site. The submitted scheme shall include a scheme of landscaping, a tree survey including details of trees to be removed and measures for the protection in the course of development of trees to be retained;
 - e. The existing and proposed ground levels and floor levels relative to a fixed ordnance datum;
 - f. The layout of the site, including means of access, car parking, turning space and the means of site enclosure. For the avoidance of doubt, the indicative layout submitted is not approved.

Reason: to ensure that the matters referred to are given full consideration and are acceptable to the planning authority having regard to relevant development plan policy.

2. That, prior to the commencement of development, visibility splays shall be provided at the junction of the proposed accesses with Elm Road giving a minimum sight distance of 25 metres in each direction at a point 1.8 metres from the nearside channel line of Elm Road.

Reason: to ensure safe and suitable access in the interests of road safety.

3. That, within the above visibility splays nothing shall be erected, or planting permitted to grow to a height in excess of 1050mm above the adjacent road channel level.

Reason: to provide and maintain adequate sightlines in the interests of road safety.

4. That, prior to the occupation of any dwelling house, the proposed footway on the north-west side of Elm Road shall be provided to a nominal width of 2.0 metres. The footway shall be formed and constructed in accordance with the National Roads Development Guide (SCOTS).

Reason: in order to provide adequate infrastructure in the interests of pedestrian safety.

5. That from the date of this permission no trees within the site shall be lopped, topped, felled or otherwise interfered with unless with the prior written approval of the planning authority.

Reason: in order to prevent the unnecessary loss or damage to trees that contribute to the townscape and biodiversity of the area.

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: 3 MAY 2016

Appendix 1 : Location Plan

Appendix 2 : Relevant Development Plan Policies