

SPECIAL MEETING OF ANGUS COUNCIL

27 NOVEMBER 2020

**SECTION 42 PLANNING APPLICATION – FORMER STRATHMARTINE HOSPITAL
STRATHMARTINE**

GRID REF: 338584 : 735176

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

Abstract:

This report deals with planning application No [20/00102/FULM](#) which is an application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) for the redevelopment of former hospital site to include new build and conversion to residential and community use and creche, associated access, landscape and infrastructure works subject to amended conditions 1 (developer contributions), 2 (matters specified) and 4 (phasing of Listed Building works) to those attached to previously granted planning permission reference: 13/00268/EIAM at the site of the Former Strathmartine Hospital, Strathmartine for Chamberlain Bell Ltd. 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 detailed in Section 11 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. BACKGROUND

3.1 The application site comprises the buildings and grounds occupied by the Former Strathmartine Hospital. A plan showing the location of the site is provided at Appendix 1.

3.2 At its meeting on 18 December 2014 Council resolved to grant planning permission in principle for the redevelopment of the site to include conversion of existing buildings to residential and community/creche use, new-build residential development, and associated access, landscape and infrastructure works. That decision was notified to Scottish Ministers as it was a significant departure from the development plan and, as it was subject of objection from Dundee City Council. Ministers decided to call the application in for their determination. In September 2015 they advised an intention to grant permission subject to several planning conditions and conclusion of a planning obligation. The required planning obligation was not progressed. In April 2018 Ministers granted permission subject to planning conditions, including a condition requiring a planning obligation. A copy of Scottish Ministers decision and the associated planning conditions is provided at Appendix 2.

- 3.3 Council officers have met with parties in the intervening period, including representatives of the landowner and the current applicants. Several obstacles to redevelopment have been identified and this application seeks to amend the conditions that have been imposed on the development in order to make it viable and deliverable. The principle of this form of development at the site has been approved by Angus Council and Scottish Ministers. The existing planning permission in principle remains extant and is unaffected by any decision on this application.

4. INTRODUCTION

- 4.1 The current application proposes the same development that council resolved to approve in 2014 and that was subsequently granted planning permission in principle by Scottish Ministers in 2018. It would provide 224 residential units formed through a combination of conversion of listed buildings and new-build development. It is indicated that a community use/creche would be provided within the site, along with the provision of open space, roadways, footpaths and other necessary infrastructure.
- 4.2 The site extends to some 18 hectares and is located 400 metres north of the Dundee City administrative boundary. The areas to the north, east and south (between the site and the Dundee boundary) are predominantly in agriculture or forestry use. To the south east of the site are the existing properties at Ashton Terrace, which were once part of the hospital estate. To the west of the site are the remaining National Health Facilities and beyond this, approximately 800 metres west of the application is the village of Bridgefoot which includes a primary school. The site has been closed, unused and un-maintained since 2003.
- 4.3 The site has a southerly aspect and contains several large buildings, access roads, open spaces and woodland. Notably it contains an administration building and three contemporary pavilion ward blocks that comprise a Category B listed building. The curtilage of the listed building includes extensions to the north of the administration building, the separate laundry block to the north and the pair of single-storey cottages to the north-west. The 11-bay administration block with pavilion roof and shaped gables was designed by John Turnbull McLaren and dates back to 1900. Originally founded as the Baldovan Institution it was the first orphanage for the specialised care of children to be founded in Scotland. It was taken over by the National Health Service in 1948 and further extensions were built in the 1960's.
- 4.4 This application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). Planning legislation indicates that for applications of this nature the planning authority must only consider the question of the conditions subject to which planning permission should be granted and, if they decide that planning permission should be granted subject to conditions differing from those previously attached to the permission, they shall grant planning permission accordingly (Section 42(2)(a)). If they decide that permission should be granted subject to the same conditions as detailed on the earlier permission, they shall refuse the application (Section 42(2)(b)). The effect of granting permission for a Section 42 application is such that a new and separate permission exists, with any conditions attached as appropriate.
- 4.5 The application has not been subject of variation. It has been subject of statutory neighbour notification and was advertised in the press as required by legislation.
- 4.6 This application requires to be determined by Angus Council because it is a Major development, as defined in Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, which is significantly contrary to the development plan.

5. RELEVANT PLANNING HISTORY

- 5.1 At its meeting on 18 December 2014 Council considered a planning application (ref: [13/00268/EIAM](#)) which proposed redevelopment of the Former Strathmartine Hospital for what was predominantly a large-scale residential development (Reports [507/14](#) and [508/14](#) refer). Council acknowledged that the proposal was contrary to development plan policy but concluded that benefits associated with the redevelopment of the brownfield site, including reuse of a category B listed building justified approval of the application. Council also considered that potential impacts associated with the development could be appropriately mitigated and resolved to approve the application. That resolution was notified to Scottish Ministers as Dundee City Council had objected to the application.
- 5.2 Scottish Ministers called that application in for their determination. Ministers appointed a Reporter to consider the matter and to provide a report and recommendations on the application. The Reporter considered representations from all parties and submitted a report to Scottish Ministers recommending that the application be approved. Ministers subsequently granted planning permission in principle in April 2018 (Appendix 2).
- 5.3 A planning application (ref: [13/00364/FULL](#)) which sought planning permission for the change of use of the administration building to 24 flats, extension to existing cottages and conversion of the chapel of rest to a community building was withdrawn.
- 5.4 A listed building consent (ref: [13/00367/LBC](#)) was approved in January 2016 that provided for alterations, extension and demolitions at the former hospital administration building and associated curtilage buildings (Report [08/16](#) refers).
- 5.5 A planning application (ref: [20/00176/FULL](#)) has been submitted that provides for the conversion of the former hospital administration building to 11 dwellings, and alterations to cottages to provide a single dwelling with associated ground works, landscaping, access, and associated drainage infrastructure. That application is currently under consideration and will be determined following a decision on the application subject of this report.
- 5.6 A listed building consent application (ref: [20/00175/LBC](#)) has been submitted that provides for alterations and extension to the former hospital administration building, alterations to cottages, and the demolition of a curtilage building to facilitate the conversion of the former hospital administration building to 11 dwellings, and alterations to cottages to provide a single dwelling. That application is currently under consideration and will be determined following a decision on the application subject of this report.
- 5.7 A screening opinion has been adopted and confirms that this development does not require environmental impact assessment. That opinion recognises that this is a Schedule 2 development in terms of the relevant regulations, but it concludes that it is unlikely to give rise to significant environmental effects having regard to its characteristics, location and the nature of potential impacts. Impacts associated with the development would not be particularly unusual or complex and could be mitigated by readily implementable design measures. That conclusion is based on environmental information that accompanied a previous application for a similar development at this location and information provided by relevant consultation bodies.

6. APPLICANT'S CASE

- 6.1 The following documents have been submitted in support of the application:

- Section 42 Planning Statement;
- Ecological Assessment report April 2020 (listed buildings);
- Ecology Update report June 2020 (whole site);
- Scottish Government decision notice.

6.2 The supporting information is available to view on the Council's [Public Access](#) system and is summarised at Appendix 3.

7. CONSULTATIONS

7.1 **Angus Council – Roads** – offers no objection to the proposal. It is indicated that the council and Scottish Ministers have both accepted this level of development can be accommodated on the local road network and there remains an extant permission for 224 units. The circumstances relative to the development and the surrounding area are largely unaltered and the roads conditions specified in the previous permission remain appropriate. In relation to public transport it indicates that upgrade of the bus shelter facility and provision of real time information is required. However, a contribution towards a bus subsidy is no longer considered necessary. In relation to the original planning application the roads service advised no objection to the application. The site lies outwith the 1 in 200year flood envelope for the Dighty Water and is therefore not at significant risk from flooding. It is recommended that a full Drainage Impact Assessment and surface water drainage details are secured through planning conditions.

7.2 **Angus Council – Environmental Health** – offers no objection to the proposal in respect of land contamination subject to a condition requiring investigation and any mitigation (where necessary) to be undertaken. No concerns or objections are raised for any other matters within the remit of the service.

7.3 **Angus Council – Housing Service** – has confirmed that policy requires the development to provide 56 affordable housing units. It has indicated that, having regard to the complex issues associated with delivery of the site, a flexible approach can be taken towards the means of delivery of the affordable housing contribution. The current proposal for 28 on-site and 28 commuted contributions is acceptable.

7.4 **Angus Council – Children and Lifelong Learning** – has indicated that Strathmartine Primary School would require to be extended to accommodate the anticipated number of children from the development. It has also indicated that, while at time of the original planning application there was concern about capacity at Forfar Academy and consequentially a requirement for contribution towards extension, current information indicates the school is likely to have adequate capacity to accommodate children from planned development in the area. On this basis it is indicated that a contribution should be sought towards the primary school, but no contribution is required in relation to the secondary school.

7.5 **Angus Council – Parks & Burial Grounds** – has indicated that Angus Local Development Plan Policy PV2 standards in relation to open space provision would apply. This should be achieved and satisfactorily designed in any subsequent application.

7.6 **Scottish Environment Protection Agency (SEPA)** – has indicated that its position has not changed in the period since consideration of the previous planning application. It offers no objection to the application.

7.7 **Scottish Water** – offers no objection to the proposal. It is noted that due to the size of the development, Scottish Water will be required to assess the impact this new demand will create through its consenting process.

7.8 **Community Council** – no comment received.

- 7.9 **Aberdeenshire Council Archaeology Service** – offers no objection to the application. A Condition Report and Conservation Plan, along with drawings, submitted with the original planning application addressed a requirement for a Level 1 Standing Survey. No further archaeological mitigation is required.
- 7.10 **Dundee City Council** – offers no objection to the proposal.
- 7.11 **NatureScot (formerly Scottish Natural Heritage)** – has offered no formal comment on the proposal. However, in relation to the previous application for the site it indicated that its key interest in relation to this proposal was European Protected Species, notably bats. Having assessed the Environmental Statement and Bat Survey it did not object to the application. It highlighted that if the application was approved, a licence would be required and based on the information available it was likely that the tests for granting a licence would be met.

8. REPRESENTATIONS

- 8.1 Eleven letters of representation have been received. Ten raise objection to the application while one is in support. The letters of representation are available to view on the council's [Public Access](#) website and are provided at Appendix 4.
- 8.2 The main issues raised in objection are summarised as follows: -
- impact on the character and amenity of the area through additional development;
 - impact on amenity of residents at Ashton Terrace;
 - impact on Ashton Terrace from proximity to affordable housing;
 - impact on open space areas used by residents at Ashton Terrace;
 - unacceptable density of affordable housing;
 - impact on road traffic and pedestrian safety in a rural area;
 - impact on access, parking and road safety at Ashton Terrace;
 - impact on ecological interests including bats, red squirrels and the Dighty Burn;
 - impact on education capacity, in particular Strathmartine Primary School;
 - impact on drainage and electrical infrastructure in the area and the need for upgrade;

These matters will be addressed in the planning considerations section of this report.

- 8.3 In addition, the following matters have been raised and are addressed immediately: -
- **inadequate notification and consultation** – Pre-application consultation was undertaken in association with the planning application 13/00268/EIAM. This application seeks to undertake development without complying with conditions attached to the grant of permission associated with that previous application. Planning legislation does not require the applicant to undertake pre-application consultation with communities in that circumstance. Publicity and notification associated with the application has been undertaken in accordance with statutory requirements;
 - **no development brief** – the site is identified for reuse and redevelopment in the Angus Local Development Plan. That plan identifies a number of factors that need to be taken into account by any development proposal, but it does not identify a requirement for a development brief and a brief is not necessary to allow determination of this application;
 - **inadequate information regarding detail of proposal, including access arrangements and presence of services and facilities** – the application is for planning permission in principle only and therefore precise details of the proposal are not available at this stage. Conditions attached to the existing permission require submission of an application or applications for approval of the precise details of the development including all aspects relating to the layout of the site

and the design of new buildings, roads and associated infrastructure. Similar conditions would be appropriate if this permission is granted and interested parties would have opportunity to comment on those matters when further applications are submitted. The current application indicates that vehicular access would be taken from two existing vehicular access points on Craigmill Road and that is consistent with the existing permission at the site. The application includes provision for community use and a creche;

- **approval might establish an undesirable precedent** – there is no concept of binding precedent in planning law and each application must be considered on its own merits. The site-specific circumstances of this site such as its geography, physical characteristics, policy position and planning history are unlikely to be replicated elsewhere;
- **development should be subject of environmental impact assessment** – the 2013 planning application that was subsequently approved in 2018 by Scottish Ministers was subject of environmental impact assessment and was accompanied by an environmental statement. That process, the associated environmental statement, and the consultation undertaken with relevant bodies did not identify unusual or complex significant environmental impacts arising from the proposed development. As indicated above this application has been subject to formal screening under relevant regulations and it has been determined that environmental impact assessment is not required;
- **residential development on this site might lead to pressure for review of administrative boundaries** – this is not a material planning consideration.

8.4 The representation in support of the application does not expand upon the reason for that support and is therefore of little material relevance.

9. PLANNING CONSIDERATIONS

9.1 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.

9.2 Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard shall be paid to the desirability of preserving the building or its setting.

9.3 In this case the development plan comprises:-

- [TAYplan](#) (Approved 2017)
- [Angus Local Development Plan](#) (ALDP) (Adopted 2016)

9.4 The following development plan policies are relevant to the determination of the application, they have been considered in the preparation of this report, and are reproduced at Appendix 5: -

TAYplan (Approved 2017): Policies 1, 2, 4, 6, 8 and 9

Angus Local Development Plan (ALDP): Policies DS1, DS2, DS3, DS4, DS5, TC1, TC2, TC3, TC8, PV1, PV2, PV3, PV5, PV6, PV7, PV8, PV11, PV12, PV13, PV15, PV18, PV20 and St1.

9.5 As advised above, the current application is made under Section 42 of the above Act as it constitutes an application to develop land without compliance with conditions previously attached to planning permission in principle 13/00268/EIAM. For an application made under Section 42 the planning authority typically must only consider the question of the conditions subject to which planning permission should be granted.

- 9.6 In this case the application site lies within the development boundary for Strathmartine as defined by the ALDP. It is identified as an opportunity site for reuse and redevelopment for a range of uses, including housing by proposal St1 of the ALDP. However, Policy 1 of TAYplan seeks to direct large scale residential development to locations within principal settlements. Strathmartine is not a principal settlement. In addition, housing development of the scale proposed is not currently required to meet the housing land requirements identified by policy 4 of TAYplan; current housing completions and the identified effective land supply exceed target requirements. Large-scale housing development at this location not consistent with development plan policy.
- 9.7 The conflict with development plan policy was known in 2014 when council previously resolved to grant permission for redevelopment of the site, and it was recognised by Scottish Ministers when they granted the extant planning permission in principle in 2018. The development plan framework has been updated in the period since the matter was originally considered but the general policy approach to large-scale housing development at this location has not fundamentally changed. This proposal remains significantly contrary to development plan policy.
- 9.8 However, the council and Scottish Ministers have both previously determined that the benefits associated with redevelopment of the site outweigh identified conflict with the development plan. Specific benefits associated with the proposal were identified as: -
- Protection and re-use of a Category B listed building
 - Addresses security and safety issues
 - Prevention of future arson and vandalism
 - Landscape enhancement and public access
 - Provision of affordable housing
 - Remediation of a derelict site to the benefit of local amenity
 - A contribution to the future housing land supply
 - Potential to support local bus services
 - Local economic and employment benefits through the construction phase.
- 9.9 The condition of buildings on the site has continued to deteriorate; the site detracts from the amenity of the area; and it continues to give rise to issues in terms of public safety, but the benefits associated with the proposal that justified approval contrary to development plan policy in 2018 are still deliverable. The existing permission remains extant and is capable of implementation. The site forms part of the established housing land supply identified in the Angus Housing Land Audit, and the grant of a new permission would not change the overall housing land supply in the area. In these circumstances it is not appropriate to reconsider the acceptability of the principle of the development in the determination of this application.
- 9.10 While the general principle of the development remains acceptable, it is appropriate to consider the application in the context of relevant development plan policy and material considerations in order to identify issues that require to be addressed by planning conditions or any planning obligation.
- 9.11 Condition 1 of the existing permission as detailed in Appendix 1 details those matters that Scottish Ministers considered should be subject of a planning obligation. It identifies the level of contribution required in relation to primary and secondary school education, and a requirement for payment of 50 commuted sums towards affordable housing provision.
- 9.12 The council has adopted Developer Contributions and Affordable Housing Supplementary Guidance. That guidance identifies the circumstances where

contributions may be required to address school capacity issues and the methodology for calculation of any such requirement. It also identifies the approach towards delivery of affordable housing, including the methodology for calculation of commuted sums that may be sought in lieu of on-site provision. The guidance also confirms that education contributions will not be sought from listed building enabling development or from affordable housing units.

- 9.13 The application site lies within the catchment of Strathmartine Primary School and Forfar Academy. The supplementary guidance confirms that the capacity at both schools will be monitored and contributions sought as appropriate.
- 9.14 In this case the council's Children and Lifelong Learning Service has confirmed that a financial contribution is required to address capacity issues that would arise at Strathmartine Primary School should this development proceed. That position is consistent with the approach taken in relation to the existing permission. While it was determined that a contribution towards secondary school capacity was also appropriate at the time of the decision on the existing permission, recent information has identified that Forfar Academy has capacity to accommodate children from planned development within its catchment. Accordingly, the Children and Lifelong Learning Service has advised that contributions should only be sought in relation to Strathmartine Primary School. The council's adopted supplementary guidance confirms that contributions are not required from the listed building conversions or from designated affordable housing units. The development would involve the conversion of the listed buildings to form 12 units, and a development of 224 dwellings would give rise to a requirement for 56 affordable housing units (25%). Education contributions towards increased primary school capacity would therefore be required from 156 units within the development.
- 9.15 The application provides for a total of 224 dwellings within the site. Development plan policy identifies a requirement for 25% of units within a development to be provided as affordable housing. In this case the policy requirement is for 56 units and it is indicated that 28 affordable units would be provided on site. During discussion, the applicant has agreed that commuted payments equivalent to a further 28 units would be made in accordance with the methodology set out in the supplementary guidance.
- 9.16 Condition 1 as set out in the existing permission does not reflect current council policy on developer contributions and does not reflect existing circumstances in relation to secondary school capacity. Accordingly, while a condition requiring a planning obligation remains necessary, it is appropriate to revise the requirements considering current policy and circumstances. The proposed revisions to the condition are set out as condition 1 at Section 10, and the identified requirements are consistent with council policy.
- 9.17 Condition 2 of the existing permission as set out in Appendix 2 details those matters that Scottish Ministers considered should be subject of further application/s for approval by the council. This is an application for planning permission in principle and therefore limited information has been provided in relation to the detail of the development proposed. In these circumstances it remains appropriate to attach a condition that requires the submission of a further application or applications for approval of specified details in order that they may be given proper consideration by interested parties and the planning authority.
- 9.18 The existing condition covers the following matters: -
 - a. The overall layout of the site, including the total number of residential units to be provided;
 - b. The phasing of the development;
 - c. Full details of all demolition and other works to the listed buildings;
 - d. The siting, design and external appearance of the new build dwellings;

- e. Existing and proposed ground levels and finished floor levels;
- f. The precise details of means of access;
- g. The means of drainage;
- h. All boundary enclosures;
- i. The provision of open space;
- j. A public access plan, including a requirement for a footway between the site and Strathmartine Primary School to be provided prior to the commencement of any other development;
- k. Evidence of a legally binding agreement with a bus operating company for the provision of a local bus service to serve the development for a period of three years;
- l. A public transport scheme;
- m. A scheme to ensure the on-going management and maintenance of any buildings that will not be demolished prior to occupation of the first new dwelling unit.

9.19 The existing condition requires all details for the entire site to be approved before development can commence. The applicant has proposed an amendment to the condition that would allow the submission of details on a phased or zonal basis and for construction on an approved phase or zone to commence before details of subsequent phases or zones are approved. That is consistent with the general approach the council has taken to other large development sites. While it is acceptable in this case, there are matters that require consideration on a whole site basis to ensure that one phase or zone of the development does not compromise delivery of a subsequent phase or zone, and to ensure delivery of appropriate infrastructure and creation of a good living environment in accordance with development plan policy. It is proposed to restructure condition 2 so that it identifies those matters that require consideration on a whole site basis, and those matters that can be considered on an individual phase or zone basis. The revised condition proposed below covers the same general matters but allows for the development to be delivered in a phased manner, subject to proper consideration of relevant whole site matters such as access, drainage and open space provision. The condition is also revised to allow demolition of those buildings that are to be removed in advance of approval of other matters.

9.20 Condition 2a of the existing permission restricts the total number of dwellings that can be formed on the site and restricts the number of those than can be new-build units. The applicant has suggested that the listed buildings lend themselves more readily to the formation of larger town house style properties rather than the flatted units previously proposed. Such conversion would provide fewer dwellings formed through conversion and the applicant has requested that the terms of this condition are varied. The proposed variation would still restrict the maximum number of dwellings to be formed on-site at 224 but would allow for up to 212 of those to be formed through new-build construction. It would still ensure retention and conversion of those listed buildings to be retained. The detail of works to listed buildings would require further approval through a subsequent application and through the listed building consent process. The site is reasonably substantial and there is no basis to consider that up to 212 new-build dwellings could not be provided in an acceptable manner. The proposed variation is acceptable and a revised condition that deals with this matter is provided as condition 2(a)(i) set out below.

9.21 Condition 2j of the existing permission requires the provision of a public access plan. It indicates that this should include details of all proposed pedestrian and cycle paths within the site, linkages to the existing wider network and details of their long-term maintenance. It also requires the provision of a footway between the site and Strathmartine Primary School, and it requires that to be provided before any other development commences.

9.22 The applicant has suggested that the condition is amended to make it clear that the footway improvement should be in accordance with detail that has been discussed

with the council's roads service. In addition, it is suggested that the terms of the condition should be varied such that the footway should be provided before any dwelling within the development is occupied.

- 9.23 The roads service has confirmed that it finds the generality of the proposed footway improvement scheme acceptable. Further consent for the detailed design would be required from that service before works could commence. The submitted plan identifies that the footway improvements would take place on land controlled by the applicant or on land within the boundaries on the public roadway. The applicant has adequate control over the land to comply with the requirements of the condition and the revision to the timing as proposed is considered acceptable. A revised condition is proposed as 2(a)(v) that retains the requirement for the provision of a public access plan for the wider site, but that clarifies the specification and timing for the footway link between the site and the school.
- 9.24 Condition 2k of the existing permission requires the developer to enter a legally binding contract with a bus operating company to ensure provision of a bus service. Public transport provision in the area has changed in the period since the original planning application was considered but the roads service has confirmed that there are existing bus services operating on Craigmill Road and that these are considered acceptable to serve a development on the urban fringe of Dundee. The entire development would be reasonably close to Craigmill Road and it is considered unnecessary and unsustainable to require a bus service to enter the site. Residents from the development would help sustain existing bus services. Accordingly, the requirements set out in the existing condition are no longer considered necessary or appropriate. It is proposed to delete this requirement having regard to existing circumstances and public transport provision.
- 9.25 Condition 2l of the existing permission requires the applicant to provide a public transport scheme that details provision for improvements to existing facilities adjacent to the site on Craigmill Road. The applicant has suggested minor revision to the wording of that condition, specifically to remove reference to provision of a bus layby. There is an existing bus layby on the north side of Craigmill Road serving east bound traffic, and a new layby is not required to the south serving west bound traffic. However, dropped kerbs are required to the north and south of the carriageway to allow persons with restricted mobility to cross the public road, and a bus stop pole and raised kerb, along with a small buildout to provide a safe wheelchair harbourage are required on the southern footway. A revised condition specifying those requirements is proposed as 2(a)(vi) below.
- 9.26 Condition 4 of the existing permission relates to timescales for the phasing of works to the listed buildings. The applicant has requested variation to this condition to reflect timescales associated with likely works to the listed building. It is suggested that initially preparatory works to the retained listed buildings, including stripping and drying out time, are likely to take some time. The current wording of the condition would prevent any further work taking place during that process and would likely affect deliverability of the overall development. The applicant has suggested a phased approach to the listed building works that would link completion of certain works to completion of new-build units.
- 9.27 It is recognised that allowing any new-build development in advance of conversion of the listed buildings represents a risk. There is a possibility that a number of new-build units could be completed and that the listed building would not be converted. However, it is also relevant to recognise that any redevelopment must be viable and financially deliverable otherwise the development is unlikely to proceed, and in that case the listed buildings would continue to deteriorate and the site would be likely to remain in a derelict and deteriorating condition. This is a large site where there are several unusual development costs, including the listed buildings, topography, and the substantial unlisted buildings that require to be removed. The approach proposed

provides the developer with an ongoing return that allows further investment in the listed buildings, and milestones against which progress on works to the listed buildings can be monitored. In the circumstances of this case it is considered that the benefits associated with the overall redevelopment outweigh the risks, and the approach proposed by the developer is broadly supported. An extra safeguard has been proposed to ensure that the listed buildings are made safe before any new-build house is occupied, and the proposed condition provides milestones where construction of further new-build development cannot proceed until specified works have been completed to the listed buildings.

- 9.28 Development plan policies seek to minimise the production of demolition and construction waste and seek to ensure that where possible recycled material is incorporated into new development. This proposal involves substantial demolition and it is appropriate to add a new condition that requires provision of a waste management plan. This would allow consideration of use of recycled material from the demolition in the new development. The additional requirement is identified as condition 10.
- 9.29 The remaining conditions attached to the existing permission by Scottish Ministers are appropriate and relevant to any further permission that is granted for this site. Those conditions are reproduced in the list of proposed conditions provided at Section 10 below subject to the following minor amendments. Condition 3a requires the provision of a masterplan and it is proposed to amend it to indicate that the masterplan should have reference to the council's adopted Design Quality and Placemaking Supplementary Guidance. Condition 3c is amended to clarify the circumstances where a residential travel pack will be required to support a subsequent application. Conditions 6 and 7 of the original permission contain 'tail-pieces' that allow for unspecified modification of the condition's requirements with the agreement of the planning authority. Such 'tail-pieces' have been determined by the Court's to be inappropriate.
- 9.30 The proposed conditions are consistent with development plan policy requirements and with government policy guidance on the use of planning conditions and planning obligations. They address environmental, amenity and infrastructure issues that were identified in the environmental statement that accompanied the 2013 planning application and they have been updated as appropriate to reflect current policy and circumstances. The conditions ensure that further information is provided to safeguard the listed buildings and their setting.
- 9.31 A number of representations have been submitted that raise material planning issues and it is appropriate to take account of them in making a decision on this application.
- 9.32 Concern regarding the impact of the proposed development on the character and amenity of the rural area are legitimate and well founded. However, the former hospital complex is brownfield in nature, and it is occupied by large institutional buildings that are abandoned and derelict. The current condition of the land and buildings detracts from the amenity of the area. The council and Scottish Ministers have previously determined that any adverse impact on the landscape and rural character of the area would be offset by the positive impact achieved through removal of a significant number of large-scale derelict buildings. There is an existing permission for this development and that permission can be implemented irrespective of the outcome of this application. Conditions attached to the existing permission seek to require further approval of matters related to layout, design and landscaping and provide opportunity for negative impact on the rural character and visual amenity to be minimised. Similar conditions are proposed below.
- 9.33 Ashton Terrace is located close to the site and residents at that location would be affected by the development during development activity and following construction. However, conditions are proposed that seek to ensure that development activity does

not give rise to any unacceptable impacts. In addition, the proposed conditions require the precise detail of the development, including matters related to the location and design of new buildings and their relationship to existing properties to be subject of further applications. That process would allow interested parties opportunity to comment on those detailed proposals and for those matters to be fully considered in the context of relevant council policy and guidance. This is a large site and at this stage there is no reason to consider that a high-quality development could not be provided in a manner that would provide a good living environment while safeguarding the amenity of occupants of nearby property. The removal of derelict buildings and the positive management of landscaped areas within the site offers opportunity to improve the general amenity of the area.

- 9.34 While the site does not currently generate any meaningful level of vehicular movement, its previous use as a hospital complex would have generated a significant volume of traffic. The previous application for the site was accompanied by a detailed Transport Assessment and both the council and Scottish Ministers were satisfied that, subject to conditions, the development would not give rise to unacceptable impacts on the local or regional road network. The roads service has had regard to the objections that have been submitted and to the existing permission that allows for the construction of 224 dwellings at this site. It is satisfied that the development can still be accommodated within the road network.
- 9.35 Residents at Ashton Terrace have raised specific concern regarding vehicular access being taken from Balmydown Road and Ashton Terrace. However, it is again relevant to note that the existing permission allows for use of that road. Council and Scottish Ministers have accepted that the road can safely accommodate traffic from the proposed development subject to conditions that require improvement of the visibility sightlines at its junction with Craigmill Road. The roads service has confirmed that it has no objection to the current application and that the conditions attached to the existing permission regarding road safety remain appropriate.
- 9.36 Concerns have been raised regarding the impact of the development on ecological interests. The planning application associated with the existing permission was supported by an environmental statement that specifically considered the impact of the development on ecological interests. The site was surveyed to identify presence of badgers, bats and red squirrels, and to record habitat and plant communities. Those surveys did not identify presence of badgers or red squirrels within the site and the environmental statement suggested that those species would not be compromised by the development proposal. Detailed bat surveys were undertaken at that time and identified most of the buildings have potential to accommodate bat roosting. They indicated that the general area is used by bats for foraging, but no evidence was found of use of the buildings for maternity roosts. Evidence of a single bat using the main building as a roost was identified. The environmental statement also identified potential for impact on the Dighty Water because of surface water runoff from the site entering the burn. However, it advised that potential for contamination would be avoided with the formation of an appropriately designed sustainable urban drainage system. That information was considered by Scottish Natural Heritage and SEPA and both confirmed no objection to the application subject to appropriate conditions. Scottish Natural Heritage advised that a protected species license would be required in relation to potential impact on a bat roost, but it advised that a license would likely be granted. Scottish Ministers were also satisfied that ecological impacts would not be unacceptable and attached a condition to the permission to deal with potential impact on bats.
- 9.37 The applicant has submitted updated ecological information with this application. That information comprises surveys undertaken by a qualified ecologist with experience of the site. It does not identify any material change in the ecological value of the site or in the likely impact of the development on ecological interests. The conditions attached to the existing permission by Scottish Minister in 2018 are

considered to remain appropriate if this permission is granted.

- 9.38 Issues regarding potential impact on education provision have been discussed above. A development of this scale would create capacity issues at Strathmartine Primary School and the proposed condition 1 seeks to secure a contribution towards extension of the school in accordance with the council development plan policy and associated supplementary guidance.
- 9.39 Concern has been raised regarding the impact of the development on drainage and electricity infrastructure. The applicant has indicated that foul water would be connected to the public sewer and surface water would be directed to a sustainable urban drainage system. Scottish Water and SEPA have offered no objection to the application in terms of drainage but a condition is proposed that requires precise details of drainage arrangements. The supply of electricity to the site is a matter between the developer and the relevant utility companies.

Conclusion

- 9.40 Planning permission in principle was granted for this development by Scottish Ministers in 2018. That decision was consistent with a previous resolution of Angus Council in 2014. The permission remains extant. This is an application that seeks to allow that development to be undertaken subject to conditions that differ from those originally imposed. For the reasons set out above, it is not appropriate to revisit the principle of the development proposed; consideration and determination of the application should instead focus on the conditions that the development should be required to meet.
- 9.41 The conditions and requirements specified in the existing permission as detailed at Appendix 2 were appropriate, and broadly in accordance with relevant policy requirements having regard to the circumstances at the time of that decision. However, the policy position and local circumstances have changed in the intervening period and it is appropriate to update the conditions to reflect those changes.
- 9.42 The proposed revisions detailed at Section 10 of this report reflect updated understanding of school capacity and contributions required to address associated issues. The terms of the proposed conditions are such that the applicants would be required to provide a financial contribution towards those works necessary to increase capacity at Strathmartine Primary School in accordance with the council's policy. The revised terms proposed specify the requirement for a 25% affordable housing contribution in accordance with policy.
- 9.43 The proposed conditions have also been revised to make provision for the staged submission and approval of information where appropriate, and to allow a phased approach towards the development. They also make provision for a revised timescale for completion of works to the listed buildings. While there is a risk associated with those revised timescales, it is accepted that in the circumstances of this case the revised timescales are likely to make the overall development more viable and consequentially deliverable. The release of new-build plots in conjunction with works to the listed building would generate some financial return at an earlier stage in the development process, and this approach is more likely to see the development take place. The risk associated with not allowing any new-build development in association with ongoing works to the listed buildings is that the development does not take place, and the significant benefits associated with the proposal are not delivered.
- 9.44 The proposed changes are otherwise generally minor in nature. They take account of information provided by the applicants in relation to development viability and

deliverability and reflect changes in policy and best practice. The proposed conditions and the planning obligation that they require are consistent with relevant government policy guidance.

- 9.45 The comments submitted in objection and in support of the proposal have been considered in the preparation of this report. However, as indicated elsewhere in this report, this is not an opportunity to revisit the acceptability of the principle of this development; there is an extant permission in place. The proposed conditions seek to minimise the impact of the development on the environment, infrastructure and amenity of area and of its residents and visitors. The conditions ensure further approval is required for the detailed layout and design of the development and the associated application process would allow public comment at that stage.
- 9.46 Angus Council and Scottish Ministers have both determined that this proposal has potential to offer significant benefits that justify granting permission contrary to the provisions of the development plan. The revised conditions as proposed help ensure those benefits are deliverable, and that the development can be undertaken in a manner that otherwise minimises impact on amenity, environment and infrastructure.

10. 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.

11. CONCLUSION

It is recommended that the application be approved for the following reasons and subject to the conditions as stated below:

Reason for approval:

There is an extant planning permission in principle that provides for the same or substantively the same development at this location. The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) and as such the planning authority is required to only consider the question of the conditions subject to which planning permission should be granted. The conditions reflect relevant development plan policy requirements and address amenity, environmental and infrastructure issues in a manner that is compatible with government policy guidance. The conditions ensure that further information is provided to safeguard the listed buildings and their setting. The overall development proposal will secure reuse of listed buildings; address security and safety issues; reduce risk of future arson and vandalism; ensure landscape enhancement and public access; provide affordable housing; remediate a derelict site to the benefit of local amenity; contribute to housing land supply; improve public transport infrastructure; and provide economic and employment benefits through the construction phase.

Conditions:

1. The development permitted by this planning permission shall not be initiated by the undertaking of a material operation (as defined in section 27(4)(a)-(f) of the Town and Country (Scotland) Planning Act 1997) in relation to the development until a planning obligation pursuant to section 75(1)(a) of the said Act relating to the land (or other suitable legally binding agreement) has been registered in the Land Register of Scotland or recorded in the General Register of Sasines, as appropriate, to the written satisfaction of the planning authority. The said planning obligation (or other suitable legally binding agreement) will provide that:
 - a) a sum of £6,802 (index linked) per dwelling unit (excluding student accommodation, 1-bed units, sheltered/supported housing, holiday accommodation, listed building conversions, or affordable housing units (including commuted payment)) will be paid to the planning authority for the purpose of increasing capacity of educational facilities at Strathmartine Primary School;
 - b) a total of 56 affordable housing units (or such other figure representing 25% of the total number of units approved on the site) shall be provided, comprising 28 on-site units and 28 commuted sums of £28,000 per unit* or such other arrangement as may be agreed through a delivery package in accordance with the council's adopted Developer Contributions and Affordable Housing Supplementary Guidance.

*(subject to review in line with benchmark land value for an affordable housing plot in the Housing Market Area as calculated by the District Valuer Service).

Reason: To ensure that the impacts on local education infrastructure directly arising as a result of the development can be adequately mitigated, and to ensure provision of affordable housing in accordance with council policy.

2. That plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. No work, other than demolition, shall begin on any discrete phase or zone until the matters relative to that particular phase or zone, and matters relative to the whole site relevant to that phase or zone have been approved in writing by the planning authority. The development shall be carried out in accordance with that approval. The matters are:
 - (a) Whole Site: -
 - (a)(i) a phasing plan for the entire development informed by the masterplan required by condition 3(a). That plan shall identify any specific phases or zones of development and the number of residential units to be provided (which shall not exceed 224 units on the whole site – a maximum of which will comprise 212 new-build units). The phasing plan must include details of all demolition works; the phasing of works to the listed buildings; details of the provision of infrastructure; road construction; provision of street lighting; open space areas; landscaping; drainage infrastructure; and the formation of the new pedestrian/cycle connections where these will serve the whole site;
 - (a)(ii) the precise details of the means of accesses to the development, including visibility splays for accesses with Craigmill Road, with a minimum 43 metres in each direction at a point 2.4 metres from the channel line of that road; specification of all roads, lighting and road drainage, car parking provision and garage layouts. Within the visibility

splays formed nothing shall be erected or planting permitted to grow to a height in excess of 1050 millimetres above the road carriageway. The required access improvements, including the visibility splays, shall be formed before commencement of any other works;

- (a)(iii) the means of drainage for the development and options for morphological improvement to include consideration of any culverted watercourses related to the site. Buildings must not be constructed over an existing drain (including a field drain) that is to remain active. For the avoidance of doubt the foul drainage from the development will be directed to the public sewage system and surface water shall be disposed of by Sustainable Urban Drainage System (SUDS). No development shall commence until evidence is provided to the planning authority to demonstrate that the public sewer has capacity to accommodate development of the entire site. All water retention/detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose;
- (a)(iv) the provision of open space, at a minimum of 2.43 hectares per 1000 head of population, including play equipment, and a scheme for its provision and on-going maintenance in perpetuity;
- (a)(v) a public access plan that provides full details of all proposed pedestrian and cycle paths within the site, linkages to the existing wider network and details of their long-term maintenance. The plan must also provide for the provision of a footway between the site and Strathmartine Primary School in general accordance with the detail provided in Bayne Stevenson Associates Ltd drawing J3975-SK03 subject to necessary approval through the Roads (Scotland) Acts. Once approved, the footway shall be completed prior to the occupation of any dwelling hereby approved;
- (a)(vi) a scheme for the provision of a replacement bus shelter (with real time display, bus stop pole, raised kerb and dropped kerb) to the north of Craigmill Road, and provision of a bus stop pole, raised kerb, dropped kerb and a footway buildout to provide a wheelchair harbourage to the south of Craigmill Road, all in accordance with Angus Council standards. Once approved the public transport infrastructure improvements shall be completed prior to the occupation of any dwelling hereby approved;
- (a)(vii) in relation to any buildings and structures that are not to be demolished before occupation of the first new dwelling unit, a scheme to ensure their on-going management and maintenance (up to the point of their demolition and site clearance) in a manner that does not adversely affect the amenity of the area;
- (b) Any discrete zone (housebuilding by geographic area) of development: -
 - (b)(i) the layout of that zone, including, road layout, street lighting, car parking, turning space, open space, landscaping, drainage infrastructure, facilities for waste/recycle storage and collection, and the number of residential units to be provided within the zone relative to the masterplan approved under condition 3(a). For the avoidance of doubt the indicative layout submitted with the application is not approved;
 - (b)(ii) full details of all demolition and other works to the listed buildings;
 - (b)(iii) the siting, design and external appearance of the new-build dwellings and any associated above ground plant or infrastructure;
 - (b)(iv) the existing and proposed ground levels and finished floor levels of the new-build houses relative to a fixed ordnance datum;
 - (b)(v) all boundary enclosures;

- (b)(vi) a phasing plan for that zone that sets out the timing of the provision of the infrastructure and open space covered in b(i) relative to the provision of housing units within the zone;
- (b)(vii) a scheme for the management and maintenance of any unadopted infrastructure or open space within that zone.
- (c) Any discrete phase (physical ground works and site remediation works) of development: -
 - (c)(i) precise details of all works proposed relative to the masterplan approved under condition 3(a). Such application must be accompanied by a statement that demonstrates the works are in compliance with the approved masterplan and with other conditions of this permission.

Reason: To ensure that the matters referred to are given full consideration and are acceptable to the planning authority.

3. That any application for Approval of Matters Specified in Condition 2 above shall be accompanied by the following for the further written approval of the planning authority:
 - a) A Masterplan for the entire application site which shall include: -
 - (i) a Design and Access Statement in accordance with the requirements of Part 3 Regulation 13 (5) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;
 - (ii) an overall design concept for the layout of the site and dwellings within the site taking account of the setting of listed buildings, building orientation, building height, use of materials, and a palate of colours and textures to be used in the construction of dwellings, having regard to Angus Council's adopted Design Quality and Placemaking Supplementary Guidance;
 - (iii) road access and construction of roads to the standards set by the Roads Authority having regard to Designing Streets;
 - (iv) provision of access by pedestrian, cycle and public transport;
 - (v) a strategy for the drainage of foul and surface water;
 - (vi) details of structure planting and landscaping within and around the site, including details of those trees to be retained, measures for their protection during development, and a programme for ongoing woodland management.
 - (b) A Drainage Impact Assessment in accordance with a methodology agreed with the planning authority in consultation with the flood prevention authority; and
 - (c) A scheme for the provision of a Residential Travel Plan and Pack. Once approved the document shall be provided to the first occupants of each dwelling (for the avoidance of doubt the travel plan shall not be required in association with any application that provides solely for physical works and does not directly involve creation of a dwelling).

Upon the planning authority giving written approval that all of the foregoing supporting information is acceptable, the development shall thereafter be undertaken to incorporate any identified necessary mitigation or measures identified within the approved studies.

Reason: In order to ensure that development within the site takes place in accordance with an overall design concept and to enable the planning authority to consider the matters detailed in Condition 2.

4. That prior to the commencement of development on any new-build house, evidence of a legally binding contract for the rehabilitation and conversion of the listed buildings in accordance with details approved under Condition 2(a)(i) and with a valid listed building consent that provides for the conversion of the listed buildings to residential accommodation shall be submitted to and approved in writing by the planning authority. Thereafter development shall be undertaken on the following basis: -
 - i) No development shall be undertaken on any new-build dwelling (excluding affordable housing units) until the planning authority has provided written confirmation that approved works on the rehabilitation and conversion of the Administration Building have commenced and progressed in accordance with the phasing details approved under condition 2(a)(i). For the avoidance of doubt that will include works to make the building safe and secure;
 - ii) External works to 50% of all retained listed buildings to be completed in accordance with the listed building phasing works approved under condition 2(a)(i) prior to the occupation of and prior to the commencement of construction of any more than a maximum of 50 new-build dwellings (excluding affordable housing units);
 - iii) External works to the remaining 50% of the retained listed buildings to be completed in accordance with the listed building phasing works approved under condition 2(a)(i) prior to the occupation of and prior to the commencement of construction of any more than a maximum of 100 new-build dwellings (excluding affordable housing units);
 - iv) The internal works and fit out for all listed buildings will be completed in accordance with a completion certificate issued under the Building (Scotland) Regulations prior to the occupation of and prior to the commencement of construction of more than a maximum of 150 new-build dwellings (excluding affordable housing units).

Reason: To ensure that the listed buildings are restored as a priority for the benefit of their architectural and historical interests and to ensure a positive impact within their curtilage and the wider landscape setting.

5. That, prior to commencement of any development works, a comprehensive contaminated land investigation report shall be submitted to and approved in writing by the planning authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The Investigation of Potentially Contaminated Sites – Code of Practice" (BS 10175: 2011). The report must include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33.

Where the approved contaminated land investigation report identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted for the written approval of the planning authority. No works, other than investigative, demolition or site clearance works shall be carried out on the site prior to the remediation strategy being approved by the planning authority. Prior to the occupation of the development the remediation strategy shall be fully implemented and a validation report confirming that all necessary remediation works have been undertaken shall be submitted to and approved in writing by the planning authority.

Reason: To ensure adequate investigation of possible land contamination and to ensure that a remediation strategy is in place for any land contamination identified, in the interest of public health and safety.

6. Prior to the commencement of any development including demolition works a Construction Management Plan shall be submitted to and approved in writing by the planning authority. The aforementioned construction management plan shall focus on noise and dust and shall include full details of the following:-
- a) Details of sensitive receptors
 - b) Hours of operations
 - c) Mitigation measures
 - d) Complaint investigation procedures
 - e) Noise and dust monitoring

Once approved, this plan shall be implemented in full during all works associated with the implementation of this permission.

Reason: In the interest of environmental protection and the amenity of nearby residents.

7. Noise associated with construction or demolition works including the movement of materials, plant and equipment shall not exceed the noise limits shown in Table A below. At all other times noise associated with construction or demolition operations shall be inaudible at any sensitive receptor. For the avoidance of doubt sensitive receptors includes all residential properties, hospitals, schools and office buildings or any other similar premises.

Table A: noise limits

| Day | Time | Average Period (t) | Noise limit |
|---------------|-----------|--------------------|--------------|
| Monday-Friday | 0700-1900 | 12 hour | 70dBA Leq t |
| Saturday | 0700-1300 | 6 hour | 70 dBA Leq t |

Reason: In the interest of the amenity of nearby residents.

8. Notwithstanding the findings of the Ecological Assessment, 'Strathmartine Dundee, dated April 2020 and the 'Ecology Update', 'Strathmartine Dundee', dated June 2020 both by Nigel Rudd Ecology, development shall not commence until full details of mitigation and associated methodology, or any other alternative or additional measures that may be required by a European Protected Species Licence, have been submitted to and approved in writing by the planning authority. The approved methodology shall thereafter be implemented during the development of the site.

Reason: To ensure that the proposal incorporates satisfactory mitigation for bats.

9. That the development shall be undertaken in accordance with the Strathmartine Hospital Proposed Conversion and Redevelopment Environmental Statement dated April 2013 and the mitigation measures identified therein unless otherwise modified by conditions of this planning permission.

Reason: In order to ensure that the development is undertaken in a manner that mitigates adverse impact on the environment.

10. Prior to the commencement of any demolition works, a waste management plan to deal with the recycling of material produced from the demolition of buildings on site, and to make provision for its reuse in the development shall be submitted to and approved in writing by the planning authority. The plan shall include details for the on-site temporary storage of material that is to be reused within the development. Thereafter works shall be undertaken in accordance with the approved plan.

Reason: In order to minimise the production of waste from demolition activity and to secure reuse of demolition materials in the new development.

**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: 18 November 2020

APPENDIX 1: LOCATION PLAN
APPENDIX 2: SCOTTISH MINISTERS DECISION AND PLANNING CONDITIONS
APPENDIX 3: SUMMARY OF APPLICANTS SUPPORTING INFORMATION
APPENDIX 4: LETTERS OF REPRESENTATION
APPENDIX 5: DEVELOPMENT PLAN POLICIES
APPENDIX 6: PLANNING SERVICE PRESENTATION