

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 10 MAY 2016

PLANNING APPLICATION – LAND AT BALNUITH STEADING, BALNUITH, TEALING

GRID REF: 339795 : 737941

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 16/00079/FULL which seeks planning permission for a Change of Use of Shed from Agricultural Use to Storage (Class 6) at Land At Balnuith Steading, Balnuith, Tealing. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason(s) and subject to the condition(s) 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 for a Change of Use of Shed from Agricultural Use to Storage (Class 6) at Land At Balnuith Steading, Balnuith, Tealing. It should be noted that the building is currently used for storage purposes and as such the application is retrospective in nature.

3.2 The application site, which measures approximately 1435 square metres in area, is located in a rural area and sits adjacent to a farm building complex where some of the buildings have been converted to residential use. The site contains a former agricultural building with associated yard area / hardstanding. The existing building which consists of two pitched roof sections is constructed of materials consisting of brick, render and cladding for the walls and cladding for the roof. An existing access track bounds the site to the west with agricultural land bounding the site to the north. Existing residential properties are located to the south and amenity space associated with one of the residential properties is located to the east.

3.3 The proposal seeks retrospective planning permission for a change of use of the shed from agricultural use to a storage use (Class 6). No external alterations are proposed to the building or its boundaries. The applicant has indicated that the building is used for the storage of building materials associated with the operation of a builders business. At the time of the officer's site visit some materials were being stored within the yard area.

3.4 The application has not been subject to variation.

- 3.5 The relevant time period for third party comment has expired.
- 3.6 This application requires to be determined by the Development Standards Committee due to the recommendation for approval whilst being subject to more than five objections.

4. RELEVANT PLANNING HISTORY

There is no relevant planning history.

5. APPLICANT'S CASE

In response to the submitted letters of objection the agent provided a detailed supporting statement, the content of this can be summarised as follows:-

- That the access road is a mutual access road;
- Noise coming from the neighbouring construction site and not application site;
- Contends that the storage shed as an agricultural building would be subject to less control and longer hours over a seven day period;
- That the applicant operates a silent gas powered forklift;
- That the site has been untidy for years until the applicant tidied it up;
- There are no HGVs using the site;
- That the applicant has repaired the access road at their own cost even though pothole damage pre dated ownership;
- There is sufficient turning area within the unit;
- Less traffic on the road than when the shed was in full agricultural use;
- A transit type van will be utilising the site once or twice a day and the storage shed will not be used on a daily basis;
- No requirement for a footpath in this rural location;
- The shed was in a poor state of disrepair and suffered from vermin and pigeons but the applicant has cleared, tidied and cleaned the site;
- That there is no danger to the public and no additional danger than that already posed by cars and delivery vehicles entering and leaving the residential units;
- The applicant has undertaken the appropriate risk assessments;
- That the previous owner of the site permitted the shed and its surroundings to deteriorate;
- A new agricultural shed is being constructed nearby and yet the objecting neighbours have omitted this from their comments;
- In summary the proposed use would be less onerous than the existing use.

6. CONSULTATIONS

- 6.1 The Roads Service has been consulted and in relation to traffic, parking and road safety have raised no objections to the application.
- 6.2 The Environmental Health Service has raised no objections but requested conditions be attached restricting the site to storage only, that commercial activities associated with the development shall be restricted to certain times and also placing restrictions on noise levels.
- 6.3 Scottish Water has made no comments on the proposals.
- 6.4 No comment has been received from the Community Council.

7. REPRESENTATIONS

Seven letters of representation have been received in relation to the proposal. All of the submitted letters are objecting 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. The main issues raised relate to:

- **Impacts from noise/nuisance and impacts on privacy/amenity** - discussed in Section 8 of this report.
- **Adverse visual appearance from storage of materials and concerns regarding compatibility of use** - discussed in Section 8 of this report.
- **Impacts on traffic movements/road safety/parking and impacts on pedestrians/cyclists** - discussed in Section 8 of this report.
- **Concerns regarding need for building at this location** - discussed in Section 8 of this report.

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)

The application is not of strategic significance and therefore the policies of TAYplan are not referenced. The relevant local plan policies are reproduced at Appendix 1.

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 published the Proposed Angus Local Development Plan for a statutory period for representations. 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 statutory period for representation has now expired and submitted representations are in the process of being assessed. Any unresolved representations 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 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. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation contained in this report.

- 8.3 The application site is not specifically allocated for any purpose and is located in a countryside area. Policy S1 criterion (b) of the ALPR is therefore relevant and indicates that 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.
- 8.4 The application relates to the formation of a storage use (retrospective) which is located in a countryside location and therefore Policy SC19: Rural Employment of the ALPR is relevant. That policy indicates 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. The text supporting the policy recognises that in many cases proposals will involve the re-use of existing buildings. In this case the proposal involves the reuse of an existing building. That building is a reasonably large shed that was previously used for agricultural purposes. The building could revert to use for agricultural purposes without the requirement for planning

permission and it could operate on an unrestricted basis for such use. This application seeks permission to use that building for the storage of building materials by an existing building company. Approval of this permission would assist an existing business in terms of providing a storage facility and this would have some benefit to the economy of the wider area. No external alterations are proposed to the building and its use for storage of building materials does not give rise to any significant amenity concerns compared to its use for agricultural purposes. Similarly an agricultural use would have generated a level of vehicular movement and activity and I do not consider that using the building for storage purposes unrelated to agricultural would result in materially different impacts at this location. Third parties have raised concern regarding external storage of materials at the site and whilst such storage may have occurred if the site remained in agricultural use, I have discussed this matter with the applicants agent and agreed that the visual impact of the new use and any associated amenity impact can be reduced by preventing external storage of materials. On this basis it is considered that the general principle of the use of the building is acceptable on the site.

- 8.5 In considering the acceptability of the nature of the use it is also relevant to have regard to Policy S6 of the ALPR. Amenity impacts associated with the use have been discussed above. As noted, the existing building could be used for agricultural storage purposes without the requirement for planning permission and with no planning restrictions on such use. The potential for such use and its associated impact is a material consideration. The building is reasonably close to residential property and this application provides opportunity to control the nature of the use in order to mitigate the impact of its use on occupants of nearby property. Controlling the nature of the use, preventing external storage, restricting the hours of operation and imposing conditions that control noise emissions from the site should ensure that occupants of existing properties are not subject to unacceptable amenity impacts. The Environmental Health Service has reviewed the submitted information and offered no objection to the application subject to specified conditions. There will clearly be some vehicular movement and activity associated with the use and the concerns raised by third parties in this respect are noted. However, as indicated above, it is not considered that this would be materially different to agricultural traffic that could otherwise be associated with lawful use of the building. The Roads Service has been consulted on the proposal and has considered the application in terms of the traffic likely to be generated by it and its impact on the public road network and has raised no objections in this regard. The proposal does not give rise to any significant issues in terms of the remaining criteria.
- 8.6 The reuse of the building for a different purpose is of a scale and nature that is appropriate for the location and is compatible with Policies SC19 and S6 of the ALPR. Accordingly the proposal attracts support from Policy S1 of that Plan.
- 8.7 In relation to other material considerations account must be had for the potential lawful use of the building for agricultural storage purposes. As previously indicated such use could be undertaken without any planning controls. The current application provides opportunity to control aspects of the operation and mitigate impact on the area. The representations submitted by third parties are also relevant to the determination of the application and the issues raised have been addressed above. Whilst the concerns regarding amenity and safety impacts are noted, such impacts must be balanced against the potential use of the building for agricultural purposes and the ability to mitigate impacts through the use of the planning conditions. The application relates to the reuse of an existing building and it is generally desirable to see existing buildings put to an alternative use rather than fall into a state of disrepair.
- 8.8 In conclusion, the application provides for the reuse of an existing building in the rural area in a manner that supports an existing business and complies with relevant development plan policy. The concerns raised by third parties are noted but there are no material considerations that justify refusal.

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(s) and subject to the following condition(s).

Reason(s) for Approval:

The application would provide for a new use for an existing building in a rural area in a manner that supports an existing business and complies with relevant development plan policy. There are no material considerations that justify refusal.

Conditions:

1. That the use of the building hereby approved shall be restricted to storage purposes only and there shall be no external storage of materials within the application site.

Reason: In order to clarify the terms of this planning permission and in the interests of the amenity of the area.

2. That all activities associated with the use hereby approved shall be limited to between 07:30 and 18:00 (Monday to Friday) and 09:00 and 13:00 (Saturday) with no operation or use on a Sunday. For the avoidance of doubt no vehicles shall enter or leave the site outwith the permitted operating hours other than for emergency purposes.

Reason: In the interests of residential amenity.

3. That noise emissions from activities associated with this development shall not exceed 50 dB(A) Leq(1hr) as measured within the external amenity space of any noise sensitive premises.

Reason: In the interests of residential amenity.

4. That noise emissions from fixed plant associated with the development shall not exceed NR Curve 20 between 2200 and 0700 and NR Curve 30 at all other times as measured within any dwelling or noise sensitive premises with the windows open at least 50mm.

Reason: In the interests of residential amenity.

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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Appendix 1 : Location Plan
Appendix 2 : Relevant Development Plan Policies