

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 18 OCTOBER 2022

PLANNING APPEAL DECISION: FIELD 50M NORTH OF VICTORIA STREET,
MONIFIETH

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

Abstract: This report presents the findings of the Reporter appointed by Scottish Ministers to determine an appeal by Taylor Wimpey East Scotland in relation to the refusal of planning permission in principle for a residential development (major) including formation of vehicular access, access roads, open space, landscaping, SuDS and associated infrastructure on land north of Victoria Street, Monifieth. The Reporter dismissed the appeal and refused planning permission in principle.

1. RECOMMENDATION

It is recommended that the committee notes the outcome of the appeal.

2. INTRODUCTION

- 2.1 At its meeting on 24 March 2022, Council refused planning permission in principle for a residential development on land north of Victoria Street, Monifieth (application [21/00781/PPPM](#) refers).
- 2.2 The applicant, Taylor Wimpey East Scotland, submitted an appeal to Scottish Ministers in relation to that decision. The appeal was dismissed and planning permission in principle was refused. The Reporter's decision is set out below.
- 2.3 The appeal decision is significant as it confirms the council's policies are enabling delivery of new homes in the South Angus Housing Market Area at a rate and number that meets the requirements identified in TAYplan. The decision supports the council's policy approach of directing new housing development to sites specifically allocated for that purpose and promoting redevelopment of brownfield land in preference to the release of additional greenfield land.

3. REPORTER'S DECISION

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case is principally comprised of the TAYplan Strategic Development Plan (October 2017) ('the SDP') and the Angus Local Development Plan (September 2016) ('the LDP').
2. Having regard to the provisions of the development plan the main issue in this appeal is the sufficiency of the effective housing land supply. The potential acceptability of the development, in principle, is heavily reliant on the appellant's contention that less than a five-year effective housing land supply exists. In line with Scottish Planning Policy (2014) (SPP), this would also engage a presumption in favour of development as a significant material consideration, and development plan policies for the supply of housing land would not be considered up-to-date.

3. There appears to be no dispute between the appellant and council that, in the absence of an effective housing land supply shortfall, residential development on the appeal site would be contrary to the relevant provisions of the development plan. The site is on the edge of Monifieth, adjacent to but outwith the settlement boundary as delineated in the LDP. LDP policy DS1 ('Development boundaries and priorities') states that in such locations, development "...will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary". SDP policy 1 ('Location priorities') similarly prioritises land within settlements ahead of sites on the settlement edge.
4. LDP policy TC1 ('Housing land supply / release') outlines the way in which the scale, distribution and delivery of housing sites will be managed across Angus, in order to maintain a generous supply. It also cross-refers to the terms of policy TC2 ('Residential development') which, amongst its provisions, makes clear that in countryside locations (i.e. outwith the development boundaries), residential development of the scale and type proposed in this case would not be supported.
5. LDP policy TC1 also stipulates that a seven-year effective land supply should be maintained at all times. This is evidently inconsistent with both SPP and the SDP, which require that at least a five-year effective supply must be maintained. I note that the LDP was adopted over a year before the current SDP, which is presumably the reason for the inconsistency. The LDP is also now out-of-date as it is more than five years old (noting the terms of SPP paragraph 33). For these reasons, I do not consider it necessary for a seven year effective supply to be demonstrated.
6. The SDP is however up-to-date, having been published within the last five years. Given it is the SDP which sets the housing land requirements against which the adequacy of the effective land supply can then be assessed, there is no reason to consider the development plan to be out-of-date in regard to the most salient issue in this case, housing land supply. In my view the SDP should continue to be relied upon in regard to the housing land requirements it stipulates, as well as the requirement for a minimum of five years' effective housing land supply to be maintained at all times. In this case, the presumption in favour of development would therefore only become a significant material consideration in the event that a shortfall in the effective land supply was identified, and not on the basis of the development plan being out-of-date.
7. SDP policy 4 ('Homes') and its accompanying map confirm that Monifieth falls within the South Angus housing market area, and the housing land requirement in this housing market area is equal to 77 homes per year for the period 2016-2028. The footnote to policy 4 expressly clarifies that the figure of 77 is an annualised average, and the period in which these build rates should be achieved is across the 12-year plan period as a whole. In order to meet the housing land requirement therefore, land for 924 homes (i.e. 77 x 12) would be needed in order to ensure the number of homes built between 2016 and 2028 in the South Angus housing market area will meet (or exceed) the housing supply target of 840 homes by the end of this period.
8. Government policy does not specify how the effective housing land supply must be calculated. In practice, there are two well-established methodologies which can be used to determine how much land would represent a five-year effective supply. It is ultimately for the decision-maker to decide which approach is the most appropriate in the circumstances of each case.
9. The 'average' methodology is simply based on the annualised housing land requirement, multiplied by five. Using this approach, in this case a five-year effective supply would be 385 homes (i.e. 77 x 5). This is the approach favoured by the appellant in this instance.

10. The 'residual' (sometimes called 'compound') methodology considers the plan period as a whole, taking account of completions to date. This can then be used to establish how many homes still need to be built, and therefore how much effective housing land is needed over both the next five years and the remaining plan period. In this case, the housing land requirement for the 2016-2028 plan period is 924. A total of 764 homes have already been built in this period to date, meaning the residual housing land requirement is for 160 homes. There are six years of the plan period remaining, meaning that the five year land requirement using this approach is 133 homes (i.e. $160 / 6 \times 5$). I note that my calculated residual requirement differs to the figure provided by the council. The council's calculation adjusted the housing land requirement proportionately to apply only until 2026, rather than establishing the residual requirement against the full housing land requirement for the full plan period, which I consider to be necessary for this methodology to be applied robustly.
11. Before I consider the sufficiency of the current effective housing land supply, it is necessary to conclude on which of the two methodologies outlined above would be the most appropriate to apply in this case. In this regard the footnote to SDP policy 4 (which I have already referred to in paragraph 7) is of particular relevance. This confirms that: "Average build rates are illustrated annually to assist the understanding of what the scale of housing is for communities. These are only averages and the period in which these build rates should be achieved is over the first 12 years of the Plan, not annually".
12. Whilst national policy does not dictate which methodology should be used, it is clear that the SDP's focus is on ensuring that sufficient homes are delivered over the plan period as a whole, rather than considering each year's completions (and therefore also land supply) in isolation. The residual methodology is consistent with the intended approach outlined in the SDP. I also have difficulty with the average methodology in the circumstances of this case, as by ignoring the strong rate of completions to date, the practical effect of this would be tantamount to increasing the overall housing land requirement.
13. For the foregoing reasons and in conclusion, I consider the residual methodology should be applied in this case. This means that the five-year effective land requirement equates to 133 homes. The next stage of my assessment is to consider whether there is any shortfall in the effective land supply when measured against this figure.
14. The main source of evidence in relation to the housing land supply situation is provided by the annual housing land audit (HLA) process. The most recent published HLA is the 2021 audit, which provides programming for sites forming part of the effective supply in the five years up to 2026. Noting that at the time of the 2021 audit there had been 663 completions in the plan period, this would mean that the residual housing land requirement to 2028 was then 261 ($924 - 663$). The 2021 HLA predicted that 534 homes would be built in the next five years, 2021-2026, in the South Angus housing market area, which is evidently well in excess of the residual housing land requirement, and represents a generous supply.
15. All site programming has its inherent limitations, but it is still generally the best available evidence of the most likely land supply situation. It is potentially of significance however that the inclusion of 162 programmed completions at Strathmartine Hospital, as part of the effective supply in the 2021 HLA, was disputed by Homes for Scotland. The appellant has also made the case for why these programmed completions should not be relied upon. However, even if the two Strathmartine Hospital sites were assumed to be constrained, and removed from the effective supply, the 2021 HLA would still indicate an effective five year supply of 372

units, which would continue to exceed (by a margin of 111 units) the residual housing land requirement for the plan period as a whole (when calculated from 2021 onwards).

16. I have been provided with the draft 2022 HLA, which presents a similarly positive position in regard to the housing land supply situation in the South Angus housing market area. In the year 2021/22, based on a comparison of the figures in the 2021 and draft 2022 audits, there were 101 completions. As outlined in paragraph 10 above, this means there is a residual housing land requirement of 160 homes for the full plan period to 2028, which translates into a five-year requirement of 133 homes. The weight to be placed on this audit is to some extent tempered by its draft status and as changes may result following consultation on its findings and programming. Taken at face value though, it continues to strongly indicate that a generous supply of effective housing land is being maintained in the South Angus housing market area, with 645 homes programmed to be completed between 2022 and 2027 (which is nearly five times the number of homes needed to meet the residual five-year requirement).
17. I note that it is once again anticipated that land at Strathmartine Hospital will make a relatively significant contribution to the effective supply in the draft 2022 audit, despite this being disputed in the 2021 audit. However, the council has outlined that progress has been made on the planning status of the site, and has provided evidence that the draft 2022 audit programming aligns with the site developers' own anticipated programming. Furthermore, I have seen confirmation from Homes for Scotland that it is "extremely unlikely" to dispute the site status in the 2022 audit. This strongly suggests that the programming of this site can now be treated with much less caution than was perhaps the case previously. The appellant has challenged programming assumptions on various sites in the draft 2022 audit, and considers that an effective supply of 302 homes to be more realistic. Even if this arguably unduly pessimistic view was accepted, this would still represent a supply that is still more than double the residual five-year requirement.
18. All told, I find there to be compelling evidence that a generous effective housing land supply is being maintained, which substantially exceeds the minimum necessary to maintain at least a five-year supply. I have applied the residual methodology in my conclusions for the reasons already outlined. Even if I was to use the average methodology, this would require an effective supply of land for 385 homes. Seen against the draft 2022 audit which anticipates an effective supply of 645 homes, and noting progress at Strathmartine Hospital, I find the appellant's contention that there is a shortfall in the effective land supply in the South Angus housing market area to be untenable.
19. The proposal is contrary to SDP policies 1 and 4, and LDP policies DS1, TC1 and TC2 on this basis. In the absence of a shortfall in the effective housing land supply, the development plan provides no scope to consider the proposal favourably in this location. Furthermore, the presumption in favour of development which contributes to sustainable development established by SPP is not elevated to a 'significant' material consideration in this case, in the absence of a housing land supply shortfall.
20. This policy conflict is not outweighed by other matters raised by the appellant. I note the appellant's assertion that there is a lack of choice of housing land across the South Angus housing market area, with the effective land supply dominated by a small number of large sites which fails to reflect the SDP's hierarchy of settlements. However, it is not for individual development management decisions to reassess or challenge the spatial strategy or the distribution of sites which are already allocated, or otherwise committed. The fact remains that a generous supply of effective housing land has been demonstrated to exist in this housing market area. I acknowledge that

this development could make a modest but still a valuable contribution to the supply of affordable housing, but this favourable aspect of the development falls some way short of potentially outweighing the identified conflict with the development plan. There is no policy basis or any other sufficient justification to support the release of this site outwith the settlement boundary.

21. There would be little value in me assessing the proposal in any greater detail on the basis of this finding, as the principle of the development's location is not accepted. I would simply note that had I reached a different finding in that regard, it would have also been necessary to give careful consideration to other factors including (but not confined to) the loss of prime agricultural land; effects upon the landscape setting of Monifieth; and the effects of noise from the A92 and associated mitigation.
22. In any event, for the reasons set out above, I conclude that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

4. FINANCIAL IMPLICATIONS

There are no financial implications associated with this Report.

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 a material extent in preparing the above report.

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APPENDIX 1: LOCATION AND ILLUSTRATIVE FRAMEWORK PLAN