

## **AGENDA ITEM NO 9**

**REPORT NO 251/19**

### **ANGUS COUNCIL**

#### **DEVELOPMENT STANDARDS COMMITTEE – 6 AUGUST 2019**

#### **PLANNING APPLICATION – FORMER ASHLUDIE HOSPITAL, VICTORIA STREET, MONIFIETH**

**GRID REF: 349539 : 733159**

#### **REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES**

##### **Abstract:**

This report relates to planning application No: 19/00440/FULL for the erection a 2m high timber fence along the northwest site boundary between the Miller Homes development at the former Ashludie Hospital and the existing properties at The Stables, Ashludie, Monifieth for Miller Homes. 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 applicants seek planning permission to erect a 2m high acoustic standard screen fence to replace an existing timber fence between the site of the Former Ashludie Hospital and a group of properties to the west of the site known as The Stables.

3.2 Both Ashludie House and The Stables are listed buildings (Ashludie House Category B and The Stables Category C). The proposed fence would be located on the east boundary of the Stables and the Pavilion and the west boundary of the parking area associated with Ashludie House on Ashludie Hospital Drive.

3.3 The fence would be of fairly standard close boarded construction at 2m in height extending for a distance of around 100m along the existing fence line. The acoustic attenuation and screening qualities of the fence would be achieved by overlapping double boards and the detailing of the capping arrangement and the use of a gravel board.

3.4 This application requires to be determined by Committee because it is recommended for approval in circumstances where there are more than five objections.

#### 4. RELEVANT PLANNING HISTORY

- 4.1 Planning application ref: [15/00099/FULM](#) for Conversion of Ashludie House into 11 Flats and 1 House, the Erection of 121 houses Within the Grounds, the Erection of 34 Flats all with Associated Car Parking, the Formation of New Access, Landscaping and SUDS Pond is directly relevant as it is the underlying planning permission for the redevelopment of the former Ashludie Hospital site. That planning application was considered and approved by the Development Standards Committee at its meeting of 25 August 2015 ([Report 327/15](#) refers). That permission was granted subject to a number of conditions, including Condition 1(e) which states:

*That prior to the commencement of development hereby approved, the following details shall be submitted to and approved in writing by the Planning Authority:*

*(e) Specifications for all boundary enclosures and fencing. This will include provision of a 2-metre high wall and additional planting along the common boundary between the site and the properties at 1 - 4 The Stables, Parkview.*

*Thereafter the development will be carried out in complete accordance with approved details.*

The reason for the condition is:

*In order that the Planning Authority may control the specified details in the interests of the character of the listed building and impact on its setting, to ensure a high quality design throughout the development, to protecting residential amenity and to secure future maintenance of unadopted areas and infrastructure.*

- 4.2 The part of the above reason that is relevant to Condition 1(e) is the part that relates to the protection of residential amenity. The conditional requirement to erect the wall was attached following the decision of the Development Standards Committee to approve planning application ref 15/00099/FULM at the meeting of 25 August 2015. The minute of that meeting reflects that:

*The Committee agreed that the application be approved for the reasons, subject to the conditions and the planning obligation, as detailed in section 10 of the Report and subject to an amended Condition 1 to provide for appropriate screening of the car parking area to protect The Stables.*

- 4.3 Whilst other planning permissions have subsequently been granted for amendments to the detail of the Ashludie House conversion (17/00033/FULL and 17/00034/LBC), those have no bearing on the consideration of this application.

- 4.4 The development subject of the above permissions is nearing completion. The wall required by condition 1(e) has not been constructed.

#### 5. APPLICANT'S CASE

The applicant has submitted a short supporting statement with the application which can be viewed on the council's [Public Access website](#). The statement highlights the following points:

- There a number of existing mature trees which run along the length of the boundary between the site and The Stables and The Pavilion in close proximity to the existing fence and the removal and replacement of this fence with a masonry wall and foundations would undoubtedly end the life of the mature trees which at the moment create a mature setting for both developments and therefore the replacement screen boundary fence would allow the trees to be kept.
- Building the screen wall would also have a detrimental effect on the existing landscaping within

- the gardens of the Stables and The Pavilion.
- Engineers have assessed the works required to form the wall and determined that it would need a 600mm wide foundation and that the piers would need a 750mm wide foundation which would result in excavation works to both sides of the legal boundary.
  - To build a wall of this size safely would require the use of low level scaffolding or alloy towers resulting in a large working zone to both sides of the boundary which would cause further disruption to the neighbouring gardens.
  - Neighbours have asserted that they consider the boundary wall should be built wholly within the applicant's land to prevent any disruption to the landscaping within their plots. This further complicates the matter as legal titles would then need to be altered.
  - The alternative proposal is to erect a new 2m high timber closed boarded screen fence in lieu of the proposed wall. The fence would be double slatted to prevent any unwanted glare from car headlights entering the properties and has been designed under the guidance of an accredited acoustician to provide a 10dB noise reduction. The fence design has also been appraised by a certified structural engineer to be of a robust construction and enhanced structural specification to suit the wind loadings of the site. The fence would be finished with a twice weathered top rail capping piece which would prolong the life expectancy of the timbers.
  - It is also intended to further reinforce the landscaping within the Ashludie development to soften the edge of the new fence and also aid in the protection of the existing properties. This would be achieved by using evergreen shrubs and hedging placed in strategic pockets along the line of the fence.

## **6. CONSULTATIONS**

6.1 **Community Council** – no response.

6.2 **Angus Council – Roads** – no objection.

6.3 **Scottish Water** – no response.

6.4 **Angus Council Environmental Health** - confirms that the proposed alternative boundary screening arrangements between the site and The Stables would attenuate noise and glare from manoeuvring cars to a similar degree as a masonry wall in the same position and that no 2 metre boundary screen could completely attenuate engine noise.

## **7. REPRESENTATIONS**

12 letters of representation have been received from 11 households. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view on the council's [Public Access website](#). The main issues raised relate to:

- Objection to a fence being erected generally;
- Impacts on amenity from car headlights and noise;
- Ongoing maintenance issues in relation to a fence rather than a wall;
- That a wall would be visually more attractive.

These matters are addressed in the discussion at section 8 below.

## **8. PLANNING CONSIDERATIONS**

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 application is not of strategic significance and the policies of TAYplan are not referred to in this report. The Angus Local Development Plan forms the main basis for the consideration of the proposal and the relevant policies are reproduced at Appendix 2.
- 8.4 As advised above, the current application is made in order to secure permission to erect a timber screen fence between the site of the Former Ashludie Hospital and a group of houses known as The Stables which consists of three conversion properties within a converted stable building and a modern pavilion style dwelling. The application is made by the developer of the former Ashludie Hospital site who are nearing completion of the development described in Section 4 above.
- 8.5 Notwithstanding the details of the site history that has led to the current application being submitted, the application is effectively an application to erect a fence and its consideration should therefore primarily be focussed upon whether the erection of a replacement fence is acceptable in planning terms. The matter of site history is addressed separately below.
- 8.6 At present the boundary in question is defined by a timber screen fence augmented by mature landscaping and this was the established method of screening between the site and the neighbouring dwellings when the former hospital was in use. The proposed replacement fence would improve the current situation as the fence would be of a higher specification being of solid construction and acoustic standard. The fence would have negligible effect in terms of visual amenity impacts given that a timber screen fence has typically defined the same boundary for some time prior to the redevelopment of the Ashludie Hospital site taking place. On that basis, the introduction of a higher specification fence does not raise any conflicts with the relevant policies of the Development Plan in terms of visual amenity impacts generally. Similarly, the replacement of the existing fence with a higher specification fence would have negligible impact on the setting of listed buildings namely Ashludie House and The Stables which are currently separated by a timber fence and have been for a significant period of time. In this respect, the proposal does not conflict with policy PV8 in the ALDP in terms of built and cultural heritage impacts.
- 8.7 The rationale for erecting the fence is to improve screening between the former Ashludie Hospital site and the residential properties at The Stables taking account of concerns that were expressed in relation to the impacts of vehicular movement close to the boundary of the site at the time of the determination of planning permission ref: 15/00099/FULM. The proposed replacement fence would be constructed to acoustic attenuation standard. In this respect the fence would screen car headlights and attenuate noise from vehicle movements associated with the residential occupation of the former hospital site to a satisfactory degree. The fence would be double boarded to ensure that headlight beams could not penetrate gaps in the boards. Environmental Health has confirmed that the claimed attenuation qualities of the fence are fairly accurate although it is acknowledged that no 2 metre boundary can ever completely attenuate engine noise. It is also relevant to consider that the type of car movement that takes place at Ashludie House is not unusual or extraordinary within a suburban area. The effects that the fence would screen are normal slow moving car manoeuvres associated with parking within the curtilage of a residential building within a modern housing development. Such movements are no more intrusive or noisy than normal car movement associated with any other residential development and similar movement currently takes place on a day to day basis on and around the site and in neighbouring housing areas without any need for extraordinary screening or attenuation to be deployed. The proposed fence would adequately attenuate noise from car movements and light pollution from headlights to a satisfactory degree. It has already been established above that there would be no unacceptable visual amenity impact. The proposal is compliant with the relevant amenity considerations of Policy DS4 in the ALDP. The proposal to erect a fence at the site does not conflict with any of the relevant policies of the ALDP.

- 8.8 Having established that the proposed development complies with the policies of the Development Plan it is necessary to take account of any other material considerations. Material considerations relevant to the consideration of the application are the representations received in as far as they raise valid planning concerns, and site history.
- 8.9 In relation to representations, 11 households have objected to the proposal. Most of the comments received express a preference for a wall to be formed instead of a fence however none of the objections state a reasonable solution to the technical and land ownership implications of forming the wall that have been identified in the applicants supporting case, or to the issue of how to erect the wall without irreversibly damaging existing mature landscape features adjacent to the boundary line. In this respect, the erection of a wall would, in all likelihood diminish the effectiveness of existing landscape features in assisting to screen car movement within the new residential development from adjacent dwellings. The existing planting along the boundary currently augments the screening effect of the existing boundary fence and this planting would need to sustain significant damage; or be removed to facilitate the building of a wall which is the stated preferred method of boundary screening referred to in the submitted representations. Concerns over the maintenance requirements of a fence compared to maintenance requirements of a wall have also been raised. Again it is notable that the boundary is currently defined by a fence and the introduction of a fence constructed to a higher standard and weather capped would not amount to an additional maintenance burden beyond that which already exists. There could also be no guarantee that a masonry wall would not require maintenance in the long term; particularly if it was erected close to the root system of any surviving mature vegetation. The objections raised have been taken into account however no issues are raised that demonstrate that a fence in the proposed location would be unacceptable in planning terms. None of the representations raise issues that would lead to the conclusion that the application should be refused contrary to the provisions of the Development Plan.
- 8.10 Turning to the relevant site history, the background that has led to the application for the fence being submitted is detailed at Section 4 above. The previous site history is a material consideration and it is noted that at the time of the determination of planning permission ref: 15/00099/FULM, Committee resolved to grant planning permission subject to an amended Condition 1 requiring the erection of a 2m high masonry wall on the boundary that is subject of this application. At that time the practical difficulties and environmental implications associated with the requirement for the provision of a wall were not known. No provision had been made in the supporting information that was submitted for consideration with the application for the redevelopment of the site (including relevant tree surveys) for intrusive works to be undertaken on the boundary in question. Planning Circular 4/1998 relates to the use of planning conditions in planning permissions. The circular highlights that planning conditions amongst other things need to be necessary and reasonable. The case submitted by the developer in support of the application highlights the difficulty that has arisen in attempting to comply with Condition 1 (e). The highlighted technical constraints to forming the wall in the submitted supporting information; particularly in relation to impacts on trees are understood and are considered to amount to valid concerns. Taking account of the planning history and having regard to the guidance contained in Circular 4/1998, there is a clear and justifiable reason in planning terms why a condition that seeks to safeguard neighbouring residential amenity through the augmentation of the boundary treatment is necessary. The reasonableness of the requirement to erect a wall in circumstances where a fence would provide the same level of protection to neighbouring properties does however lead to concerns over the test of reasonableness. The proposed boundary treatment would provide the same level of protection to neighbouring residential amenity as the boundary treatment suggested by Condition 1(e) of planning permission ref: 15/00099/FULL, and would align with the reason for attaching that condition. There is therefore no reasonable basis to insist that the suggested wall be carried out in preference to the proposed fence.
- 8.11 In summary, the application relates to a proposal to erect an acoustic standard timber screen fence on a boundary between two housing developments containing listed buildings that is currently defined by a timber fence. The relevant site history points to the fact that the original planning

permission for the redevelopment of the Ashludie Hospital site sought a solid boundary feature in the interests of screening adjacent properties from engine noise and car lights in car parking areas adjacent to the mutual boundary. The proposed method of screening adequately addresses any amenity concerns arising. The proposal does not conflict with relevant development plan policies and there are no material considerations that justify the 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 reasons, and subject to the following condition(s):

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

The proposal to undertake the development would not give rise to any conflicts with the policies of the Development Plan and would not give rise to any unacceptable amenity impacts or impacts on the setting of listed buildings. The proposed alternative method of boundary screening between the site and The Stables and The Pavilion has been assessed specifically and is considered to be capable of providing the same level of screening that would have been provided by the wall that was required by a condition of a previous planning permission without negatively affecting other established mature features on and around that boundary. There are no material considerations that justify refusal of the application.

### **Conditions:**

1. That notwithstanding the provisions of subsection (1) of Section 58 of the Town and Country Planning (Scotland) Act 1997(as amended), the development hereby approved shall be commenced on or before the expiration of the period of three months from the date of this planning permission.

*Reason: In order to ensure that the development is commenced in a timely manner in the interests of the residential amenity of neighbouring properties.*

2. That the boundary treatment comprising a 2 metre high acoustic fence and augmented planting between the site and the properties known as 1-3 The Stables and The Pavilion at 4 The Stables shall be completed in accordance with the details contained in the Supporting Statement submitted in support of the application by Miller Homes on 05 June 2019 and with

Miller Homes Ltd Drawing number G21 Rev C and Miller Homes Ltd Drawing Number 2655 P 08 Rev K within two months of the commencement of development.

*Reason: In order to ensure that the development is completed in a timely manner in the interests of the residential amenity of neighbouring properties.*

**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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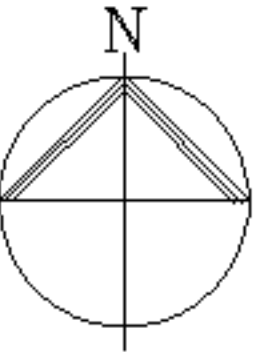
**EMAIL DETAILS:** [PLANNING@angus.gov.uk](mailto:PLANNING@angus.gov.uk)

**DATE: 29 JULY 2019**

APPENDIX 1: LOCATION PLAN

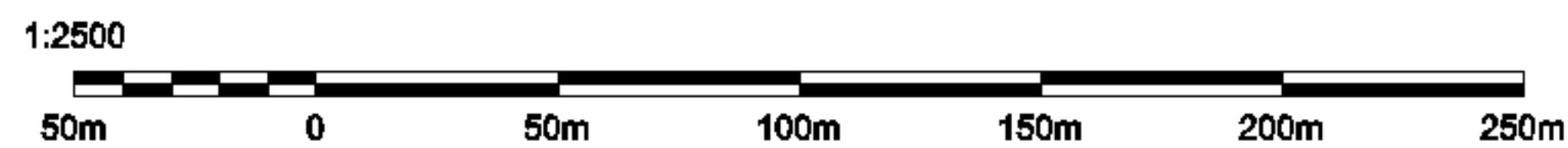
APPENDIX 2: DEVELOPMENT PLAN POLICIES





- Denotes Application Boundary.
- Denotes Miller Homes Development Boundary.

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Rev.	Description	Drawn	Date

**Project Title**  
 Ashludie Hospital  
 Monifieth

**Drawing Title**  
 Application to Erect 2m Fence  
 Site Location Plan

Scale	Drawn By	Checked By	Authorized By
1:2500	DP	May 18	
	Date	Date	Date
Job No.	Drawing No.	Revision	
805288	LOC-001	~	



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## Appendix 2

### 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 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 PV8 : Built and Cultural Heritage**

Angus Council will work with partner agencies and developers to protect and enhance areas designated for their built and cultural heritage value. Development proposals which are likely to affect protected sites, their setting or the integrity of their designation will be assessed within the context of the appropriate regulatory regime.

#### **National Sites**

Development proposals which affect Scheduled Monuments, Listed Buildings and Inventory Gardens and Designed Landscapes will only be supported where:

- the proposed development will not adversely affect the integrity of the site or the reasons for which it was designated;
- any significant adverse effects on the site or its setting are significantly outweighed by social, environmental and/or economic benefits; and
- appropriate measures are provided to mitigate any identified adverse impacts.

Proposals for enabling development which is necessary to secure the preservation of a listed building may be acceptable where it can be clearly shown to be the only means of preventing its loss and securing its long term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully in order to preserve or enhance the character and setting of the listed building.

#### **Regional and Local Sites**

Development proposals which affect local historic environment sites as identified by Angus Council (such as Conservation Areas, sites of archaeological interest) will only be permitted where:

- supporting information commensurate with the site's status demonstrates that the integrity of the historic environment value of the site will not be compromised; or
- the economic and social benefits significantly outweigh the historic environment value of the site.

Angus Council will continue to review Conservation Area boundaries and will include Conservation Area Appraisals and further information on planning and the built and cultural heritage in a Planning Advice Note.