

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 5 JANUARY 2016

PLANNING APPLICATION – BELLVIEW HOUSE, WOODVILLE, ARBROATH, DD11 3RJ

GRID REF: 360358 : 743718

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 15/00980/FULL for the Conversion and Extension to Garage and Outbuildings to form a Cattery at Bellview House, Woodville, Arbroath, DD11 3RJ. 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 full planning permission for the conversion and extension to a garage and outbuildings to form a cattery.
- 3.2 The application site lies within the development boundary of Woodville and measures approximately 775sqm. The predominantly rectangular site forms part of the wider residential curtilage of Bellview House, a semi-detached residential property, and currently accommodates a garage, a stable block and a smaller timber outbuilding. The site is bound by residential properties to the northeast and southwest, fields to the southeast and an unadopted access track to the northwest, with farmland located beyond.
- 3.3 The proposal would involve the extension and conversion of an existing breeze block and timber stables and a timber outbuilding to form a single 200sqm building. The proposed building would accommodate a cattery business and would include a kitchen/utility, store, toilet, reception, 2 quarantine pens and 18 normal pens, as well as a double domestic garage to the north. The proposed building would be single storey with a flat roof and finished in horizontal shiplap weatherboard cladding, with a smooth cement basecourse and grey profiled roof sheeting. The development would include a parking and turning area to the north of the proposed building. The existing access would be retained.
- 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 whilst being subject to more than 5 individual objections.

4. RELEVANT PLANNING HISTORY

None.

5. APPLICANT'S CASE

5.1 An email was received from the agent, dated 1 December 2015, in support of the application. The email confirms the applicant would seek to purchase Bellview House and the application site should the above permission be approved, where the applicant would reside at the above property. The proposed cattery would be open 44 weeks a year, 7 days a week, 24 hours a day. It is expected the busiest operating times would be during traditional school holidays, where a maximum of 20 cats would be boarded at any one time. Clients would drop off and pick up pets between the hours of 9am and 4pm and exceptionally outside these times with prior notice. It is predicted at busy time's approximately 2 or 3 visiting cars would be at the site over the period of the day and the applicant's family cars would be the only vehicles used in connection with the business. No goods would be delivered to the site. No machinery would be required and no fumes or odours would be detectable from outside the cattery building. The agent's email also provides a response to each individual objection and goes on to highlight that the applicants are willing to contribute to the maintenance of the access track.

5.2 Photographs of the existing buildings were also submitted in support of the application.

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

6. CONSULTATIONS

6.1 **Angus Council – Roads (traffic)** – has no objections to the proposal.

6.2 **Angus Council Environmental Health** – has no objections to the proposal.

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

7. REPRESENTATIONS

7.1 Nine (9) 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:

- **Maintenance and condition of existing access track.**
- **Road and pedestrian safety concerns.**
- **Contrary to Policy Wv1.**
- **Set a precedent for further non-residential development.**
- **Noise, light and smell pollution.**
- **Overlooking concerns.**
- **Impacts on existing drainage.**

Comment – The above matters are discussed under Section 8, Planning Considerations below.

- **Impacts on house prices** - the substantive issue in relation to this proposal is whether the extension and conversion of the existing buildings on the site to form a cattery business is acceptable and that matter is discussed below. Issues regarding the impact upon surrounding house prices are not a material planning consideration.

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 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. The policies of the Proposed Plan are only referred to where they would materially alter the recommendation.
- 8.5 The proposal is located within the Woodville development boundary, as such Policy Wv1: 'Woodville Development Approach' is relevant and provides a development strategy specifically related to Woodville. Policy Wv1 states amongst other things that within the Woodville area only proposals directly associated with agriculture or horticulture will be permitted. As the above proposal is to extend and convert outbuildings within the curtilage of an existing residential property in order to form a cattery business the proposal would not comply with Policy Wv1. Objectors have highlighted the proposals noncompliance with this policy. However, the text supporting that policy indicates that its intention is to restrict urban sprawl and resist the increasing urbanisation of Woodville. In this case the proposal involves the erection of a cattery building between two existing structures and would essentially form part of the curtilage of the existing dwelling. The site is well screened and would not be particularly visible from surrounding public areas. The nature of the proposed business is such that significant activity is unlikely and visits by customers are likely to be spread over a period of time. On this basis, whilst the proposal does not comply with the wording of the policy, I am satisfied that it would not give rise to the urban sprawl or urbanisation of Woodville that the policy seeks to resist.
- 8.6 Other relevant policies of the ALPR must also be considered. In this respect Policy SC18: 'Working from Home' offers support to businesses run from home where only a small part of the residential accommodation is utilised and where there would be no detriment to the amenity of neighbours or the surrounding area. Policy SC19: 'Rural Employment' is also of relevance and it supports employment opportunities throughout rural Angus where proposals would make a contribution to the rural economy and would be of a scale and nature appropriate to their location. The proposed building would be erected in the proximity of existing structures, would only cover a small part of the wider curtilage of Bellview House and would provide employment for the occupants. The nature of the use proposed is one that is not uncommon in other village or semi-rural locations. In this respect the proposal attracts some support from these policies and the associated amenity impacts are discussed below.
- 8.7 Third parties have raised concern regarding potential amenity impacts associated with the use but, having regard to the operation of similar establishments elsewhere, the Environmental Health Service has offered no objection and I am satisfied that a cattery of this scale is unlikely to give rise to significant or unacceptable amenity impacts. The operation of a business would attract more visitors to the property and it is recognised that such activity may impact on the privacy and amenity of neighbours. However, as indicated above, the nature of the proposed business is such that significant activity is unlikely and visits by customers are

likely to be spread over a period of time. The house that sits between the application site and the public road is set back from the access track, has few windows facing the track and is partially screened from it by hedging. Adequate car park provision is made within the site for visitors. On this basis I am satisfied that impact on amenity from vehicular traffic is unlikely to be significant although improvement to the track between the site and the public road would be appropriate and this can be addressed by planning condition. The boundary between the proposed car park and the nearest neighbouring property is landscaped and provides a degree of separation between visitors and that property although this could be augmented by fencing in order to provide greater protection of amenity. The proposed building would have windows facing northeast, northwest and southwest, where the northeast and northwest facing windows would be over 22m from the boundaries of the neighbouring properties they face. The southwest facing windows would be close to the boundary of the neighbouring property but they would be at an angle to and approximately 30m from the nearest dwelling in this direction. In addition, it is noted that those windows would serve cat pens and the applicant has indicated that these would have opaque glazing. Concern has been highlighted by third parties regarding possible light nuisance from external lighting. However, the applicant has indicated that the only exterior lighting used would be that typically found on residential properties and, given the relative distance between the site and neighbouring houses, I am satisfied this matter could be addressed by planning condition. Overall, I am satisfied that the proposal would not cause significant or unacceptable detriment to the amenity of occupants of neighbouring property subject to appropriate planning conditions.

- 8.8 In respect of the physical characteristics and design of the proposed development Policy S3: 'Design Quality' would apply. Policy S3 takes account of factors such as site location and layout and how the proposal would fit with the local landscape character and pattern of development, as well as the scale, massing, height, proportions and density of the development. The proposed 'L' shaped building would be constructed on the site of existing outbuildings found within the curtilage of Bellview House, to the southwest of the dwelling and set back from the public road. The single storey flat roof structure would have a footprint of approximately 200sqm and would measure less than 3m in height. The resultant building would be finished in horizontal shiplap weatherboard cladding, with a smooth cement basecourse and grey profiled roof sheeting and would be suitable for the semirural setting. The proposed cattery building would be of an acceptable design, scale and massing and would not be visually incongruent to the surrounding area. The proposal would not affect any sensitive or key views from public areas and would benefit from existing screen planting.
- 8.9 Policy S6: 'Development Principles' identifies a number of factors which are relevant in the determination of this proposal. As indicated above I am satisfied that the proposal would not result in unacceptable amenity impacts or detrimental impacts upon the visual amenity of the area. Concerns have been raised by third parties regarding road traffic and pedestrian safety. However, the Roads Service has considered the proposal and the traffic likely to be generated by it and has offered no objection, although as indicated above, a condition of permission would require the access track to be improved in the interests of safety and amenity. Ongoing maintenance of the track would be a civil matter between affected parties. The application proposes to utilise existing drainage arrangements at the site and the applicant has indicated the existing septic tank serving the property is in full working order. Surface water would be disposed of via a SUD system. It is indicated that waste storage and collection provisions would be made however details of this have not been provided but can be required by condition. The proposal does not give rise to any significant issues in terms of the remaining criteria of Schedule 1.
- 8.10 The letters submitted in relation to the proposal by third parties are noted and the issues have been addressed as appropriate above. Concern is raised regarding the potential for approval of this application to set a precedent for similar business related development in the area. However, there is no concept of binding precedent in planning law and I am satisfied that approval of this application would not create an irresistible precedent for similar business development in the area. Any further application for business development would be assessed on its own merits having regard to relevant policy and material considerations.
- 8.11 It is clear that the proposal is contrary to Policy Wv1 of the ALPR but that it also attracts some support from other policies of the local plan. The Courts have previously determined that the correct approach to determining an application is to identify relevant policies and to interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies. Accordingly, whilst the proposal is contrary to the detailed wording of Policy Wv1,

regard must also be had to the text that supports the policy which clarifies its purpose and intent. In that respect it is clear that the aim and objective of Policy Wv1 is to prevent urban sprawl and urbanisation of the Woodville area. For the reasons detailed above I am satisfied that the proposal is not inconsistent with that objective. The local plan also seeks to promote opportunities for appropriate businesses in rural areas where amenity impacts can be satisfactorily mitigated. Again, for the reasons detailed elsewhere in this report, I am satisfied that amenity impacts would not be significant or unacceptable and can be mitigated by planning conditions.

- 8.12 In conclusion, the proposal to form a cattery in the location proposed would not result in urban sprawl or urbanisation of the area and that would support rural employment. I recognise the concerns raised by third parties but I consider that a cattery business of the nature proposed could be accommodated at this location in a manner that would not result in unacceptable impacts on the amenity of occupants of neighbouring property subject to appropriate planning conditions. There are no material considerations that justify refusal of the planning application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission, 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 recommendation 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 would provide a new business in a rural location in a manner that would not constitute urban sprawl or urbanisation of the Woodville area and in a manner that would not result in significant or unacceptable impacts on the amenity of occupants of nearby houses or the environment of the wider area, subject to planning conditions. There are no material considerations that justify refusal of the planning application.

Conditions:

1. That prior to the undertaking of any works in connection with this planning permission, the existing access track between the site entrance and the public road shall be improved in accordance with a scheme of works that has been submitted to and approved in writing by the Planning Authority. That scheme shall, as a minimum, make provision for the filling and patching of any potholes in the track.

Reason: To provide a safe and suitable access in the interests of road safety and amenity.

2. That prior to the commencement of the use hereby approved a scheme for the storage and disposal of waste generated by the business shall be submitted to and approved in writing by the Planning Authority. The approved scheme of waste storage and disposal

shall thereafter be implemented and adhered for the duration of the operation of the business.

Reason: In order to ensure the provision of appropriate waste storage and disposal arrangements in the interests of the amenity of the area.

3. That prior to the commencement of the development hereby approved a screen fence shall be erected between the application site and the dwelling known as Bellfield in accordance with details that have been submitted to and approved in writing by the Planning Authority. The approved fencing shall be retained in situ thereafter for the duration of the operation of the business.

Reason: In order to safeguard the amenity of occupants of the neighbouring dwelling at Bellfield.

4. That the windows in the southwest facing elevation of the cattery hereby approved shall be fitted with opaque glazing.

Reason: In order to safeguard the amenity of occupants of the neighbouring dwelling at Bellfield.

5. That the business hereby approved shall be operated as a cattery and for no other commercial purpose and that it shall be operated by the occupants of Bellview House and by no other persons.

Reason: In order to clarify the nature of the use approved and in the interest of residential amenity as the business is located within the curtilage of Bellview House.

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.

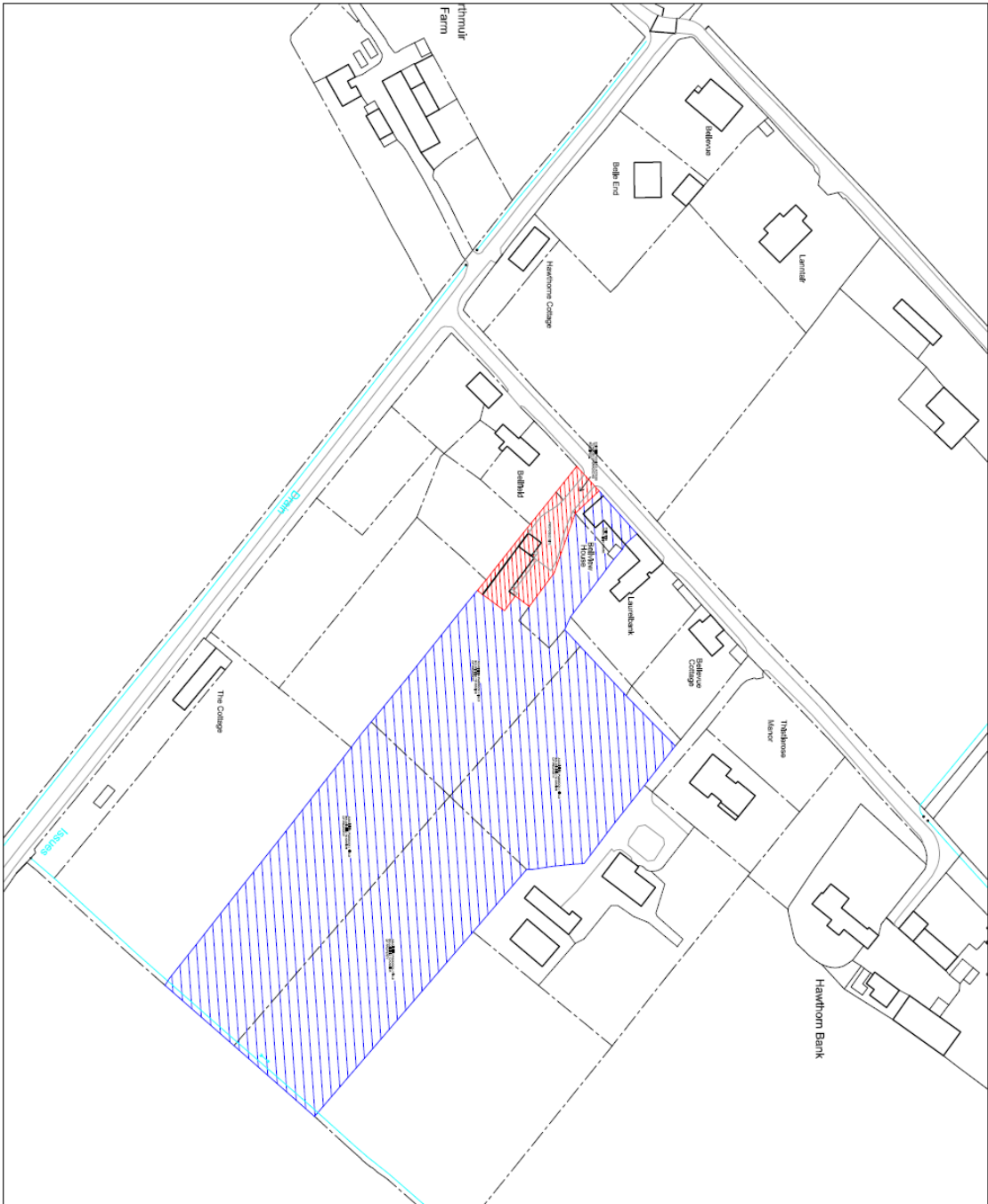
REPORT AUTHOR: VIVIEN SMITH
EMAIL DETAILS: PLANNING@angus.gov.uk

Date: 14 December 2015

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

Appendix 1: Location Plan

Site Plan



M Design & Build

6 Hill Place
 Abroath
 DD11 1AE
 Tel :- 01241 437166
 Fax :- 01241 437166
 Mobile :- 07752 046136
 Email :-
 calum@calumdesign-build.co.uk

TITLE
 Land at
 Bellevue House
 Woodville
 by Abroath

CLIENT
 Mr. P. Morris

DESCRIPTION
 Site Plan

DRAWING TYPE
 Working Drawing

DWG. NO.
 SP1LO / 0489 / 15

SCALE
 1 - 1000

DATE
 September 2014

Appendix 2 : 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 (Schedule 1)

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 SC18 : Working from Homes

Angus Council will support proposals for working from home which utilise only a small part of the residential accommodation; and are not detrimental to the amenity of neighbours or the surrounding area.

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.

Wv1 : Woodville Development Approach

Within the development boundary identified for the wider Woodville area, only proposals directly associated with agriculture or horticulture will be permitted. New housing will only be supported where it provides essential worker housing for established businesses.

TAYplan Strategic Development plan

The proposal is not of strategic significance and the policies of TAYplan are not referenced.