

## ANGUS COUNCIL



Comhairle Aonghais

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
(AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**PLANNING PERMISSION - CONDITIONAL APPROVAL**

**REFERENCE : 19/00095/PPPM**

To: **Forbes Of Kingennie  
c/o Andrew McCafferty Associates  
Burn House  
Collessie  
Cupar  
KY15 7RQ**

With reference to your application dated **18 February 2019** for planning permission under the above mentioned Acts and Regulations for the following development viz:-

**Application under Section 42 for the Formation of 18 Hole Championship Golf Course, Golf Academy, Hotel Spa and Lodges, Golf Clubhouse, 160 Residential Plots and Associated Accesses at Land at Shank of Omachie, Wellbank without Complying with Conditions 1, 4 and 6 Subject to which Planning Permission 15/01045/PPPM was Granted to Enable the Delivery of the Hotel and Spa and/or Golf Course in Advance of any Residential Development and to Reflect Changes in Developer Contributions at Land At Shank Of Omachie Wellbank for Forbes Of Kingennie**

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission (FULL COUNCIL)** for the said development in accordance with the particulars given in the application and plans docqueted as relative hereto in paper or identified as approved on the Public Access portal.

**The permission is subject to the following conditions, namely:-**

- 1 No work shall begin on any distinct zone or phase within a zone of the development until the written approval of the authority has been given for the Overall Development (A) and the zone or phase within a zone (B, C or D) and the development shall be carried out in accordance with that approval:
- A: Overall Development
- (a)i a masterplan which shall illustrate the distribution of uses and general layout of the whole site, including the location of mainstream and fairway housing plots and strategic landscaping. The total number of dwellings shall not exceed 160; the final number will be dependent on the consideration of relevant matters specified in conditions forming part of this permission. The Masterplan Phasing Drawing No 1994\_300 is not approved but the distribution of uses shall be in general accordance with that plan;
  - (a)ii the means of access. The precise position of the main access on the B978 Wellbank - Draffin Road as shown on the plans is not approved. The proposed means of access from Drumsturdy Road shall include provision for vehicular access to the existing residential property "Blawearie";
  - (a)iii a drainage masterplan providing full details of the proposed means of disposal of foul and surface water from the development along with measures to protect and maintain drainage for existing houses immediately adjacent to the development site. Foul drainage for the site shall be drained to the mains sewerage system by means of adoptable sewerage and plant and surface water shall be managed by sustainable drainage systems. Thereafter the development shall be carried out in accordance with the approved details and no building shall be occupied until such time as it is connected to the public sewerage system and the approved surface water drainage system is operational;

- (a)iv a phasing plan for the whole site which shall include details of the timing of provision of all access and infrastructure improvements;
  - (a)v a travel plan which shall set out proposals for reducing dependency on the private car; measures to be implemented; the system of management, monitoring, review and reporting; and
  - (a)vi precise details of the location of bus lay-bys and bus shelters on the east and west sides of the B978.
- B. Leisure Development Zone (including 18 hole championship standard golf course, golf academy and driving range and 3 practice holes, new golf clubhouse, 2 new replacement holes for the existing 9 hole course)
- (b)i details of the siting, design, height, external appearance and materials of all buildings or structures on the site;
  - (b)ii road layout design and specification including provision of parking, street lighting and disposal of surface water;
  - (b)iii details of all hard and soft landscaping works, planting and screening associated with the development of the site;
  - (b)iv for the golf course, a full topographical survey of the site as existing and as proposed, including all engineering works, site levelling and any other works for the formation of the course including the location of tees, fairways and greens;
  - (b)v for the remainder of the leisure development zone, a detailed levels survey (existing and proposed) and cross sections showing finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
  - (b)vi details of any screen walls/fencing to be provided including ball strike safety fencing;
  - (b)vii full details of works proposed to culverts within the site including details to confirm that no buildings are to be located on top of any culverts and that access for maintenance can be achieved;
  - (b)viii full details of any new crossings to watercourses within the site;
  - (b)ix details of any external lighting installation;
  - (b)x measures to maximise environmental sustainability through design, orientation and planting or any other means;
  - (b)xi details of the phasing for the delivery of the different aspects of that zone; and
  - (b)xii details of the location and configuration of all sustainable urban drainage systems to be provided and the arrangements for the maintenance thereof.
  - (b)xiii a scheme for the management and maintenance of all open spaces, outdoor communal areas and unadopted infrastructure, including details for the implementation of the phasing of management and maintenance arrangements. That scheme shall provide for the maintenance of those areas in perpetuity and the approved scheme shall be implemented upon commencement of the development.
- C Hotel and Spa zone (including a five star hotel with a minimum of 150 bedrooms and a maximum 183 bedrooms, spa, leisure and associated conference facilities, eighteen holiday lodges - 10 associated with the proposed hotel and 8 associated with the existing 9 hole golf course and fishing resort)
- (c)i details of the siting, design, height, external appearance and materials of all buildings or structures on the site;
  - (c)ii road layout design and specification including provision of parking, street lighting and disposal of surface water;
  - (c)iii details of the hotel to confirm that the design and layout of the building and facilities which are to be provided within the building will support the potential to achieve a 5 star rating;
  - (c)iv details of all hard and soft landscaping works, planting and screening associated with the development of the site;
  - (c)v a detailed levels survey (existing and proposed) and cross sections showing finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
  - (c)vi details of any screen walls/fencing to be provided;
  - (c)vii full details of works proposed to culverts within the site including details to confirm that no buildings are to be located on top of any culverts and that access for maintenance can be achieved;
  - (c)viii full details of any new crossings to watercourses within the site;
  - (c)ix measures to maximise environmental sustainability through design, orientation and planting or any other means;
  - (c)x details of the phasing for the delivery of the different aspects of that zone; and
  - (c)xi details of the location and configuration of all sustainable urban drainage systems to be provided and the arrangements for the maintenance thereof.

(c)xii a scheme for the management and maintenance of all open spaces, outdoor communal areas and unadopted infrastructure, including details for the implementation of the phasing of management and maintenance arrangements. That scheme shall provide for the maintenance of those areas in perpetuity and the approved scheme shall be implemented upon commencement of the development.

D Residential Development Plots;

- (d)i details of the layout including the location and number of residential units, and the siting, design, height, external appearance and materials of all buildings or structures on the site;
- (d)ii road layout design and specification including provision of parking, street lighting and disposal of surface water;
- (d)iii details of the location and nature of public open space to be provided at a minimum of 2.43 hectares per 1000 head of population and to include play equipment, and arrangements for the provision and maintenance of the open space in perpetuity;
- (d)iv details of all hard and soft landscaping works, planting and screening associated with the development of the site;
- (d)v a detailed levels survey (existing and proposed) and cross sections showing finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
- (d)vi details of any screen walls/fencing to be provided;
- (d)vii measures to maximise environmental sustainability through design, orientation and planting or any other means .
- (d)viii full details of works proposed to culverts within the site including details to confirm that no buildings are to be located on top of any culverts and that access for maintenance can be achieved;
- (d)ix full details of any new crossings to watercourses within the site;
- (d)x details of the location and configuration of all sustainable urban drainage systems to be provided and the arrangements for the maintenance thereof;
- (d)xi details of the phasing for the delivery of the different aspects of that zone; and
- (d)xii a scheme for the management and maintenance of all open spaces, outdoor communal areas and unadopted infrastructure, including details for the implementation of the phasing of management and maintenance arrangements. That scheme shall provide for the maintenance of those areas in perpetuity and the approved scheme shall be implemented upon commencement of the development.

2. That any application for approval of details in condition 1 above shall, unless otherwise approved in writing by the planning authority because it is not required to assess the acceptability for that zone or phase of zone, be accompanied by the following:-

- i. A noise impact assessment in accordance with a method statement approved in writing by the Planning Authority;
- ii. A blast vibration assessment in accordance with a method statement approved in writing by the Planning Authority;
- iii. An air quality assessment in accordance with a method statement approved in writing by the Planning Authority;
- iv. A safety assessment to address the risk from miss hit golf shots in accordance with a method statement approved in writing by the Planning Authority;
- v. An assessment of light spill, intrusion and source intensity/glare in accordance with a method statement approved in writing by the Planning Authority;
- vi. A design statement in accordance with Planning Advice Note 68 and which takes account of Scottish Government Planning Policy Statement Designing Streets;
- vii. A Drainage Impact Assessment and Flood Risk Assessment;
- viii. A Development Brief for each zone or phase of zone which shall include details of the height and appearance of all new structures; the use of appropriate external materials including walls, fences and other boundary enclosures; the surfacing of all new roads, parking areas, cycleways and footpaths; the lighting of all streets and footpaths; and the maintenance of all open space and treed areas not included in private house plots.
- ix. Information in support of the masterplan required by condition 1(a)(i), which sets out details of how public rights of access in accordance with the Land Reform (Scotland) Act 2003 will be met. The information shall:-
  - Provide full details of the retention of core paths within the site;
  - Provide details of measures to ensure appropriate safety fencing and warning signage is erected between the site and the adjacent quarry;

- Integrate provision for public access across all sectors of the public who are participating in open air recreation - those at the resort, the visiting public and local residents;
  - Show any routes proposed for public access and provide details of how these routes will be constructed and implemented;
- x. An environmental management plan. The plan shall relate to both the construction and operational phases of the development and shall provide for the enhancement of the biodiversity of all habitats within the development and shall include full details of:-
- Routing of the course including reference to tracks, paths and any other ancillary requirements;
  - Specification of grass types, vegetation, seed mixes to be used and identification of planting areas;
  - Compliance with best practice in relation to soil and turf stripping and storage including details of proposed storage areas;
  - Identification of areas and methods of mitigation of habitat loss;
  - A phasing plan which specifies timing and duration of construction aspects for the golf course
  - Management of areas of fairway, greens, tees, transition rough and rough;
  - Water irrigation and abstraction rates.
- xi. A habitat management and enhancement plan incorporating mitigation and compensatory measures for birds, bats, otters, invertebrates and plants. For bats the plan shall include the installation of 12 bat boxes at the locations identified in the submitted bat survey report.
- xii. A detailed construction method statement which takes account of the environmental management plan and the habitat management and enhancement plan. The construction method statement shall include:
- Details of buffer zones and public access arrangements during construction;
  - Details of storage areas to be utilised during the construction period which shall not be on the site access road or any other access roads serving the development;
  - Details of the installation of an effective wheel washing facility, which shall be retained in working order throughout the construction period and used so that no vehicle shall leave the site carrying earth and mud on its wheels in such a quantity that causes a hazard on the surrounding local road network;
  - Details of dust suppression measures to be employed during the construction period;
  - Proposed hours of working;
  - Details of any proposed construction access routes; and
  - Details of procedures for stopping work if bats are found during any of the proposed tree felling works.

The provisions of the approved method statement, which shall be reviewed prior to the commencement of each zone or phase of a zone of development and amended as required with the written approval of the Planning Authority and following appropriate consultation.

- xiii. An archaeological evaluation of the site in accordance with a written scheme of investigation which has been approved in writing by the Planning Authority.

Any mitigation measures identified in the above documents as approved by the planning authority shall be incorporated into the phasing plan/s for the development required by condition 1 of this permission and shall be provided in accordance with the timescales approved therein.

- 3 Any phasing plan under condition 1((a)iv) above must be in full compliance with the obligations and rights detailed below:-

<b>Obligations</b>	<b>Rights (these rights will only be granted to allow construction on the houses to commence after the planning authority certifies that the corresponding phased obligation has been fully complied with)</b>
Legally binding contract for the erection of the proposed five-star, minimum 150 bedroom and maximum 183 bedroom hotel in accordance with a valid planning permission and building warrant (for the avoidance of doubt the building warrant shall be for the entire building) and certificated completion of the foundations of the aforementioned hotel all to the written satisfaction of the planning authority. There shall also be legally binding contracts for the construction of the 18 hole championship golf course in accordance with a valid planning permission and for construction of the golf academy in accordance with a valid planning permission and building warrant.	Construct 35 private houses
Certificated structural and practical completion, of the completed and operationally ready five-star, minimum 150 bedroom and maximum 183 bedroom hotel in accordance with a valid planning permission and building warrant and certificated completion of the golf course and golf academy to an operationally ready condition.	Construct a further 25 private houses
That there shall be in place a legally binding contract for the operation of the proposed five-star, minimum 150 bedroom and maximum 183 bedroom hotel and the aforementioned hotel shall be fully operational, there shall also be legally binding contracts for the operation of the golf course and golf academy and both shall be fully operational.	Construct all remaining private houses.

- 4 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 Planning (Scotland) Act 1997 in relation to the development, until an application under s.75A(2)(a) of the said Act to modify the Agreement made under s.75(1)(a) of the said Act among Angus Council; Alistair Graham Milne Forbes, Mrs Cynthia Bartow or Forbes; Michael Bartow Forbes and Gail Forbes (as the Partners of and Trustees for the Firm of Forbes of Kingennie); Michael Bartow Forbes and Gail Forbes and M B Forbes Limited (as the Partners of and Trustees for the Firm of M B Forbes & Company); Shank of Omachie Limited; Barclays Bank Plc and Michael Bartow Forbes, Gail Forbes and M B Forbes Limited (as Partners and Trustees for the Firm of M B Forbes & Company) relating to the land in respect of the Planning Permission 09/00695/OUT dated 4th and recorded in the Division of the General Register of Sasines applicable to the County of Angus on 30th, both dates January 2012, has been approved and 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 (and as modified by application 17/00251/MDPO made under s.75A(2)(a) of the said Act to modify the Agreement dated 18 April 2017). The said modification will provide that:
- a) The modified obligation applies to the planning permission in principle hereby granted (registered with the Authority on 18 February 2019) and any subsequent planning permission in principle, planning permission or consent for development of the same character or description of development on the same site or part thereof; and
  - b) Clause FIFTH is amended to require a financial contribution to be paid towards primary and secondary school infrastructure in respect of every house that is not designated as an affordable housing unit amounting to the sum of £6,802 per unit for primary education and £6,041 per unit in respect of secondary education.

5. That no other works in connection with the development hereby approved shall take place until:-
  - i. visibility splays have been provided at the junction of the main access with the B978 Wellbank-Draffin Road, giving a minimum sight distance of 215 metres in each direction at a point 4.5 metres from the adjacent channel line of the B978 Wellbank-Draffin Road. Within the visibility splays nothing shall be erected or planting permitted to grow to a height in excess of 1050mm above the adjacent road channel.
  - ii. a footway has been provided on the east side of the B978 Wellbank - Draffin Road between the main site access and Mattocks Road in accordance with the standards of Angus Council.
  - iii. a footway has been provided on the south side of Mattocks Road between Applehill Drive and a point on the south side of Mattocks Road opposite the existing access to Shank of Omachie Farm in accordance with the standards of Angus Council.
  - iv. a bond has been concluded and lodged with the Planning Authority which shall be of sufficient value to ensure that: -
    - a) the strategic landscaping works required under condition 1 ((a)i) can be completed in full. The value of the bond shall be determined following approval of the strategic landscaping works under the terms of that condition;
    - b) to ensure that any land on which works have been undertaken to construct the championship golf course can be restored in accordance with a scheme to be agreed by the Planning Authority in the event that the golf course is not completed in accordance with the approved details of phasing. The value of the bond shall be determined following approval of the matters specified in condition 1 ((b)iv).
  - v. the approved bus lay-bys and bus shelters on the B978 have been provided in accordance with the details approved under Condition 1 (A) (vi).
6. Before the new access onto the B961 Drumsturdy Road is formed, visibility splays of 215 metres shall be provided in each direction at a point 2.4 metres from the adjacent channel of the B961 Drumsturdy Road in accordance with details that have been approved in writing by the Planning Authority. Within the visibility splays nothing shall be erected or planting permitted to grow to a height in excess of 1050mm above the adjacent road channel.
7. That the lodges hereby approved shall be occupied on a holiday letting or fractional ownership basis only and none of these units of accommodation shall be occupied by any group or individual for more than a total of 12 weeks in any one calendar year. The lodges shall not be occupied as permanent residential accommodation.
8. That the hours of operation of the golf driving range shall be restricted to 0800-2100 hours Monday to Sunday inclusive.
9. That noise from any ventilation, extraction or refrigeration plant associated with the hotel, spa, golf clubhouse and golf academy shall not give rise to a noise level assessed with windows open within any dwelling or noise sensitive building in excess of that equivalent to NR curve 20 between 0700 and 2200 and NR curve 30 at all other times.
10. That all amplified music or vocals associated with the hotel, spa, golf clubhouse and golf academy shall be inaudible when assessed within any habitable room of a dwelling or other room of a noise sensitive premise with the receiver room windows partially open for ventilation.

**The foregoing conditions are imposed by the Council for the following reasons :-**

1. To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. In order to ensure the provision of adequate information for the planning authority to consider the matters detailed in condition 1 and to ensure implementation of necessary mitigation.
3. In order to ensure the implementation and completion of the golf course resort components of the proposal, as these are the elements of the proposed development which the Planning Authority considers will bring economic benefits to the area.
4. To ensure the obligation applies to the extant permission and to ensure that the proposed development does not put undue pressure on the existing education facilities and as required by

the Angus Council Developer Contributions and Affordable Housing Supplementary Guidance (2018).

5. In the interests of road safety and to enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit; in order to ensure appropriate pedestrian connections with Wellbank Village; to ensure the completion of the approved landscaping scheme in the interests of the visual amenity of the area and to ensure that in the event that the championship golf course is not completed, the site can be restored to an appropriate condition; and, in order to ensure provision for public transport infrastructure to support the accessibility of the development.
6. In the interests of road safety and to enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.
7. In order to ensure that the lodges are occupied as holiday accommodation only.
8. In order to minimise the impact of the development on the amenity of occupants of nearby housing.
9. To limit disturbance from noise at nearby noise sensitive properties.
10. To limit disturbance from noise at nearby noise sensitive properties.

**The reason(s) for the foregoing decision by the Council are as follows:-**

1. The development is contrary to the Development Plan but it would bring significant economic benefits and employment opportunities to the area and would provide high quality hotel accommodation which would be of benefit to the future diversification of the Angus economy. The residential development is necessary to cross fund the leisure and tourism aspects of the proposal that deliver those significant benefits. Potential impacts associated with the development can be mitigated and there are no material planning considerations that justify refusal of the application.

Dated this **9 May 2019**

Kate Cowey  
Service Leader  
Planning & Communities  
Angus Council  
Angus House  
Orchardbank Business Park  
Forfar  
DD8 1AN

**Advisory Notes**

**Section 75 of the Town and Country Planning (Scotland) Act 1997**

Planning permission was granted subject to a planning condition requiring completion of a planning obligation. In order to draft a planning obligation to meet the terms of the above planning condition(s) you will need to provide details of your client's legal representation. Upon receipt of that information, the Planning Service will instruct our solicitors to prepare a draft planning obligation.

You should be aware that following instruction to prepare the planning obligation, our solicitors will write to you and request:-

- the Title Deeds for the property together with a Legal Report; and
- A plan showing the extent of the planning permission subjects.

Upon receipt of your Titles by our solicitors, a draft planning obligation will be prepared and issued to your solicitor for comment.

Angus Council's policy to charge applicants the legal fees and outlays connected with the preparation of the planning obligation.

I would also draw your attention to the fact that it will not be possible to confirm that the planning obligation has been finalised (and the planning condition will not be discharged) until the Council is in receipt of a Legal Report Continuation which discloses the registered planning obligation and which also discloses nothing prejudicial to the Council's interests.

The decision was based on the following amendment(s):-

**Amendments:**

The application has not been subject of variation.

**It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004 as amended.**

**WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS**