

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 8 FEBRUARY 2022

PLANNING APPLICATION
LAND 500M WEST OF FORFAR ACADEMY KIRRIEMUIR ROAD FORFAR

GRID REF: 344608 : 751473

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

Abstract: This report deals with application No. [21/00278/MSC](#), submitted by Guild Homes (Tayside) Ltd, which relates to land 500m west of Forfar Academy, Kirriemuir Road, Forfar. It is an application under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) to allow the erection of a residential development of 236 units, subject to different conditions than those attached to permission [13/01001/PPPM](#). This application is recommended for conditional approval as it is considered appropriate to attach different conditions to the development given change of circumstances since the grant of previous permissions, but the requirement for provision of bus laybys on the A926 Kirriemuir Road is retained.

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 meetings on 21 April 2015 and 15 September 2015 committee agreed to approve application [13/01001/PPPM](#) and to grant planning permission in principle for the erection of approximately 300 houses and associated development on land at Turfbeg, Forfar (Reports [170/15](#) and [353/15](#) refer). That permission included a requirement for approval of a number of matters specified in conditions. Application [17/00443/MSCM](#) was subsequently submitted seeking approval for those matters specified in conditions attached to planning permission in principle and it was approved by committee at its meeting on 3 October 2017 (Report [337/17](#) refers). The planning permission in principle and the associated approval of matters specified in conditions constitute the planning permission for the site. A plan showing the location of the site is provided at Appendix 1. The conditions relative to planning permission in principle and those relative to the approval of specified matters are reproduced at Appendices 2 and 3.

3.2 The development is underway, and the applicant has indicated that 133 houses are now occupied.

- 3.3 Condition 1 of planning permission in principle [13/01001/PPPM](#) required amongst other things: -

That, plans and particulars of the matters listed below, shall be submitted for consideration by the planning authority. No work shall begin until the written approval of the authority has been given for the matters listed below and the development shall be carried out in accordance with that approval. The matters are:

- k) *A public transport scheme that details provision on both the north and south sides of the A926 Kirriemuir Road - for bus layby(s) (suitable for accommodating buses up to 12 metres in length), enclosed bus shelter(s) to Angus Council's specifications (equipped with solar lighting, real time display, bus stop pole and raised kerb(s)).*

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

- 3.4 In relation to condition 1(k) the subsequent application for approval of specified matters provided a public transport scheme that included bus laybys and shelters in accordance with the council's requirements. Condition 6 attached to [17/00443/MSCM](#) states: -

That the bus lay-bys and associated infrastructure detailed in the 'Public Transport Scheme' on the north and south sides of the A926 Forfar to Kirriemuir Road shall be provided and operational prior to the occupation of the 75th dwellinghouse within the development. Notwithstanding the details contained within the submitted Public Transport Scheme the bus lay-by to be formed on the south side of the public road shall be provided with an enclosed bus shelter equipped with solar lighting, real time display, bus stop pole and raised kerb(s). The bus stops and associated infrastructure shall be provided to the standards of Angus Council.

Reason: To ensure adequate public transport facilities are provided at an appropriate stage of the development in the interests of promoting sustainable modes of transport.

- 3.5 In the course of development the developer requested amendment of the condition to delay provision of the bus laybys until occupation of the 122nd dwelling. That request was approved. The developer has subsequently suggested that the requirement to provide bus laybys on the A926 Kirriemuir Road should be removed and replaced with a requirement to provide on-road bus stops. The developer was advised that a further application would be required to allow such a proposal to be considered. Officers have advised that the terms of the existing condition will not be enforced while the matter is under consideration.

- 3.6 The current 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 existing planning permission. Specifically, it seeks alteration to the existing permission to allow the formation of on-road bus stops instead of bus laybys on the A926 Kirriemuir Road. The submitted information indicates the bus stop on the north side of the public road would be relocated around 10m east from the approved location, and that only the bus stop on the south side of the public road would be provided with an enclosed bus shelter equipped with solar lighting. While the application has been submitted specifically to allow a different means of providing public transport infrastructure, it is necessary to consider the continued appropriateness of all conditions attached to the existing permission having regard to current circumstances.

- 3.7 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. 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. The effect of granting permission for a Section 42 application is that a new and separate permission exists, with any conditions attached as appropriate.

- 3.8 The description of the development has been amended to clarify the nature of the application.
- 3.9 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 in principle was granted on 23 September 2015 for the erection of up to 300 houses with associated roads, landscaping and community facilities ([13/01001/PPPM](#) and Report Nos. [170/15](#) and [353/15](#) refer) at the application site. That planning permission in principle remains extant.
- 4.2 Approval was granted on 3 October 2017 for the matters specified in condition 1 (a) – (k) of the above planning permission in principle ([17/00443/MSCM](#) and Report [337/17](#) refer). That approval provided for the erection of 237 residential units, community shop (with flat above) and open space, including a community orchard. The approved works are now underway.
- 4.3 Three further applications for planning permission to assist with the provision of infrastructure associated with the housing development (Refs. [17/00447/FULL](#), [17/00555/FULL](#) and [17/00595/FULL](#)) have been approved. [17/00447/FULL](#) provides for the provision of drainage infrastructure. Application [17/00555/FULL](#) provides for the formation of an access road to Taylor Street with [17/00595/FULL](#) providing for the formation of two vehicular access onto the A926.
- 4.4 A number of further applications have been approved that allow revised house types within the development, and a number of non-material variations have been agreed that allow, amongst other things, minor alterations to approved house types.
- 4.5 Application [20/00310/MDPO](#) was submitted under Section 75A of the Act for a modification to the Section 75 planning obligation to delete the financial contribution towards secondary education facilities required from the development. That application was approved on 21 October 2020.
- 4.6 A further application (ref: [21/00488/FULL](#)) provides for the erection of 5 houses on land at Merlin Gardens Forfar – this is the area identified for the shop by [17/00443/MSCM](#). That application was approved but has yet to be implemented.

5. APPLICANT'S CASE

- 5.1 The following documents have been submitted in support of the application: -
- New Access Junctions, Turfbeg Housing Development Stage 1/2 Safety Audit;
 - Supporting letter from Transport Consultant;
 - Information on experts consulted;
 - Email from Angus Council Transport Service to applicant; and
 - Response to Roads Service consultation.
- 5.2 The information submitted in support of the application is available to view on the

[Public Access](#) system and is summarised at Appendix 4.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – The site is located on a rural section of the A926 Blairgowrie – Kirriemuir – Forfar road where no direct frontage development exists. This application proposes a replacement of the proposed bus laybys associated with the previous planning permission with in-line, on-carriageway bus stops, that being due to a subsequent reduction in the derestricted speed limit on the A926 to 40mph.

The applicant has submitted supporting information, including a Roads Safety Audit and letter of summary from its consulting engineers which concludes that following the road safety audit, no road safety implications associated with the proposal were identified and therefore laybys or on-carriageway bus stops are equally appropriate for this location. This is said to support the position noted in the 2013 Transport Assessment that bus laybys or on-road stops would be suitable following the change in speed limit. However, the preferred option of the applicant is for in-line bus stops.

The applicant's road safety audit team's position on the provision of bus stops with and without laybys is that they are both widely used and recognised layouts which have been known to be able to operate safely. The decision on which type to use is normally based on local circumstances. The guidance available on the provision of bus stops make recommendations on the construction, layout and measures to be included in terms of signing and marking. They do not recommend a particular layout over the other. The bus stops being provided on the A926 are in a relatively remote area but within a new 40-mph speed limit. It is expected that usage will not be excessive, and buses are not expected to stop on every occasion that they travel along the A926. In conclusion it would be the opinion of the audit team of the applicant that while both layouts have merits, they would, on the information available, recommend that in-line bus stops be provided. This recommendation is based on two other locations, where in-line stops have been present for many years and there have been no reported accidents. While this is evidence that may be considered, it does not take into consideration the local circumstances of the site in question and therefore little weight can be attributed to it. The site should be assessed on its own merits.

Reference is also made in the supporting statements to the National Roads Development Guide and therein by reference to the Chartered Institution of Highways and Transportation guidance document, "Buses in Urban Developments (2018)". As previously mentioned, there is no frontage development in the immediate vicinity of the bus stops that would serve to give the appearance of an urban road. As stated in the applicant's supporting letter, the proposed bus stops are to be sited in a "relatively remote" location on a rural section of the A926 and that within 500 metres or so of a high speed trunk road (A90(T)) where drivers exiting such roads can sometimes take a little time to align their speeds to local speed limits, road characteristics and the surrounding environment. Therefore, this location is not considered to be the same as an urban area, such as found in a major town or city, or that which experiences high traffic volumes, congestion and high frequency bus services. The site is located approximately 1.0 kilometres beyond the urban town boundary of Forfar which is at Zoar.

The National Roads Development Guide stipulates that all details in relation to the provision of bus stops and related infrastructure requirements should be obtained at an early stage by consultation with the roads authority's Transportation Manager. The applicants had consulted with the roads authority in November 2020, when the roads authority's view was made clear to them. That view is that the bus stops should be implemented in accordance the extant planning permission.

Additionally, the supporting documents suggest that operators prefer in-line stops, as

this increases their chances of maintaining their position within traffic flows and therefore helps to maintain schedules. This is known to be true, however, the report also rightly suggests that such stops are in a remote area, where usage will not be excessive. Therefore, buses will not be expected to continually stop and whilst the vehicles may find it more difficult to pull out of the laybys to re-join the traffic flow, it is not felt that buses will stop at these locations with enough regularity to significantly impact on the service's punctuality. This would not be the case given the characteristics of this location.

Advice has also been sought from Angus Council's Traffic Co-ordination Group who were provided with a copy of the documentation relating to the proposal. The group unanimously agreed that the laybys should be provided as required by the original planning application. While it was accepted that the speed limit of the road has changed, all other circumstances relating to the road's characteristics remain unaltered.

From the proposal drawings it can be seen that the original laybys were to be in a good location to allow passenger access to the bus services and also provide both the width and length required for buses to manoeuvre safely, whilst at the same time not disrupting traffic flow by encroaching into or obstructing the live carriageway.

The in-line bus stops proposed are to be located in close proximity to the newly formed ghost island junction that is used to access the associated housing development site. In-line stops at this location would create the potential for and risk of overtaking manoeuvres on the main route in close proximity to this new junction and there may also be potential for buses arriving in opposite directions at the same time to obstruct the road.

There are several local circumstances that support the use of laybys. These include:

- rural location
- free traffic flow
- proximity to a high speed trunk road
- proximity to the development entrances
- proximity to the new ghost island junction
- buses will be overtaken if stationary at an in-line stop
- proximity to a school
- proximity to an emergency ambulance station
- risks posed by traffic speeds in excess of the 40mph limit
- provides passengers with a safer distance between the bus stop and the live carriageway;

The applicant has also included a supporting statement from the council's Transport Team Leader which indicates a provisional, pre-application disposition of contentment should laybys not be required. This statement is qualified as being subject to any road safety/traffic reasons to support the provision of laybys, was given prior to receipt of any details relating to the application and is now superseded by advice received from the council's Traffic Co-ordination Group, a group on which the Team Leader sits. As intimated in the supporting documents, there is no single guidance document which can be referred to when installing public transport infrastructure. I do not see anything within the road safety audit, from communication with developer or the guidance documents shared by the developer, which demonstrates that all the contributing factors have been considered and I can confirm that the council's Transport Team are supportive of the laybys being installed.

I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. The premise of the application is founded on the fact that the speed limit on the A926 has been reduced since planning permission was granted for the residential development at Turfbeg. I do not agree

that a change in the speed limit alone carries sufficient weight to overcome the other local circumstances and believe that the construction of the bus laybys will allow traffic to move more freely in both directions along the A926. As a result, I object to the application.

6.2 **Community Council** – has offered no comment.

6.3 **Scottish Water** – has offered no comment.

6.4 **Stagecoach** (the local bus operating company) is not a statutory consultee in relation to this application. However, in correspondence with the roads service it has indicated it supports the requirement for provision of bus laybys based on current experience of buses stopping on the carriageway. It has indicated that, having regard to operational experience, buses have been instructed not to stop on the carriageway of the A926 until the bus laybys are provided.

7. REPRESENTATIONS

7.1 One letter of representation has been received. The letter is provided at Appendix 5 and is available to view on the council's [Public Access](#) website.

7.2 The following matter has been raised: -

- **The bus stops should be located on Kirriemuir road in the middle of the estate, between phases 2 and 3 so all disabled and elderly residents have equal distances to travel from their houses to the bus stops.**

The convenience of the public transport provision is a material consideration, but it is also relevant to have regard to issues regarding road safety and these matters are discussed below.

8. PLANNING CONSIDERATIONS

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

8.2 In this case the development plan comprises: -

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

8.3 The development plan policies relevant to the determination of the application are reproduced at Appendix 6 and have been considered in preparing this report.

8.4 As indicated, the current application is made under Section 42 of the above Act. It constitutes an application to develop land without compliance with conditions attached to a previous planning permission. 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. If it is decided that permission should be granted subject to the same conditions as detailed on the earlier permission, the application shall be refused. If it is decided that planning permission should be granted subject to conditions differing from those previously attached to the permission, the application should be approved.

8.5 In this case the relevant planning permission comprises the planning permission in principle and the details provided in the subsequent approval of matters specified in conditions attached to the permission in principle. The site is allocated for housing development in the ALDP. The principle of housing development at the site is

established by the land allocation and has been confirmed through the grant of planning permission. All details relating to the layout; siting, design and external appearance of the buildings; ground and floor levels; means of access; means of drainage; boundary enclosures; open space provision; affordable housing provision; and public access have been approved through provision of information in association with the application for approval of specified matters; those details remain consistent with relevant policy guidance; and the development is under construction. In these circumstances conditions that require further approval of those detailed matters are no longer appropriate.

- 8.6 The terms of the existing planning permission require development to be undertaken in accordance with a construction phasing plan and in accordance with specific phasing requirements. The development has largely been undertaken in accordance with the specified phasing requirements: the vehicular accesses have been formed; the SUDS attenuation basin has been completed; and the play area has been formed in the open space. However, the shop has not been formed in accordance with the timescales identified in the planning condition. That matter has been subject of discussion with the developer and there is no policy requirement for the provision of a shop at the site. It is understood that there is little market interest in provision of a shop and a planning permission has been granted that allows for the erection of five houses on the land that would have accommodated the shop building. In these circumstances a condition regarding the timescale for provision of the shop is no longer necessary and would not meet the test for conditions set out in circular 4/1998.
- 8.7 The planning permission in principle included a condition that required a planning obligation to secure a financial contribution towards the provision of secondary school educational facilities. An appropriate planning obligation was entered that made provision for the required education contribution. It also made provision for 15% of the dwellings to be delivered as affordable units. During development an application was submitted to modify the planning obligation to remove the requirement for the education contribution. The education service confirmed that the financial contribution was no longer necessary, and that application was approved. Accordingly, a condition requiring a financial contribution towards education facilities is no longer necessary and would not meet the test for conditions set out in circular 4/1998. The 15% affordable housing contribution is below the 25% requirement identified by current development plan policy. While it is relevant to have regard to that changed policy position, it is not considered appropriate to require an increased provision in circumstances where the development has progressed based on a planning obligation that requires a 15% contribution. That approach is consistent with the council's developer contribution and affordable housing supplementary guidance. A condition confirming that the affordable housing on the site should be retained as such in accordance with the terms of the relevant planning obligation is proposed.
- 8.8 A programme of archaeological works was undertaken in accordance with an approved scheme of investigation and no further archaeological mitigation is required. Accordingly, a condition regarding archaeological mitigation is no longer appropriate.
- 8.9 Conditions attached to the existing planning permission (the planning permission in principle and the approval of matters specified in condition) also seek to regulate the manner in which the development is undertaken to mitigate impacts on amenity and the environment, to ensure appropriate maintenance of infrastructure and open space in the future, and to promote use of sustainable modes of transport. Conditions regarding those matters remain relevant and have been modified to reflect information submitted in association with the approval of specified matters.
- 8.10 However, the main issue in relation to this application relates to public transport infrastructure provision and the requirement to form bus laybys on the A926

Kirriemuir Road. The applicant has indicated a desire to provide on-road bus stops instead of bus laybys and has submitted information to support that proposal.

- 8.11 The applicant's road safety audit team's position on the provision of bus stops with or without laybys is that they are both widely used and recognised layouts which have been known to be able to operate safely. The audit reports that the bus stops on the A926 would be in a relatively remote area but within a new 40mph speed limit. It suggests that expected usage of the bus stops would not be excessive, and buses would not be expected to stop on every occasion that they travel along the A926. It is the opinion of the applicant's audit team that while both layouts have merits, they would, on the information available, recommend that on road bus stops be provided which operators prefer as this increases their chances of maintaining their position within traffic flows and therefore helps to maintain schedules. This recommendation has regard to other locations (Glamis Road and Dundee Road), where in-line stops have been present for many years and where there have been no reported accidents. It is indicated that this supports the position noted in the 2013 Transport Assessment submitted in support of planning application 13/01001/PPPM, that bus laybys or on road stops would be suitable following a reduction in speed limit on the A926.
- 8.12 The roads service has considered the information submitted in support of the application and has indicated that the guidance available on the provision of bus stops make recommendations on the construction, layout and measures to be included in terms of signing and marking. Guidance does not recommend a particular layout over the other and the decision on which type of stop to use is normally based on local circumstances. The National Roads Development Guide indicates that all details in relation to the provision of bus stops and related infrastructure requirements should be obtained at an early stage by consultation with the roads authority. In this case the requirement for bus laybys was identified at time of grant of planning permission 13/01001/PPPM following consultation with the roads authority and it has been a known requirement from that date.
- 8.13 In relation to the current proposal the roads service advises that the application and supporting documentation have been assessed by the Angus Area Traffic Co-ordination Group, which includes council education, roads, and transport officers as well as an officer from Police Scotland's road policing unit which deals specifically with matters relating to traffic and road safety. The group observed that the proposed bus stops would be sited in a relatively remote location on a section of the A926 that links to the high-speed trunk road. The bus stops would be located beyond the urban extent of Forfar on a straight and relatively open section of road that generally does not have frontage development. There is a school and an emergency ambulance station on this section of road and the proposed bus stops would be in proximity of development entrances and a new ghost island junction. It is suggested that on-road bus stops at this location would create the potential for and risk of overtaking manoeuvres on the main route close to this new junction and potential for buses arriving in opposite directions at the same time to obstruct the road. In these circumstances the traffic coordination group has advised that it considers bus laybys to be safer and more convenient than bus stops, and the roads service has indicated that it does not support removal of the existing requirement to provide bus laybys having regard to the local circumstances.
- 8.14 The applicant's supporting information recognises that both on-road stops and bus laybys have merit and it appears to recognise that local circumstances should determine the appropriate provision. In this case, the roads service and the traffic coordination group have local knowledge in relation to the operation of the road network and are well placed to provide advice in relation to local circumstances. Both advise they consider bus laybys provide a safer and more convenient option than on-road bus stops and significant weight is attached to those opinions that are based on local knowledge. In addition, some weight is attached to the opinion expressed by the local bus operating company. It has indicated that, based on current operational

experience, it considers bus laybys to be appropriate on the A926. The revised proposal to provide a single bus shelter only adjacent to the west-bound carriageway (south of the road) would be less convenient than the current requirement to provide shelters to both the north and south of the road. Public transport infrastructure that is less convenient than the provision required by conditions attached to the existing planning permission is not consistent with the policy objectives that seek to promote use of sustainable transport options. In these circumstances it is considered appropriate and consistent with development plan policy to retain the public transport requirements associated with conditions attached to the existing permission. However, having regard to existing circumstances, it is considered appropriate to amend the condition to require provision of the bus laybys and associated infrastructure prior to the occupation of more than 150 dwellings.

- 8.15 The applicant's supporting information suggests that there has been a material change in circumstance since approval of the original permission as the speed limit on the A926 has been reduced. However, the proposal to reduce the speed limit on the A926 adjacent to the site was known at time of the original permission and at the time of identification of the requirement to provide bus laybys.
- 8.16 The applicant refers to other locations where bus stops have been provided and has suggested that the requirement to provide bus laybys in association with the current development is not consistent with previous decisions. The roads service has confirmed that every development is considered on its own merits having regard to local circumstances. That approach is consistent with the advice provided by the applicant's consultants. The requirement for bus laybys at this location is based upon assessment of the local circumstances.
- 8.17 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In this case TAYplan is less than 5-years old but the ALDP has recently become more than 5-years old as it was adopted in September 2016.
- 8.18 In this case there is strong policy support for residential development at this location. The detail of the proposal has previously been approved and remains appropriate and consistent with policy requirements. TAYplan and SPP provide strong policy support to secure appropriate public transport infrastructure to reduce reliance on the private car. The substance of this application effectively seeks to reduce public transport infrastructure provision associated with a large housing development. That element of the proposal is not consistent with policy and is not appropriate.
- 8.19 NPF4 has been published in draft form and contains national planning policy that will form part of the development plan. However, it has been published for consultation purposes and therefore the policies it contains merit little weight at this time. Notwithstanding that, it is relevant to note that the document retains a general policy objective to ensure that new development is located in locations that are accessible by sustainable modes of transport and that reduce reliance on travel by private car. There is nothing in the draft NPF that would lead to a different conclusion in relation to this application.
- 8.20 In conclusion, the principle of residential development on this site has been established through its allocation in the ALDP and through the grant of planning permission in principle. The planning permission in principle required the submission of a further application for approval of matters of detail prior to the commencement of development. Committee has previously granted approval of those details and development of the site has progressed on that basis.
- 8.21 This application essentially proposes the same detail as previously approved by committee. That detail remains appropriate and broadly consistent with relevant

policy and guidance.

- 8.22 The application seeks approval to allow the development to proceed without compliance with conditions attached to the planning permission. As indicated above, some of the conditions attached to the previous permission are no longer necessary, most particularly the condition that required a planning obligation to secure a financial contribution towards secondary school infrastructure. In these circumstances, and having regard to the provisions of the Act, it is appropriate to approve this application subject to conditions that differ from those previously attached to the permission. However, for the reasons set out above, the requirement for provision of bus laybys and associated infrastructure on the A926 Kirriemuir Road is considered to remain appropriate.
- 8.23 The overall development is compatible with development plan policy and conditions are proposed that seek to regulate the development in the interests of amenity, environment, and road safety, and to promote use of sustainable modes of transport. Those conditions are consistent with circular 4/1998 which deals with the use of conditions in planning permissions. The application is compatible with development plan policy subject to the stated planning conditions.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of permission/consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this 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 a residential development on land that is allocated for residential development in the local development plan. The proposal would not have an adverse impact on amenity, environment, or road safety subject to the stated planning conditions and would provide an acceptable housing development that is capable of providing a good residential environment. The proposal complies with relevant policies of the development plan and there are no material considerations that justify refusal of planning permission.

Conditions:

1. That the planning obligation (ref 7/12/407) between Angus Council and Albert Derek James Greenhill and Albert Derek Bell Greenhill with consent of Elite Homes (Tayside) Limited recorded in the General Register of Sasines for the County of Angus on 11 September 2017 shall continue to have effect and shall apply to the planning permission hereby approved in so far as it requires 15% of the dwellings within the site to be provided and retained as affordable housing.

Reason: For clarification and to ensure provision and retention of affordable housing in accordance with the requirements of the development plan.

2. That the construction phasing of the development shall, follow the build routes detailed in the 'Construction Phasing Plan' as specified in the 'Construction Programme' and the associated drawing '2017/TRF/025' except as may otherwise be specified in conditions attached to this permission. The infrastructure works, insofar as they relate to roads, footpaths, open space, landscaping and drainage, shall be complete in each phase prior to the occupation of any dwellinghouse within any subsequent phase.

Reason: To ensure a satisfactory phasing to the development in the interest of road safety and the amenity of the area.

3. That the bus laybys and associated infrastructure detailed in the 'Public Transport Scheme' on the north and south sides of the A926 Forfar to Kirriemuir Road shall be provided and operational prior to the occupation of the 150th dwelling within the development. Notwithstanding the details contained within the submitted Public Transport Scheme the bus laybys to be formed on the north and south side of the public road shall each be provided with an enclosed bus shelter equipped with solar lighting, real time display, bus stop pole and raised kerbs. The bus laybys and associated infrastructure shall be provided to the standards of Angus Council.

Reason: To ensure adequate public transport facilities are provided at an appropriate stage of the development and in an appropriate manner in the interests of road traffic safety and to promote sustainable modes of transport.

4. The development shall be undertaken and maintained in accordance with the following requirements: -
 - a) the development shall be undertaken and maintained in accordance with the approved public access plan;
 - b) the development shall be undertaken in accordance with the mitigation measures identified in the approved noise impact assessment and necessary mitigation shall be retained thereafter;
 - c) the approved Residential Travel Plan shall be provided to the first occupants of each dwelling;
 - d) no construction traffic vehicles shall enter or leave the site from Turfbeg Road/ Taylor Street;
 - e) the surface water drainage system and a foul drainage connection to the public sewerage system shall be completed for each dwelling prior to its occupation;
 - f) all approved landscaping and boundary enclosures, including hedge planting shall be provided in each plot prior to the occupation of the respective dwelling to which they relate;
 - g) the approved planting shall be provided within each respective phase of the development in accordance with the requirements of Condition 2. 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;

- h) all open space and/or amenity areas, roads or paths, and infrastructure within the site which is not within the curtilage of a dwelling shall be managed and maintained in accordance with the approved management and maintenance scheme in perpetuity;
- i) the parking for the shop shall be provided in accordance with the approved details prior to the occupation/ use of the shop;
- j) the construction compounds shall be formed and operated in accordance with the approved details.

Reason: To ensure that the development is undertaken and maintained in accordance with the relevant details in the interests of road safety, amenity and environmental protection, and to promote use of sustainable modes of transport.

5. Noise associated with construction works including the movement of materials, plant and equipment shall not exceed the noise limits shown in table B below unless agreed in writing by the Planning Authority. 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: Construction Noise limits

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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