

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 22 FEBRUARY 2022

APPLICATIONS FOR ROAD CONSTRUCTION CONSENT

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report deals with two related applications for Construction Consent to extend the existing public roads at Meadowbank Gardens and Meadowbank View, Wellbank.

1. RECOMMENDATIONS

It is recommended that the Committee:

- (i) notes that as representations have been received that the decision to grant consent or refuse the applications is no longer delegated to the Director of Infrastructure;
- (ii) considers the representations received in response to the intimation of the application for Construction Consent to extend the public road at Meadowbank Gardens, Wellbank;
- (iii) considers the representations received in response to the intimation of the application for Construction Consent to extend the public road at Meadowbank View, Wellbank;
- (iv) agrees that representations that were received from third-parties who were not served with notices of the applications are considered for the reasons detailed in this report;
- (v) agrees that representations that were received after the timescale of 28 days of the serving of notices by the applicant for each of the applications are considered the reasons detailed in this report;
- (vi) having considered the representations received, agrees to grant consent to the Construction Consent at Meadowbank Gardens, Wellbank as this meets the required technical standards subject to conditions; and
- (vii) having considered the representations received, agrees to grant consent to the Construction Consent at Meadowbank View, Wellbank as this meets the required technical standards subject to conditions.

2. ALIGNMENT TO THE COUNCIL PLAN

This report contributes to the Council Plan 2019-2024 priorities:

- **ECONOMY:** We want Angus to be a 'go-to' area for businesses.
- **PEOPLE:** We want to maximise inclusion and reduce inequalities.
- **PLACE:** We want our communities to be strong, resilient, and led by citizens

3. BACKGROUND

- 3.1 Report No. 975/96 to the Roads Committee of 28 November 1996 delegated, to the then Director of Roads, the authority to grant Road Construction Consents (RCC) subject to conditions which have been agreed with the applicant and in circumstances where no representations have been received.
- 3.2 The Scheme of Delegation to Officers delegates to the Director of Infrastructure at clause 7(28) (ii) granting consents under Section 21 of the Roads (Scotland) Act 1984 ("the Act") where there are no objections and any conditions have been agreed with the applicant.

4. CURRENT POSITION

- 4.1 The applications for RCC seek to extend the existing roads at Meadowbank Gardens and Meadowbank View to provide vehicular accesses into the adjacent field for agricultural purposes. This is to be achieved by erecting a new field gate on the boundary interface of the extended road and the adjacent fields.
- 4.2 Under the terms of Section 21 of the Roads (Scotland) Act 1984 (the 'Act'), any person other than a roads authority who wishes to construct a new road or extend an existing road must seek the consent of the roads authority to do so.
- 4.3 The applicant has made the requisite application to the roads authority for RCC to extend the existing public road at Meadowbank Gardens. The submitted application form is provided in **Appendix 1** and associated drawing no. 145271/1001 Revision B is provided in **Appendix 2** for reference.
- 4.4 The applicant has also made the requisite application to the roads authority for Construction Consent to extend the existing public road at Meadowbank View. The submitted application form is provided in **Appendix 3** and associated drawing no. 145271/1002 Revision A is provided in **Appendix 4** for reference.
- 4.5 In accordance with the Act, an application for RCC must be intimated by the applicant to the owners of all land which would front, abut or be comprehended in the new road or extension of the existing road or as otherwise specified by the roads authority.
- 4.6 Copies of the docquets of service are provided in **Appendix 5** relating to Meadowbank Gardens, showing that 2 frontages and one landowner was notified, and in **Appendix 6** relating to Meadowbank View, showing that 2 frontages and one landowner was notified.
- 4.7 The Act requires that the local roads authority shall consider any written representations, made to them within 28 days of the date of intimation by any person to whom an application has been intimated and before granting or refusing the consent the authority shall allow the person applying for the consent an opportunity to be heard by them as regards the application.
- 4.8 The frontager notification procedures were carried out by the applicant's agent in accordance with the legislative requirements which directs respondents to view the technical drawings associated with the application at Angus House, Forfar.
- 4.9 Electronic copies of the drawings were provided to interested parties upon request.
- 4.10 Representations have been received within the 28-day timescale permitted for the Meadowbank Gardens application from each of the two frontagers but not the one landowner. A copy of the letters and/or emailed representations is attached in **Appendix 7** with respect to Meadowbank Gardens for consideration.
- 4.11 Representations have been received within the 28-day timescale permitted for the Meadowbank View application from one of the two frontagers but not the one landowner. A copy of the letters and/or emailed representations is attached in **Appendix 8** with respect to Meadowbank View for consideration.
- 4.12 Three representations have been received within the 28-day timescale permitted for the Meadowbank Gardens application from those other than the two frontagers and the one landowners. A copy of the letters and/or emailed representations is attached in **Appendix 9** with respect to Meadowbank Gardens. There are no specific provisions of the Act that these representations should be considered, however, it is considered that the council has discretion to do so.
- 4.13 Five representations have been received outwith the 28-day timescale permitted for the Meadowbank Gardens application from those other than the two frontagers and the one landowner. A copy of the letters and/or emailed representations is attached in **Appendix 10** with respect to Meadowbank Gardens. There are no specific provisions of the Act that these representations should be considered, however, it is considered that the council has discretion to do so.

- 4.14 Two representations have been received outwith the 28-day timescale permitted for the Meadowbank View application from those other than the two frontagers and the one landowner. A copy of the letters and/or emailed representations is attached in **Appendix 11** with respect to Meadowbank View. There are no specific provisions of the Act that these representations should be considered, however, it is considered that the council has discretion to do so.
- 4.15 As noted under paragraphs 4.12 to 4.14, the representations included in Appendices 9 to 11, which have been included in this report can be considered in making a decision to grant consent to the applications. Further, there is no provision in the Act for those who have submitted written representations to be allowed the opportunity to be heard by the authority as regards the application. This right applies to the applicant only. However, at the discretion of the council, it is considered that such representations to be allowed the opportunity to be heard by the authority are allowable. The discretion applied in these instances may introduce a risk of legal challenge, however, it is considered that the spirit of the Act is to seek representations that could be considered and heard to assist the authority in its decision to grant consent or refuse an application.
- 4.16 To aid consideration of the written representations received within the 28-day timescale from those notified under the Act to each of the proposals (see Appendices 7 & 8) the following summary of reasons for objection have been cited:
- road unsuitable for agricultural purposes;
 - narrow road widths which are already worn;
 - potential for accessed land to be used for new housing;
 - potential loss of availability of turning space and on-street parking;
 - potential for obstruction of the road;
 - increase in traffic volumes;
 - noise and disturbance and their effects on mental health;
 - drainage issues;
 - loss of privacy;
 - never needed access before;
 - inappropriate use of unsuitable residential roads by large agricultural vehicles; and
 - effects on property values.
- 4.17 Technically the verge crossing to create new access at Meadowbank Gardens into the adjacent agricultural field for farming purposes and a verge crossing to create a new access at Meadowbank View into the adjacent agricultural field for farming purposes meet the technical standards required for a vehicular access.
- 4.18 The issues made in the representations that are contrary to the applications are considered to be reasons for concern for the potential impact of the change in the type of vehicles using the roads at Meadowbank Gardens and Meadowbank View. These could be considered to be matters that relate to other Traffic Regulation Orders, such as prohibition of certain classes of vehicles, or matters for the planning authority or environmental health. It is not considered that these would form a reason for the Director of Infrastructure to recommend refusal for the Road Construction Consent applications. However, as these applications have been referred to committee for decision, it is considered that representations on impacts wider than the technical compliance with road standards can be considered by the committee at its discretion.

5. PROPOSALS

- 5.1 Applications have been made for an extension of the existing road at Meadowbank Gardens and Meadowbank View, Wellbank as required by Section 21 of the Roads (Scotland) Act 1984.
- 5.2 The application proposals for both the extension of the road at Meadowbank Gardens and road at Meadowbank View have each been subject to representations that form objections to the application. The decision to grant consent to the applications is not therefore delegated to the Director of Infrastructure (reference Report No. 975/96) and it is proposed that the committee determines whether to grant consents or to refuse each application having considered the representations received.
- 5.3 The first proposal is therefore to grant consent for the Construction Consent at Meadowbank Gardens, Wellbank and as this meets the required technical standards.
- 5.4 The second proposal is therefore to grant consent for the Construction Consent at Meadowbank View, Wellbank and as this meets the required technical standards.

5.5 If the Committee agrees to grant consent to the applications for Construction Consent for Meadowbank Gardens or Meadowbank View, it is recommended that the consent be subject to the conditions listed in **Appendices 12 and 13** respectively.

6. FINANCIAL IMPLICATIONS

6.1 There are no immediate financial implications arising from this Report. If the applications are approved and the extended roads are added to the List of Public Roads, the financial implications in respect of the costs of annual maintenance of the extended lengths of road can be contained within future Roads & Transportation Revenue budgets.

6.2 In dealing with such applications, inspection charges are levied on applicants, under Section 140(6) of the Roads (Scotland) Act 1984.

6.3 By setting these inspection charges annually, the authority is maintaining a cost neutral position.

7. EQUALITY IMPACT ASSESSMENT

7.1 An Equality Impact Assessment has been completed for this report – **see Appendix 14**.

7.2 The Assessment concludes that there are either negative or neutral impacts on protected characteristic groups for the proposals contained in this report. No practicable or reasonable mitigation against the negative impacts of these applications can be proposed within either conditions of consent if approved. Future mitigation measures may be required that relate to other Traffic Regulation Orders, such as prohibition of vehicles, or matters for the planning authority or environmental health.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No. 975/96 New Roads – Construction Consents, Roads Committee, 28 November 1996.

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List of Appendices:

Appendix 1 – Construction Consent Application – Meadowbank Gardens

Appendix 2 – Drawing No. 145271/1001 Revision B – RCC Application Meadowbank Gardens

Appendix 3 – Construction Consent Application – Meadowbank View

Appendix 4 – Drawing No. 145271/1002 Revision A – RCC Application Meadowbank View

Appendix 5 – Docquets of Service – Meadowbank Gardens

Appendix 6 – Docquets of Service – Meadowbank View

Appendix 7 – Representations within 28-day timescale – for consideration - Meadowbank Gardens

Appendix 8 – Representations within 28-day timescale – for consideration - Meadowbank View

Appendix 9 – Representations within 28-day timescale from non-notified – for information only – Meadowbank Gardens

Appendix 10 – Representations outwith 28-day timescale from non-notified – for information only – Meadowbank Gardens

Appendix 11 – Representations outwith 28-day timescale from non-notified – for information only – Meadowbank View

Appendix 12 – Draft Conditions of Construction Consent – Meadowbank Gardens

Appendix 13 – Draft Conditions of Construction Consent – Meadowbank View

Appendix 14 – Equality Impact Assessment