

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 13 FEBRUARY 2024

PLANNING APPEAL DECISION: LAND OPPOSITE WESTFIELD DRIVE,  
WESTFIELD LOAN, FORFAR

REPORT BY SERVICE LEAD – PLANNING & SUSTAINABLE GROWTH

**1. Abstract**

This report presents the findings of the Reporter appointed by Scottish Ministers to determine an appeal by Muir Homes Ltd in relation to the refusal of planning permission for a residential development of 159 dwellings, including the formation of vehicular access, access roads, open space, landscaping, SuDS, and associated infrastructure on land opposite Westfield Drive, Westfield Loan, Forfar. The Reporter dismissed the appeal and refused planning permission.

**2. RECOMMENDATION**

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

**3. INTRODUCTION**

- 3.1 At its meeting on 19 April 2023, committee refused planning permission for a residential development on land opposite Westfield Drive, Westfield Loan, Forfar (application [19/00707/FULM](#) refers). The application was refused for the following reason: -

*The application is contrary to policies 14, 20, 21 and 23 of National Planning Framework 4 and policies DS3, DS4, TC2 and F4 of the Angus Local Development Plan and its associated supplementary guidance as the layout and design of the development does not deliver a high design standard that contributes positively to the character and sense of place of the area and as it would not provide an acceptable residential amenity or environment for future residents.*

- 3.2 The applicants, Muir Homes Ltd, submitted an appeal to Scottish Ministers in relation to that decision. The appeal was dismissed and planning permission was refused. The Reporters decision is set out below.
- 3.3 The decision supports the council's policy expectation that new residential development should be designed to a high standard and delivery quality places that provide a good living environment for future residents. It is another appeal decision that supports the requirement for new development to comply with our design quality and placemaking supplementary guidance.

**4. 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 consists of the Fourth National Planning Framework (NPF4) and the adopted Angus

Local Development Plan (ALDP) (2016), including its associated supplementary planning guidance.

2. The parties have referred me to policies 14 (design, quality and place), 20 (blue and green infrastructure), 21 (play, recreation and sport) and 23 (health and safety) of NPF4. They also refer me to policies DS3 (design quality and placemaking), DS4 (amenity), TC2 (residential development) and settlement statement policy F4 (housing – Westfield) of the ALDP and associated supplementary guidance ‘design and placemaking’ (2018). I also find these policies relevant to my consideration of the appeal and address them in my conclusions below.

### **The appeal site and proposed development**

3. The appeal site extends to approximately 12.85 hectares. It forms part of a larger area of land extending to approximately 38.8 hectares allocated for residential development in the ALDP (site F4). The site is located on the south-west edge of Forfar and is presently in agricultural use. To the north, the site is bound by the A94 Glamis Road which connects the town to the A90(T), beyond which lie business and industrial uses. To the east lie Westfield Loan and existing housing, which presently define the urban edge of the town. Core Paths 300 and 301 lie adjacent to the appeal site, while Scheduled Monuments SM6053 and SM6054 lie wholly or partly within it, respectively. The ALDP also safeguards land further to the west of the appeal site, extending to the A90(T), for residential development, the acceptability and scale of which is to be determined by a future local development plan.
4. The appellant seeks detailed planning permission for the development of 159 dwellings, a proportion of which would be ‘affordable’. The proposed site layout plan shows that the majority of the dwellings would be served by a vehicular access taken directly from Glamis Road, while a second access would serve a cluster of dwellings from Westfield Loan. A terrace of 20 dwellings would front Glamis Road (plots 34 to 53), which in effect would link the two aforementioned areas of housing. The development would consist of a mix of one to five bed properties in a combination of flatted, terraced, semi-detached and detached dwellings over one, two and three storeys. A SuDs basin would be located in the north-west corner of the site; adjacent to land reserved for a local centre (the subject to a future application). The site layout plan also shows a play area located in the north-east corner of the site. The appeal proposals include tree planting to enhance that which presently exists around the perimeter of the site and further planting within it.
5. The council’s report of handling notes that the application has been varied from that originally submitted to reduce the site area and the number of dwellings proposed, including consequential amendments to the site layout, boundary enclosures, site levels and landscape proposals.
6. A number of representations made to the application, and one in response to this appeal, challenge the acceptability of residential development on the site in principle. However, given that the ALDP allocates the site for residential development (site F4), this issue is not relevant to my consideration of the appeal. All other matters raised in representations are also addressed by the parties in their evidence, principally concerns regarding the design and layout of the proposed development, including measures to address noise emanating from nearby business and industrial uses. I consider these matters below.
7. Having regard to the provisions of the development plan and the matters before me, I consider that the main issue in this appeal to be the acceptability of the proposed development in terms of its design and layout.

## **Background**

8. Residential development on the appeal site and wider area has been in prospect for some considerable time. While I do not intend to rehearse the planning history of the area in full, I note that the ALDP Forfar settlement statement and supporting text to housing allocation F4 (Westfield) provide broad guidance on how the appeal site should be developed. In short, the ALDP states; the site as a whole has capacity for around 300 dwellings; development should commence from the north (Glamis Road); no development will be allowed until a full assessment of the potential impact of development on the A90(T) junctions, including Lochlands, is undertaken and any mitigation agreed with the council and Transport Scotland.
9. The ALDP adds, development proposals should be guided by a masterplan. To this end, I also note that a concept masterplan to guide the future development of South West Forfar, including the wider F4 allocation, was prepared by those with a controlling interest in the land, including the appellant, in 2013 (the South West Forfar Masterplanning Framework). Further iterations of the masterplan were prepared in March and August 2022, following the adoption of the ALDP and discussions with the council. Insofar as the appeal site is concerned, both versions of the masterplan promote broadly the same proposals, namely:
  - medium density residential development located in two clusters either side of scheduled monument SM6053 linked by a primary street and footpath;
  - development blocks with their main frontages facing onto primary streets;
  - retention of existing mature boundary trees along Glamis Road, with potential for them to form part of a pedestrian/greenway corridor, informed by an appropriately landscaped and well-integrated noise attenuation bund;
  - public open space formed around scheduled monuments; and,
  - vehicular access points from Glamis Road and Westfield Loan, the latter to serve approximately 50 dwellings.

## **Masterplan**

10. I note the discussion in evidence concerning the content and status of the masterplan of March 2022, which supports the appellant's application. I also note the inconsistencies between the proposals of the masterplan and those promoted by the appellant in its application, particularly the increased level of development proposed on the appeal site, including the terrace of properties facing onto Glamis Road, and the wider F4 allocation.
11. In addition, as the council infers, there is an absence of evidence to demonstrate that the wider allocated site is capable of accommodating a significantly increased level of development beyond that promoted by the ALDP without detailed assessments of its effects on essential infrastructure, notably potential impacts of development on road junctions or mitigation measures agreed in relation to the A90(T) Lochlands junction. Such matters lead the council to conclude that the proposed development is inconsistent with the requirements of the settlement statement, policy F4.
12. The appellant argues that it has prepared a masterplan as required by policy F4 and has submitted information with the application that addresses each of the listed bullet points. It adds, policy F4 does not require the masterplan to be adopted either as statutory or non-statutory supplementary guidance. It considers the council's interpretation of policy F4 to be incorrect.
13. While I agree with the appellant to some extent, it is evident that the submitted information fails to address all of the matters listed in policy F4 or demonstrates in any meaningful way how an increased level of development can be accommodated

on the appeal site and its implications for future development on the remainder of the F4 allocation, particularly given the concerns of Transport Scotland and the council, as Roads Authority. Indeed, the intention to provide further assessments with subsequent planning applications seems ill-considered.

14. The appellant's approach is also inconsistent with advice contained in Planning Advice Note (PAN) 83: Masterplanning. The PAN states that an effective masterplan should explain how a site, or series of sites, will be developed, describing and illustrating the proposed urban form in three dimensions. It adds, it should show how that form will achieve the intended vision for the place, and how a distinct and appropriate character will be created. In this case, other than showing how vehicular access to the south would be achieved, the proposed development fails to consider in any detail how its design and layout would tie into and complement subsequent phases of development.

### **Design and layout of the proposed development**

15. As noted above, the allocated site ALDP F4 (Westfield) extends to 38.8 hectares and is considered suitable for the development of around 300 dwellings. The appeal proposals promote more than half that number of dwellings on approximately one third of the allocated site; which includes a scheduled monument and part of another, both of which are required to be kept free of development; land reserved for a local centre; a SuDS basin and play area.
16. As a general observation, it appears that the appellant is seeking to accommodate a disproportionate amount of development on a part of the site that is constrained by cultural interests and landscape features. Neither does the proposed development respond well to those characteristics, for example, by encroaching close to the aforementioned scheduled monuments. Consequently, the design and layout of the proposed development appears contrived; requiring solutions to avoidable problems, for example, the necessity to incorporate noise mitigation measures within a relatively narrow frontage to Glamis Road and thus the need to depart from the council's design and placemaking supplementary guidance.
17. The council refused planning permission to the proposed development on the basis that its design and layout would not deliver a high standard of design that would contribute positively to the character of the area or its sense of place. Nor would it provide an acceptable residential amenity or environment for future residents. Accordingly, the council considers that the appeal proposals offend a number of policies concerned with design quality, placemaking and amenity as set out in NPF4 and the ALDP. It also fails to satisfy a number of requirements set out in the settlement statement (policy F4).
18. The appellant argues that the council's concerns relate to the orientation of a small number of dwellings that would not follow a standard perimeter block arrangement; the location of the play area and unresolved noise issues. Its appeal statement, however, underplays the significance of these matters and fails to fully address them in the context of the proposed development as a whole. Nor does it consider their consequential effects on the quality of development overall. In promoting the scale of development it has, the appellant appears to have lost sight of the objectives of the masterplan and the ambition of the ALDP and supplementary guidance to create an attractive, safe, well-designed sustainable place.
19. To this end, the council's design and placemaking supplementary guidance expects development proposals, among other things:

- to create perimeter block structures designed with the public facades of buildings facing onto a street and private spaces enclosed to the rear. It adds, justification is required for proposals to depart from this preferred structure;
  - to ensure principal elevations of buildings face onto streets and public spaces to provide active frontages and natural surveillance. Private spaces, including rear gardens, should be enclosed by buildings or walls and not visible from public spaces or routes; and,
  - design open space and landscaping as an integral part of the overall layout to create a place with character and identity.
20. Contrary to the requirements of the supplementary guidance, the council identifies a large number of plots where rear and/or side elevations and high screen boundaries associated with rear gardens would face onto public roads and/or areas of open space. I note that these plots are variously located along the site's Glamis Road and Westfield Loan frontages and facing onto the scheduled monuments/open space. Rather than a small number, as suggested by the appellant, a total of 35 of the proposed 159 dwellings fail to meet the requirements of the supplementary guidance. I agree with the council that these are prominent and sensitive locations where it would be desirable and appropriate to have the principal elevations of dwellings facing onto public streets and spaces; particularly so were the perimeter landscaping and setting of the scheduled monuments to be enhanced as proposed by the masterplan and advised by the council's landscape service and archaeology advisor.
21. By way of justification, the appellant argues that had the council accepted its standard bund and acoustic barrier proposal to mitigate noise associated with industrial operations immediately to the north, the terrace properties located along the Glamis Road boundary could have been turned to face the open space. In an attempt to address this matter, the appellant states that the terrace properties have been designed to be dual-fronted. It therefore considers it unreasonable of the council to find its noise mitigation proposals unacceptable and then be unwilling to depart from its supplementary guidance regarding standard block arrangements.
22. As the council notes, this is not an either/or choice; other design solutions could have been pursued given the extent of the site. By choosing to promote the number of dwellings it has, close to noise generating uses and scheduled monuments, the appellant seeks a solution to a problem that could have been avoided had it pursued a scheme more responsive to the characteristics of the site. Furthermore, as I note above, the practice of presenting rear/side elevations to public streets and spaces features in a number of other locations in the design and layout of the proposed scheme.
23. With regard to the alternative option considered by the appellant, I agree with the council that the prospect of a 5-metre high acoustic bund/barrier along a principal route to the town centre would be visually unacceptable and detrimental to amenity. Also, I am not convinced that the rear elevations of the proposed house types that combine to form the Glamis Road terrace read as principal elevations; given the absence of a door on one house type (2B-B-758) and the appearance of patio doors on two others (3B-D-1122 and 3B-D-1.5-1223). As such, I do not regard the proposed terrace as being dual-fronted.
24. Similarly, with regard to development proposed adjacent to the Westfield Loan frontage, the appellant argues that there is limited space to be able to meet the requirements of the supplementary guidance given the proximity of the scheduled monument. However, in my view, it is simply the number of dwellings proposed on this part of the site that prevents the requirements of the guidance being met. As I observed at my site inspection, Westfield Loan is bound by a narrow grass verge, stone walls and mature trees which combine to create an attractive boundary feature.

As the council suggests, new development at this location could be set behind these existing landscape features which in turn would allow frontage access to be taken at an appropriate point and for the principal elevations of dwellings to face onto Westfield Loan.

### **Play area**

25. I agree with the council that the play area is poorly located, particularly in the context of the overall appeal site and the wider F4 allocation. Situated in the north-east corner of the site the play area would be some distance from dwellings located on the west of the appeal site, close to two busy roads and exposed to noise and traffic pollutant emissions. Also, as I noted at my site inspection, the site of the proposed play area is not level, as claimed.
26. Despite the appellant's intention to provide other play areas in the subsequent phases of development, as the report of handling notes, the appeal site is a large greenfield site and there should be nothing to prevent the provision of well-located play facilities proportionate to the scale and nature of the development proposed. Accordingly, due to its poor location, I agree with the council that the provision for play within the site fails to attract the support of NPF4 policy 21.

### **Conclusions on design and layout of the proposed development**

27. In summary, overall I consider the proposed development to be poorly designed. As such, it fails to fully satisfy the six qualities of a successful place as set out in NPF4 policy 14. In particular, the scale of development, including its density and orientation of (some) buildings, would not deliver a place of distinction as sought by national and local policy objectives. There are also elements of the proposed development which would be unlikely to encourage positive social interactions, for example, the quality of the public realm (Glamis Road and Westfield Loan frontages) and civic spaces (the location of the play area and landscape proposals immediately beyond the scheduled monuments). It follows, that the proposed development, in parts, would not provide a satisfactory residential environment, as required by ALDP policies DS3 and TC2.
28. The proposed development also fails to attract the support of ALDP policy DS3 and supporting design and placemaking supplementary guidance given its incoherent pattern of buildings and green spaces, for example, the terrace, Glamis Road frontage and play area. Nor does it sensitively integrate the two scheduled monuments and other landscape features into the overall design and layout of the proposed development.
29. As the introduction to the masterplan states, its purpose is to demonstrate how the land at Westfield could be developed over time to provide a coherent new residential neighbourhood. As a first phase of development, it is particularly important that new development on the site adheres to the council's design and placemaking guidance to provide an exemplar for subsequent phase of development. The F4 allocation is extensive, sufficient for an appropriate scale and form of development to come forward for discrete areas of the allocated site. Should that ensue, there would then be scope to successfully integrate existing landscape features into the design and layout of new development while achieving the ALDP's indicative capacity for the site.

### **Noise**

30. The proposed development is supported by noise impact assessment. Despite its conclusions that residential development on the site could be effectively designed to allow compliant noise levels to be attained, the council's environmental health officer objected to the application on the basis that potential amenity impacts on the proposed development from road and industrial noise sources had not been

adequately assessed. Notwithstanding discussions between the parties, the issue remains unresolved.

31. Had I been minded to allow the appeal and grant planning permission to the proposed development, I would have sought confirmation from the council that it was content with the appellant's detailed response to the environmental health officer's concerns, particularly with regard to the methodology used to measure specific noise levels of activities at Orchardbank industrial estate and the effects of road traffic noise on those measurements.
32. As previously noted, the council reasonably considered that the effects of a 5-metre high acoustic bund and barrier unacceptable in terms of its visual impacts and effects on amenity. This led the appellant to propose a bespoke terrace of twenty properties designed and internally arranged to provide an acoustic barrier for occupants of the terrace and those occupying dwellings and using private and public spaces further into the site. While a continuous terraced building may have provided the necessary noise mitigation, it is its design, layout and location that I consider unacceptable and contrary to the design quality and placemaking objectives of NPF4 and ALDP, particularly NPF4 policies 14 and 23 and ALDP policy DS3, for the reasons that I set out above.
33. Without arriving at a firm conclusion on the outstanding noise issues, it is clear that in order to develop the appeal site as envisaged by the appellant some form of noise mitigation would have been required along the Glamis Road frontage. I acknowledge that this will also be the case for alternative proposals that may come forward for the site. However, a less dense scale of development would allow dwellings to be set back further from Glamis Road and, if required, incorporate noise mitigation measures less onerous than those considered and proposed by the appellant in this case.

#### **Other matters**

34. A number of representations cite the ALDP's requirement for new development at Westfield to consider the long-term traffic impacts of proposals on the A90(T) junctions, in particular the Lochlands junction and any potential mitigation that future studies may identify. Although the proposed development is supported by a transport assessment, it takes an incremental approach and does not propose detailed mitigation measures beyond those required as part of the development of the appeal site. The representations argue that planning permission should be refused until such time as an appropriate solution to mitigate the effects of new development on the Westfield allocation as a whole has been identified, including effects on the A90(T) Lochlands junction.
35. On this matter, the council, as Roads Authority, and Transport Scotland do not object to the proposed development; neither have concerns regarding the development of the appeal site as proposed; which would be accessed solely from the A94 Glamis Road and the existing A90(T) grade separated junction. They do, however, have concerns about subsequent phases of development and its impacts on the Lochlands junction, particularly those associated with right turn manoeuvres. However, as I am dismissing this appeal and refusing planning permission, I need not consider this matter any further.
36. One other matter of note raised in representations concerns the council's decision to validate and process a planning application prior to the approval of a masterplan. As the council succinctly states in its report of handling, a planning authority may accept an application where proposals are in conflict with a development plan; the planning system as it operates in Scotland does not prevent such an application being made. Also, a planning authority may grant planning permission to development where it

does not accord with a development plan provided there are material planning reasons for doing so.

### **Overall conclusions**

37. Drawing all of the above matters together, I conclude for the reasons set out above, that overall the proposed development does not accord with the relevant provisions of the development plan and that there are no material considerations which would otherwise justify granting planning permission. I have considered all other matters, including those expressed in representations, but there are none which would lead me to alter my conclusions.

### **5. FINANCIAL IMPLICATIONS**

There are no implications associated with the recommendation of this report.

### **6. RISK MANAGEMENT**

There are no issues arising from the recommendation of this report.

### **7. ENVIRONMENTAL IMPLICATIONS**

There are no implications arising from the recommendation of this report.

### **8. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY**

There are no implications arising from the recommendation of this report as it is for noting only.

**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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**DATE: 30 JANUARY 2024**

### **APPENDIX 1: PROPOSED SITE LAYOUT**