

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 10 AUGUST 2021

PLANNING APPLICATION
FIELD WEST OF CARLOGIE ROAD CARNOUSTIE

GRID REF: 356192 : 735502

REPORT BY MANAGER – DEVELOPMENT STANDARDS

Abstract: This report deals with planning application No. [20/00826/FULL](#), submitted by Angus Estates Ltd which relates to land west of Carlogie Road Carnoustie. It is an application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) to allow the provision of drainage infrastructure operations comprising underground pipework and formation of a detention basin and outfall including foul water connection to public network and construction of section of road associated with the formation of an employment area comprising Class 4 (Business), Class 5 (General Industry) and Class 6 (Storage and Distribution) Uses and realignment of Carlogie Road, subject to different conditions than those attached to planning permission [17/00685/FULL](#). Specifically, the application seeks variation to enable a revised scheme of landscaping and a revised scheme of phasing for delivery of the landscaping. 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 At its meeting on 24 April 2018 committee agreed to approve application [17/00661/MSCM](#) which sought permission for those matters specified in conditions attached to planning permission in principle [14/00043/PPPM](#). Those permissions allow for the formation of an employment area on land at Carlogie, Carnoustie.

3.2 At that same meeting committee agreed to approve application [17/00685/FULL](#) which allowed for enabling works associated with the permissions for the employment area. That application made provision for drainage infrastructure and road realignment on land to the south of the employment area. A plan showing the location of the site is provided at Appendix 1.

3.2 The development has yet to commence and the applicant has suggested revision to the nature and phasing of the landscaping approved under [17/00685/FULL](#). The application has been submitted to allow alignment between the requirements of this

development and an associated amendment to the terms of the permission for the development of the employment area on land to the north.

3.2 In that respect this application is submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). It seeks permission to develop the land subject to different conditions than those attached to 17/00685/FULL. Specifically, the application seeks permission to undertake the development in a manner that departs from the requirements of condition 4 of that permission. The conditions attached to permission 17/00685/FULL have been reproduced at Appendix 2 but condition 4 and its associated reason state: -

4. *That, landscaping for the site shall be carried out in accordance with the details contained on Drawing No. ASL_00_XX_DR_L_0102 – Landscaping Proposals – Sheet 2 of 2 by Austin-Smith:Lord LLP dated 20.12.2017. The proposed planting shall be completed within the first planting season following the date of initiation of development. Any plants or trees that within a period of 5 years from the completion of development die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species.*

Reason: In order to ensure the timely provision of landscaping that will help to integrate the development into the local landscape in the interests of the visual amenity of the area.

3.3 For this type of application relevant legislation indicates that the planning authority must only consider the question of the conditions subject to which planning permission should be granted and 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)). 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)). 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.

3.4 The application does not propose any alteration to the physical characteristics of the development as described in report [139/18](#) and as previously approved by committee under the terms of [17/00685/FULL](#); it relates solely to the landscaping to be provided and the timescale for its provision. However, as approval of this application would result in the grant of a new permission for the overall development the nature of the overall development is described for ease of reference.

3.5 The proposal involves the construction of a new section of roadway to the north of the Carlogie Road/ Panbride Road junction. It would extend in a northerly direction for around 180m. The realigned section of Carlogie Road would have a width of 7.3m with a 3m wide footway/cycleway along its eastern extent, separated from the carriageway by a 2.5m wide verge. On the west side of the realigned carriageway a 2m wide footway would be provided to tie in-between the realigned section of road and the existing footway associated with Carlogie Road. Bus laybys would be provided on the east and west sides of the road with each having a 3-bay enclosed bus shelter. The existing Carlogie Road would be stopped up.

3.6 A detention basin is proposed and would be located to the east of Carlogie Road with its south edge located 8.5m to the north of Panbride Road. The basin would occupy an area of 0.12 hectares, measure 51m long x 26m wide, with a depth of 3.7m. The water depth within the basin would be 0.344m with a maximum water depth during the critical 200 year return being 0.858m. The sides of the basin would have a 1:3 gradient and be formed by profiled topsoil that is grassed. A 600mm high vertical timber fence would be erected between 4m – 5m from the edge of the basin with a wildflower grass mix planted between the edge of the basin and the perimeter fence.

The outfall from the basin would discharge to the Lochty Burn located to the west.

- 3.7 This application proposes revisions to the requirements of condition 4 of the previous permission, principally to reflect a revision in drawing numbers that are specified by that condition, and to allow revision of phasing of delivery of the required landscaping. The revision to the phasing would require the planting to be completed within 12-months of the completion of the realigned A930 following approval of Roads Construction Consent.
- 3.8 The application has been subject of statutory neighbour notification and was advertised in the press as required by legislation.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning permission ([99/00535/NO1](#)) was granted under the former Notification of Intention to Develop procedure on 20 July 1999 for the upgrade of the existing A92 Dundee/Arbroath Road to dual 2-lane road, the construction of the A930 Barry Bypass & Upper Victoria Link Road, and the realignment of the A930 Carlogie Road. That included realignment of the A930 in the Carlogie area. That permission remains extant.
- 4.2 The Angus Local Development Plan safeguards land at this location to enable the implementation of an upgraded A930 Carlogie Road (Policy C8). In addition, it allocates land to the north of the current application site the development of an employment area (Policy C6).
- 4.3 Planning permission in principle was granted on 19 August 2014 for formation of an employment area comprising Class 4 (Business), Class 5 (General Industry) and Class 6 (Storage and Distribution) Uses and realignment of Carlogie Road ([14/00043/PPPM](#) and Reports [209/14](#) and [385/14](#) refer). That permission remains extant and, as detailed below, approval has been granted for matters specified in conditions.
- 4.4 Approval was granted on 27 April 2018 for the matters specified in conditions 1 (a) – (g) of the planning permission in principle ([17/00661/MSCM](#) and Report [138/18](#) refer). That approval provided for the for the erection of 17 buildings and a 1-hectare area of hardstanding, realignment of the A930 Carlogie Road, and associated landscaping and drainage. The consent has not been implemented but remains extant.
- 4.5 Planning permission was granted on the current application on 27 April 2018 for the provision of drainage infrastructure and road construction/realignment associated with the delivery of the employment area ([17/00685/FULL](#) and Report [139/18](#) refer). That permission has not been implemented but remains extant.
- 4.6 Two further planning applications on sites located to the north and south of the allocated employment area site were approved on 27 April 2018. Those provided for development associated with the provision of drainage infrastructure and road construction/realignment in association the delivery of the allocated employment area ([17/00686/FULL](#) and [17/00687/FULL](#) and Reports, [140/18](#) and [141/18](#) refer). The permissions have not been implemented but remain extant.
- 4.7 Application [20/00825/MSC](#) has been submitted under Section 42 of the Act to allow formation of the employment area and realignment of the public road. That application proposes variation to the scheme of landscaping and the timescale for its provision previously approved by [17/00661/MSCM](#). That application is subject of a separate report to this committee.
- 4.8 Application [20/00827/FULL](#) was submitted under Section 42 of the Act to allow

provision of drainage infrastructure and road realignment to support delivery of the employment land development. That application proposes variation to the scheme of landscaping and the timescale for its provision previously approved by [17/00686/FULL](#). That application is being progressed to determination.

- 4.9 Application [21/00523/FULM](#) by Kirkwood Homes and Angus Estates proposes residential development with associated infrastructure, access, landscaping, drainage, SUDS and open space on land to the north of Panbride Road Carnoustie. That application site encompasses much of the land subject of the current application. That application is under consideration.

5. APPLICANT'S CASE

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

- Planning Statement;
- Landscape Management and Maintenance Schedule; and
- Landscape Planting Phasing Proposal.

- 5.2 The information submitted in support of the application is available to view on the [Public Access](#) system and is summarised at Appendix 3.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – has offered no objection.
- 6.2 **Angus Council – Landscape Services** – has advised that a proposed location for the relocated entrance gateway feature on the road verge to the east of Carlogie Road is appropriate.
- 6.3 **Scottish Water** – has offered no comments.
- 6.4 **Community Council** – has offered no comments.

7. REPRESENTATIONS

- 7.1 One letter of objection has been received. The letter of representation is provided at Appendix 4 and is available to view on the council's [Public Access](#) website.
- 7.2 The following matters have been raised as objections to the application: -

- **Increase in road traffic on Carlogie Road and High Street.**

The principle constructing an employment area at Carlogie has been established through the allocation of the site in the Angus Local Development Plan and through the grant of subsequent permissions. In addition, it is relevant to note that this application relates to realignment of a section of the A930. Land is specifically safeguarded in the local development plan to allow that to take place and there are extant permissions that allow for that road realignment. This application, which essentially relates to a request to revise conditions previously attached to a planning permission for a small section of that road will not in itself result in any material change in relation to traffic over and above that associated with development that benefits from existing planning permissions.

8. PLANNING CONSIDERATIONS

- 8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

- 8.2 In this case the development plan comprises: -
- [TAYplan](#) (Approved 2017)
 - [Angus Local Development Plan](#) (ALDP) (Adopted 2016)
- 8.3 The development plan policies relevant to the determination of the application are reproduced at Appendix 5 and have been considered in preparing this report.
- 8.4 The current application is made under Section 42 of the above Act as it constitutes an application to develop land subject to different conditions than those previously attached to permission 17/00685/FULL. 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. Government guidance indicates that this does not preclude consideration of the overall effect of granting a new planning permission in some cases, but this is primarily where the previous permission has lapsed or is incapable of being implemented.
- 8.5 If this application is approved it will result in a new and separate permission for the development.
- 8.6 The application site includes land that is safeguarded specifically to allow realignment of the A930 public road by Policy C8 of the ALDP. The principle of realigning the road is established by the local development plan and there are existing planning permissions that provide for the construction of that realigned road. Land is allocated for the formation of an employment area at Carlogie by Policy C6 of the ALDP. Permissions have previously been granted that allow for the formation of that employment area, and other permissions have been granted that allow for the formation of infrastructure necessary to allow that employment development to take place. That includes a permission on this specific site which provides for road realignment and drainage infrastructure. The relevant permissions remain extant and the development could be implemented in accordance with those permissions. This application does not seek to alter the fundamental nature of the development that was previously approved by committee.
- 8.7 The principle of the development remains consistent with development plan policy. It provides for the realignment of the A930 Carlogie Road and the construction of drainage infrastructure which will support both the provision of that road and the delivery of the allocated employment land at Carlogie. It makes provision for the realignment of Carlogie Road which would improve linkages between the eastern end of Carnoustie and the A92 whilst also allowing opportunities for people to use modes of traffic other than private car. It does not give rise to any unacceptable impacts in terms of environment, amenity or road safety and the landscaping proposals are acceptable subject to the specified conditions. The detailed matters regarding the road and drainage infrastructure remain appropriate having regard to development plan policy and all relevant material considerations.
- 8.8 The generality of the conditions that were previously attached to 17/00685/FULL remain relevant, and it is recommended that conditions dealing with those substantive matters are attached to any further permission that is granted. Those conditions, as detailed at section 10 below are considered appropriate having regard to development plan policy and material considerations.
- 8.9 This application has been submitted to allow amendment to the detail and phasing of the landscaping proposed in association with the development, and this assessment focuses on those elements.
- 8.10 The conditions attached to planning permission 17/00685/FULL required the landscaping of this area to be provided in accordance with a specific landscape

drawing. The applicant has updated that drawing but the landscaping and planting proposals are fundamentally unchanged and remain acceptable. It provides for a hawthorn, hazel and field maple mix hedge to be planted to the east and west of the realigned A930 public road. The specification of that planting which provides for two staggered rows at 400mm centres is acceptable. The plan does not provide detail of landscaping or planting within the SUDS basin itself and that matter is addressed by proposed condition 4(b). While information in relation to maintenance of the planting has been provided it is not clear in relation to how that maintenance will be achieved or who will be responsible for it in the future. Proposed condition 4(d) requires further information in relation to management and maintenance of the landscaped areas prior to the commencement of development. However, the landscape specification is compatible with relevant policies of the ALDP, including its associated supplementary guidance.

- 8.11 The approved phasing for the landscaping requires all landscaping to be completed during the first planting season following the initiation of development. The current application makes provision for the planting to be completed within 12-months of the completion of the realigned A930 following approval of Roads Construction Consent. That arrangement is considered acceptable and it is consistent with the general desire to see the landscaping provided in association with the road.
- 8.12 The provisions of conditions 4 and 5 of planning permission 17/00685/FULL have been incorporated in proposed condition 4 below. The conditions dealing with the remaining matters as specified in permission 17/00685/FULL are reproduced subject to some minor typographical amendment where appropriate to reflect current practice.
- 8.13 The proposal is compatible with development plan policy subject to the proposed conditions. In terms of material considerations, a letter of representation has been submitted that raises concern that the proposed development will increase traffic on Carlogie Road and High Street. However, as indicated above the development proposed by this application and the related application for the employment area are consistent with local development plan policy. In addition, there are permissions in place that allow for the formation of the employment area and realignment of the A930. This application does not propose any alteration to the approved developments that would materially affect traffic volumes.
- 8.14 In conclusion, the proposal provides for the realignment of the A930 Carlogie Road and the provision of drainage infrastructure which will support both the provision of that road and the delivery of the allocated employment land at Carlogie. The ALDP makes specific provision for the realignment of the roadway in Policy C8 and the employment land allocation also requires that realignment (Policy C6). Committee has previously granted planning permission for the formation of the employment area and the realignment of the road.
- 8.15 This application provides for the same detail in relation to road realignment and drainage infrastructure as was previously approved by committee. Those details remain appropriate and consistent with development plan policy having regard to relevant material considerations. It makes provision for the realignment of Carlogie Road and provides for the construction of drainage infrastructure which will support both the provision of that road and the delivery of the allocated employment land at Carlogie.
- 8.16 The revised planting proposals and the associated landscape phasing is appropriate for the reasons detailed above subject to some minor revision that can be addressed by planning conditions. In this respect the detail of the application is considered compatible with relevant development plan policy.

- 8.17 Account has been taken of the matters raised in the letter of representation, but the issue raised does not justify refusal of planning permission.
- 8.18 Conditions are proposed that seek to ensure that the development is provided in an appropriate manner that minimises impacts on the amenity and environment of the area. The details submitted in respect of this application and in conjunction with the other planning applications/ permissions that have been submitted/ approved for the road realignment and formation of the employment area are compatible with relevant development plan policies subject to the proposed conditions. There are no material considerations that justify refusal of this application.
- 8.19 The application involves land in which the council has a financial interest as landowner. However, the proposal is not significantly contrary to the development plan and there is therefore no requirement to notify Scottish Ministers of the decision to approve the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of planning permission, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

10. CONCLUSION

It is recommended that the application be approved for the following reason, and subject to the following condition(s):

Reason(s) for Approval:

That the proposal provides for the realignment of the A930 Carlogie Road and the construction of drainage infrastructure which will support both the provision of that road and the delivery of the allocated employment land at Carlogie. It does not give rise to any unacceptable impacts in terms of environment, amenity or road safety and the landscaping proposals are acceptable subject to the specified conditions. There is an existing permission that allows for this development at this location. The proposal complies with relevant policies of the development plan and there are no material considerations that justify refusal of planning permission.

Conditions:

1. Vehicular access and public transport facilities relating to the development of the site shall be provided in accordance with the following requirements: -
 - (a) that visibility splays shall be provided at all new road junctions on the realigned length of the A930 Carnoustie to Muirdrum Road. Visibility splays shall be formed prior to any junction being brought into use and shall provide for a minimum sightline of 120m in each direction at a point 4.5m from the nearside channel line of the realigned carriageway. Once formed nothing shall be erected, or planting permitted to grow within the visibility splay to a

height in excess of 1050mm above the adjacent road channel level.

- (b) that the proposed bus lay-bys and associated infrastructure on the east and west sides of the realigned Carlogie Road as detailed on Drawing No. 119689/1003 Rev. C: Overall Road Layout by Fairhurst dated 07.12.2017 shall be provided and shall be operational prior to the commencement of the use of the realigned Carlogie Road. For the avoidance of doubt each bus lay-by shall be equipped with an enclosed bus shelter, solar lighting, a real time display (including 12-month warranty) and raised boarding kerb(s) to the standards of Angus Council.
- (c) that a scheme detailing the provision of a turning head at the severed, south end of the existing Carlogie to Muirdrum Road (A930) shall be submitted for the further written approval of the planning authority prior to the commencement of development. The turning head shall be designed to allow vehicles to enter and leave the existing road in a forward gear. The scheme shall provide for the turning head to be brought into use concurrently with the severing of the road.

Reason: In the interests of traffic and pedestrian safety and free traffic flow and to ensure adequate provision for public transport.

- 2. That no development in connection with this development shall be undertaken unless a Speed Limit Order has been approved that provides for the speed limit on the realigned section of the Carlogie to Muirdrum Road (A930) to be 40mph between the existing 30mph limit at Carnoustie and a point 60 metres to the north of the intersection of the road with the U508 Craigmill Road.

Reason: In the interests of road safety.

- 3. That no development in connection with this development shall be undertaken unless plans and particulars of details relating to the making of a Traffic Regulation Order, necessary for the implementation of alterations to the existing public road, have been submitted for approval by the Planning Authority. The development shall not commence until the Order has been made by the Council.

Reason: In the interests of road safety.

- 4. That no development shall take place until the following has been submitted to and approved in writing by the planning authority: -
 - (a) a scheme for the relocation of the existing entrance gateway feature comprising promotional banners, railings, planting and golf bunker located on the road verge to the east of Carlogie Road to a location to the north of the proposed junction between the realigned A930 Carlogie and the U508 Craigmill Road. The gateway feature shall thereafter be relocated in full accordance with the approved scheme prior to the commencement of the use of the realigned Carlogie Road.
 - (b) a revised scheme of landscaping. That scheme shall be in general accordance with the landscaping works as shown on Austin-Smith: Lord drawing Nos. ASL_00_XX_DR_L_0104 Rev P1 but shall include detail of planting associated with the SUDS basin.
 - (c) a scheme for the phasing of planting and landscaping which shall make provision for completion of all planting and landscaping within 12 months of the completion of the realigned A930.
 - (d) a scheme for the management and maintenance of all landscaping areas

within the development hereby approved. The submitted scheme shall be in general accordance with the Carlogie Business Park Landscape Maintenance + Management Schedule Version 6 dated 23.04.2021 and shall include details to indicate ongoing responsibility for implementation of that scheme. It shall make provision for the protection of plants from grazing mammals and shall provide that any plants or trees that within a period of 5 years from the completion of development die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species. The approved landscape management and maintenance scheme shall be implemented upon commencement of planting and landscape work and shall endure for the duration of the development unless otherwise modified through prior written approval by the planning authority of a scheme that secures the same or similar outcomes..

Reason: To ensure the appropriate and timely relocation of a landscape feature of local importance, and in order to ensure that the management and maintenance provisions for any unadopted landscaped areas are sufficient to ensure its ongoing maintenance in the interests of the amenity of the area.

5. That no works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

6. That notwithstanding the details on Drawing No. 119689/2003 Rev. A: Drainage Layout, Sheet 4 by Fairhurst dated 07.12.2017 the 600mm high vertical timber pale fencing around the South Detention Basin is not approved. The SUDS detention basin shall be enclosed by a post and wire fence with mesh in-fills which shall not exceed 1m in height.

Reason: In the interests of safety and the visual amenity of the area.

7. That in the event that the proposed SUDS detention basin or any associated drainage infrastructure is not to be formally adopted, the basin and any other associated unadopted infrastructure shall be managed and maintained for as long as it remains in use in accordance with the SUDS Maintenance Schedule contained within the Carlogie Business Park, Carnoustie Drainage Impact Assessment (Revision 4) (119689) by Fairhurst dated 20.12.2017, or such other schedule that secures long-term management and maintenance as may be approved in writing by the planning authority.

Reason: In order to ensure the surface water drainage system is appropriately managed and maintained in the interests of safety and the amenity of the area.

8. Noise associated with construction works including the movement of materials, plant and equipment shall not exceed the noise limits shown in the table 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

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

Reason: In the interest of the residential amenity of nearby noise sensitive 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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DATE: 2 AUGUST 2021

APPENDIX 1: LOCATION PLAN
APPENDIX 2: PLANNING PERMISSION 17/00685/FULL CONDITIONS
APPENDIX 3: SUMMARY OF APPLICANTS SUPPORTING INFORMATION
APPENDIX 4: LETTERS OF REPRESENTATION
APPENDIX 5: DEVELOPMENT PLAN POLICIES