

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 9 OCTOBER 2018**

**PLANNING APPLICATION – YARD MID ROW MARYTON KIRRIEMUIR**

**GRID REF: 339387: 753200**

**SERVICE LEADER – PLANNING AND COMMUNITIES**

**Abstract:**

This report deals with planning application No 18/00052/FULL for the Erection of Three Dwellinghouses on a Yard at Mid Row Maryton Kirriemuir by Prestige Homes (Scotland) Ltd. This application is recommended for conditional approval.

**1. RECOMMENDATION**

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

**3. INTRODUCTION**

3.1 The applicant seeks planning permission for the erection of three houses.

3.2 The application site is located in Maryton. It sits to the south of houses located on Forfar Road and to the east side of Mid Row. The site is around 1340sqm in area and comprises vacant brownfield land. The surrounding area is residential in nature. A location plan is provided at Appendix 1.

3.3 The proposal involves the erection of 3 houses on the site. One house is proposed on the western part of the site fronting Mid Row and two houses are proposed on the eastern section of the site. The proposed plots vary between 320sqm and 360sqm in area with access taken from Mid Row. The houses would be single storey with two different house types proposed. Foul water drainage would be connected to the public sewer with surface water proposed to be managed via SUDS.

3.4 The design and layout of the proposal has been amended to reduce the houses proposed on plots 2 and 3 to single storey buildings; to modify the parking arrangements and to retain an existing pedestrian right of access to a neighbouring property.

3.5 The application has been subject to neighbour notification and was advertised in the press as required by legislation.

3.6 This application requires to be determined by the Development Standards Committee because it has attracted more than five individual objections and is recommended for approval.

#### 4. RELEVANT PLANNING HISTORY

- 4.1 Planning permission in principle (Ref: 09/01159/PPPL) was granted on 30 December 2009 for the erection of three houses on the site.
- 4.2 Planning permission in principle (Ref: 12/01117/PPPL) was granted on 21 February 2013 for the erection of three houses on the site.
- 4.3 Planning permission in principle (Ref: 16/00097/PPPL) was granted on 11 April 2016 for the erection of three houses on the site. That permission remains extant.

#### 5. APPLICANT'S CASE

No supporting statement has been submitted.

#### 6. CONSULTATIONS

- 6.1 **Angus Council Roads** – Initially objected to application due to inadequate parking provision. The application was amended to provide the required level of parking and the Roads Service has offered no objections to the revised proposal.
- 6.2 **Scottish Water** – Does not object to the proposal. It notes that its records show private water supply pipes within the site and has provided a plan indicating the location of that infrastructure.
- 6.3 **Community Council** – There was no response from this consultee at the time of report preparation.
- 6.4 **Angus Council Environmental Health** – No objections. The Service has confirmed that ground conditions at the site do not pose a significant risk for the proposed use by virtue of land contamination.

#### 7. REPRESENTATIONS

- 7.1 8 letters of representation were received. The letters of representation will be circulated to Members of the Development Standards Committee and are available to view on the council's [Public Access](#) website.

- 7.2 The main points of objection are as follows: -

- **Height of buildings proposed and amenity impacts;**
- **Impact on road traffic and parking;**
- **Potential contaminated land;**
- **Impacts on drainage infrastructure within the site;**
- **Disturbance during works.**

The main points of objection are discussed below in section 8.

- 7.3 The following matters have also been raised: -

- **Land ownership/right of access** – land ownership is not a material planning consideration. However, the access arrangements for the proposed development have been amended in order to allow for retention of a shared access path.
- **Neighbour notification** – neighbour notification has been undertaken in accordance with statutory requirements. In addition, the application has been subject of advertisement in the press.

#### 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 2017)
  - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.3 The proposal is not of strategic significance and therefore the policies of TAYplan are not referenced. The relevant policies of the ALDP are provided in Appendix 2 and have been taken into account in the preparation of this report.
- 8.4 Policy DS1 of the ALDP identifies development boundaries for towns and, amongst other things, states that proposals for sites not allocated or otherwise identified for development, but within development boundaries, will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP. The policy supports development of brownfield land.
- 8.5 Policy TC2 deals with residential development proposals. It indicates that proposals for new residential developments within Development Boundaries will be supported where the site is not protected for another use and the proposal is consistent with the character and pattern of development in the surrounding area. In addition, it requires all proposals for new residential development to be compatible in terms of land use; to provide a satisfactory residential environment; not to result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and to include provision for affordable housing in accordance with Policy TC3 Affordable Housing.
- 8.6 In this case the site is located within the Maryton Development Boundary as defined by the ALDP. It is not identified for development or safeguarded for any alternative use. The surrounding area is residential in nature and housing development would be compatible with uses in the area. Housing development on the site would be compatible with the general character of the area and the pattern of development is discussed below.
- 8.7 In terms of the residential environment to be provided, three dwellings are proposed with plots ranging between approximately 320 square metres to 360 square metres in area. The proposed plots are comparable with the plot sizes in the immediate and wider surrounding area and each allows for at least 100sqm of private garden ground that would be appropriately screened to ensure privacy. Each house would have car parking provision at a level that complies with council Roads Standards. There would be space within each plot to accommodate provision for bin storage and recycling. The proposed houses would not be significantly affected by neighbouring property and would provide a good residential environment.
- 8.8 The redevelopment of the site would have some impact on occupants of neighbouring property and development plan policy seeks to ensure that such impacts are within acceptable tolerances. Guidance on matters such as window to window distances is provided in the Council's Advice Note 14 which deals with small housing developments. The proposed house at the frontage of the site would be single storey in height. It would be located on a similar building line to the existing properties to the north and south and consequently windows in its west facing elevation would be a similar distance to existing properties on the west side of Mid Row. The windows in the north elevation of that building would serve a bathroom and a utility room. They would face an existing driveway and garage but would largely be screened by the existing fence that is to be retained. The south facing elevation would contain two windows serving a bedroom and the lounge. Those windows would be around 11m from an existing building to the south. That building is currently in derelict condition with its roof removed. Representations received in respect of this application indicate that the property is undergoing renovation but there are no building warrants or planning permissions for works to the building. Notwithstanding that, the resultant separation distance would be similar to those found elsewhere in the vicinity of the site. The existing building and the proposed house would also be separated by the access road that would serve the other two proposed houses. The relationship between the existing building and the proposed access is similar to that found between existing houses and public roads in the vicinity of the site. The proposed layout has been amended to ensure that an existing right of access to the existing building is retained.
- 8.9 The two houses proposed towards the east of the site have been amended to make them single storey. They are designed such that they would have gables facing properties to the north and south. A single bathroom window in the proposed house on the northernmost plot would face the neighbouring property to the north at a distance of around 14.5m. The

proposed house on the southernmost plot would have no windows in the elevation facing properties to the south and would be separated from them by a distance of approximately 13m. In both cases 1.8m high fencing would be provided to ensure appropriate screening of private areas. The windows in the east and west facing elevations of the proposed houses on these plots would not give rise to any significant issues in terms of window to window distances and would not give rise to overlooking of neighbouring property. The relationship between the proposed and existing houses would be typical of those found in the area and would generally be compatible with Advice Note guidance. The development would not result in any unacceptable impacts on the amenity and privacy of occupants of the existing residential properties and it complies with the amenity considerations of Policies TC2 and DS4.

- 8.10 The site is not designated for any built heritage reasons. The proposal would result in a tandem form of development and this is not something that is generally promoted. However, the pattern of development in the surrounding area is fairly mixed and there are several examples of small infill housing developments throughout the settlement, including developments with a similar tandem pattern. The proposed pattern of development is acceptable at this specific location given the nature of the surrounding area. There are a mix of house types in the area including small cottages of vernacular design and more recent buildings of modern design and appearance. The dwellings would have similar design characteristics to some of the house types in the settlement and would be finished in a dry dash render with a natural slate roof finish. The layout and form of the proposed houses would be appropriate for the site having regard to the nature of the surrounding area.
- 8.11 The site is not designated for any natural heritage reasons and there are no designations in the surrounding area. The brownfield site is of little ecological interest. There are a number of mature trees and hedges within or adjacent to the site but these are of limited townscape or ecological value. A planning condition is proposed requiring a scheme for the protection of the trees during development works. The proposal does not give rise to any significant or unacceptable impacts in terms of the natural environment or natural heritage interests.
- 8.12 Vehicular and pedestrian access to the site would be taken from Mid Row. The proposal would utilise the existing access point and has been amended to accommodate shared rights of access for an existing building. The parking arrangements have been amended to provide for car parking at the required level. The Roads Service has reviewed the proposal in terms of matters related to access, road safety and parking provision and has offered no objection.
- 8.13 The houses would be connected to the public water supply and foul drainage networks. SUDS would be provided for the management of surface water. Those arrangements are compatible with policy and Scottish Water has offered no objection. The detail of the drainage arrangements would be controlled through the building regulations. It is understood that there is existing drainage/ water supply infrastructure within the site and a planning condition is proposed that requires approval and implementation of measures to mitigate impacts on that infrastructure. The Council's approved Supplementary Guidance on Developer Contributions and Affordable Housing does not identify any specific requirement for contributions from development of the scale or nature proposed. The proposed development would not give rise to any other significant issues in terms of infrastructure in the area.
- 8.14 The proposal does not give rise to any other significant policy issues. It is of a scale and nature appropriate to the location and complies with relevant development plan policy.
- 8.15 In relation to material considerations the site has an extant planning permission in principle that allows for the erection of three houses. That permission has established the acceptability of a three house development on the site and it represents a significant material consideration.
- 8.16 It is also relevant to consider the material planning matters that have been raised in representations. The proposal has been amended to make all the proposed houses single storey. The resultant relationship between existing and proposed houses is typical of those found in the surrounding area and would not give rise to unacceptable impacts. The Roads Service has confirmed that the proposed access arrangements are acceptable and the parking provision has been amended to comply with the Roads Standards. The Environmental Health Service has confirmed that the site does not pose a significant risk of harm from land contamination. The water supply pipes identified by Scottish Water would be located under the proposed road and footway. A condition is proposed that requires implementation of approved measures to mitigate impact of the development on existing

drainage or water supply infrastructure. There would be some disturbance during the construction process but this is a small scale development and impacts would be short term and not untypical in a settlement.

- 8.17 In conclusion the proposal provides for the erection of three houses on brownfield land within a defined development boundary. It would provide a beneficial use for a currently underused area of land in a manner that is compatible with relevant development plan policy. There is an extant planning permission in principle that has established the acceptability of the principle of a three house development on the site. The letters submitted in objection to the proposal are discussed above and the material planning issues raised have been taken into account in preparation of this report. The overall layout and detail of the application has been amended to minimise impacts on the amenity of occupants of neighbouring property. The resultant proposal is considered to comply with the relevant provisions of the development plan, subject to the stated planning conditions. There are no material considerations that justify refusal of planning permission.

## **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 conditions:

### **Reason(s) for Approval:**

The proposal provides for the erection of new houses on brownfield land within a development boundary in a manner that complies with the relevant policies of the development plan subject to the stated planning conditions. There are no material considerations which justify refusal of the planning permission.

### **Conditions:**

1. Prior to the commencement of the development hereby approved, the following shall be submitted to and approved in writing by the Planning Authority: -
  - a) precise details of a scheme to mitigate the impact of development on existing drainage and water supply infrastructure within the site. This shall include details of a site survey that identifies the location of that existing infrastructure. Thereafter the development shall be undertaken only in accordance with the approved scheme;
  - b) a scheme for the protection of existing trees within and adjacent to the site. The scheme shall include provision of protective fencing in accordance with BS5837:2012. Thereafter the development shall be undertaken only in accordance with the approved scheme. The protective fencing shall remain in situ during works and there shall be no passage of vehicles; excavations; storage of soil, plant, vehicles or other materials within the root protection areas defined by the protective fencing.

*Reason: In order that the planning authority may verify the acceptability of the required*

*details in the interests of mitigating impact on infrastructure and in the interests of avoiding unnecessary damage to or loss of trees.*

2. Notwithstanding the provisions of any Development Order, no windows, doors or other openings shall be formed above ground floor level in any of the houses hereby approved unless otherwise first approved through the grant of planning permission on application to the Planning Authority.

*Reason: In order that the planning authority may consider the acceptability of any subsequent proposals in terms of their impacts on the privacy and amenity of surrounding housing.*

3. That none of the residential units hereby approved shall be occupied until the parking areas identified on Drawing Number 2290/1D dated August 2018 have been formed with the parking spaces delineated on site in accordance with the approved drawing and until the boundary enclosures shown on Drawing Number 2290/9C have been formed in accordance with the approved details.

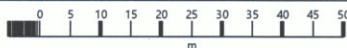
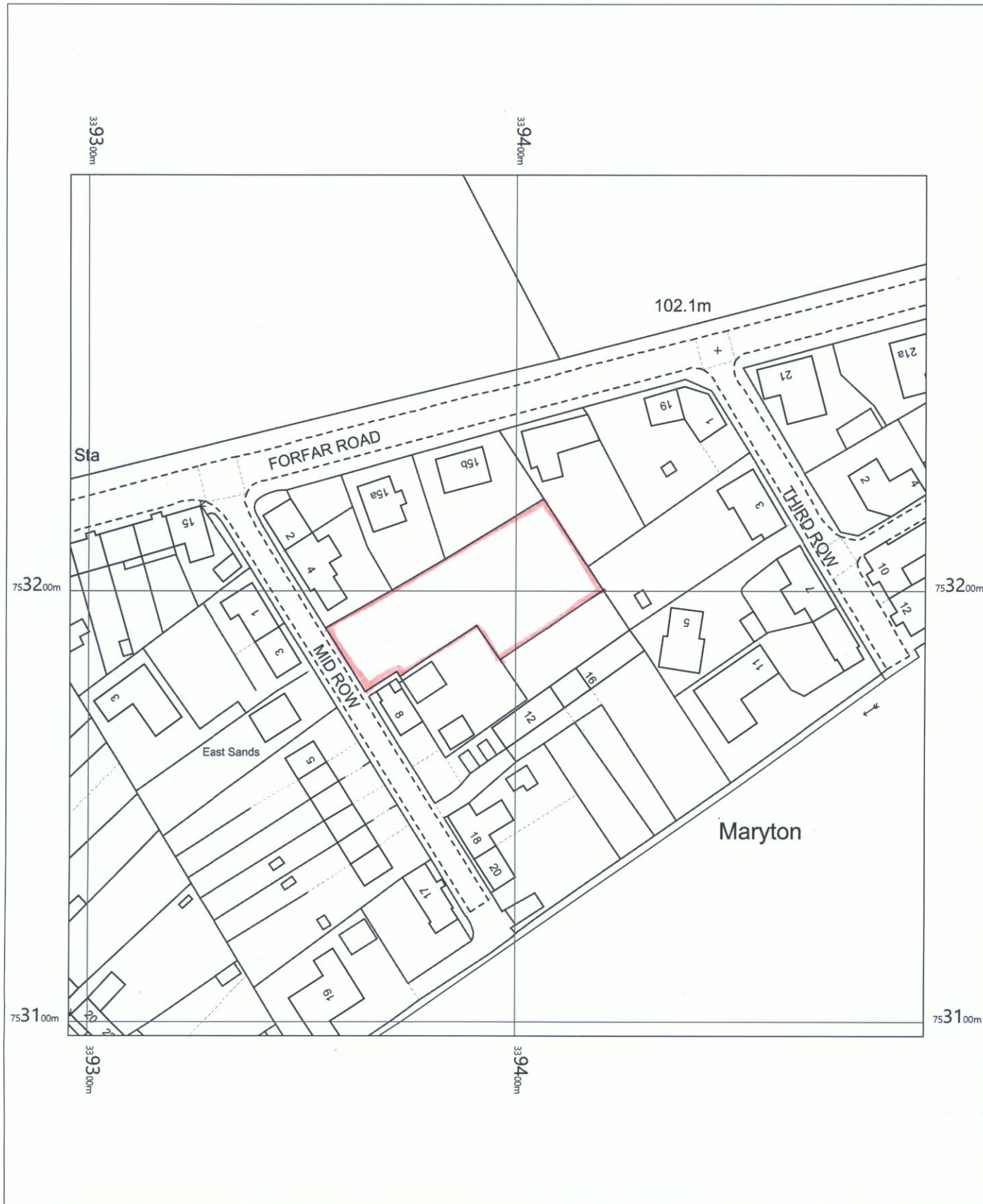
*Reason: In order to ensure the timely provision of the necessary car parking and boundary enclosures in the interests of amenity and road safety.*

**KATE COWEY  
SERVICE LEADER - PLANNING & COMMUNITIES**

**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: 28 SEPTEMBER 2018**

APPENDIX 1: LOCATION PLAN  
APPENDIX 2: RELEVANT DEVELOPMENT PLAN POLICIES



OS MasterMap 1250/2500/10000 scale  
 Monday, December 11, 2017, ID: MNOW-00676697  
[www.nicolsondigital.com](http://www.nicolsondigital.com)

1:1250 scale print at A4, Centre: 339396 E, 753196 N

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## **Appendix 2 : Relevant Development Plan Policies**

### **Angus Local Development Plan**

#### **Policy DS1 : Development Boundaries and Priorities**

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous\* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

\*Sharing an edge or boundary, neighbouring or adjacent

#### **Policy DS3 : Design Quality and Placemaking**

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.



## **Policy DS4 : Amenity**

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

## **Policy TC2 : Residential Development**

All proposals for new residential development\*, including the conversion of non-residential buildings must:

- be compatible with current and proposed land uses in the surrounding area;
- provide a satisfactory residential environment for the proposed dwelling(s);
- not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and
- include as appropriate a mix of house sizes, types and tenures and provision for affordable housing in accordance with Policy TC3 Affordable Housing.

Within development boundaries Angus Council will support proposals for new residential development where:

- the site is not allocated or protected for another use; and
- the proposal is consistent with the character and pattern of development in the surrounding area.

In countryside locations Angus Council will support proposals for the development of houses which fall into at least one of the following categories:

- retention, renovation or acceptable replacement of existing houses;
- conversion of non-residential buildings;
- regeneration or redevelopment of a brownfield site that delivers significant visual or environmental improvement through the removal of derelict buildings, contamination or an incompatible land use;
- single new houses where development would:
- round off an established building group of 3 or more existing dwellings; or
- meet an essential worker requirement for the management of land or other rural business.
- in Rural Settlement Units (RSUs)\*\*, fill a gap between the curtilages of two houses, or the curtilage of one house and a metalled road, or between the curtilage of one house and an existing substantial building such as a church, a shop or a community facility; and
- in Category 2 Rural Settlement Units (RSUs), as shown on the Proposals Map, gap sites (as defined in the Glossary) may be developed for up to two houses.

Further information and guidance on the detailed application of the policy on new residential development in countryside locations will be provided in supplementary planning guidance, and will address:

- the types of other buildings which could be considered suitable in identifying appropriate gap sites for the development of single houses in Category 1 Rural Settlement Units, or for the development of up to two houses in Category 2 Rural Settlement Units.
- the restoration or replacement of traditional buildings.
- the development of new large country houses.

\*includes houses in multiple occupation, non-mainstream housing for people with particular needs, such as specialist housing for the elderly, people with disabilities, supported housing care and nursing homes.

\*\*Rural Settlement Units are defined in the Glossary and their role is further explained on Page 9.

### **Policy TC3 Affordable Housing**

Angus Council will seek to secure the delivery of affordable housing equivalent to 25% of the total number of residential units proposed on all residential sites of 10 or more units, or where a site is equal to or exceeds 0.5ha.

Where a qualifying site is being developed in phases of less than 10 units or less than 0.5 hectares the affordable housing requirement will be applied based on the overall capacity of the site.

Angus Council will work in partnership with developers and consider innovative and flexible approaches to secure delivery of an appropriate affordable housing contribution. Where appropriate, Section 75 or other legal agreements may be used.

Details of the scale and nature of the affordable housing contribution sought from individual sites, including tenure, house size and type, will be subject to agreement between the applicant and Angus Council taking into account:

- local housing needs (set out in the current Housing Needs and Demand Assessment);
- physical characteristics of the site;
- development viability; and
- availability of public sector funding.

The Affordable Housing Policy Implementation Guide sets out how the Council will implement this policy and secure the delivery of Affordable Housing in line with the provisions of Scottish Planning Policy and guidance.

### **Policy PV7 : Woodland, Trees and Hedges**

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- ensure new woodland is established in advance of major developments;
- undertake a Tree Survey where appropriate; and
- identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

## **Policy PV15 : Drainage Infrastructure**

Development proposals within Development Boundaries will be required to connect to the public sewer where available.

Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria\*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of waste water treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. A private drainage system will only be considered as a means towards achieving connection to the public sewer system, and when it forms part of a specific development proposal which meets the necessary criteria to trigger a Scottish Water growth project.

All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority. SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process.

Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

\*Enabling Development and our 5 Criteria (<http://scotland.gov.uk/Resource/0040/00409361.pdf> )