

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

18 OCTOBER 2001

PLANNING APPLICATION – LAND TO THE REAR OF PRIOR ROAD/ROBERTS STREET/WYLLIE STREET, FORFAR

REPORT BY THE DIRECTOR OF PLANNING AND TRANSPORT

**Abstract: This report deals with planning application No 01/00455/OUT for the erection of six houses on Site 1 and nine cottages and 16 flats on Site 2 for W. W. (Forfar) Ltd. on land to the rear of Prior Road/Roberts Street/Wyllie Street, Forfar. This application is recommended for approval.**

**1 INTRODUCTION**

- 1.1 The application is for outline consent to erect six houses on a 0.347 hectare site referred to as Site 1 and nine cottages and 16 flats on a 0.499 hectare site referred to as Site 2. The latter is a high density development for which a sketch layout plan has been provided, the plan indicating that the developer will be the Servite Housing Association.
- 1.2 Sites 1 and 2 form part of a larger 1.7 hectare site taking access from Roberts Street the remainder of which was covered by application ref. 01/00456/FUL for the erection of 41 dwellinghouses and granted consent at the last meeting of the Committee. The site which is the subject of the current application is located in the area between Roberts Street, Wyllie Street and Prior Road. A number of buildings of various type, scale and construction had until recently been located on the site however all have been removed apart from an existing dwellinghouse which splits the application site in two.
- 1.3 The road serving the whole 1.7 hectare site will provide access on its eastern side to Site 2 with a spur from the main access road being provided to serve Site 1. Beyond the existing stone wall forming the eastern boundary are residential properties with access off Wyllie Street. The southern boundary is to a row of terraced cottages fronting Prior Road. Across the new access road to the west of Site 2 will be the new housing approved at the last meeting, while to the west of Site 1 is the Strathtay bus depot. To the north, lying between Site 2 and Roberts Street are more residential properties.
- 1.4 The application under consideration and the application recently approved (ref. 01/00456/FUL), are the fourth and fifth applications received in recent years by the Council and its predecessor for this overall site. Previous application (ref. 01/94/0111) for a mixed housing and retail use was submitted but withdrawn prior to being considered by Angus District Council. The second application (ref. 01/95/0089) for a mixed housing development on the overall site was approved by Angus District Council, however the decision notice was never issued due to the failure of the applicant to complete a Section 75 Agreement. The third application (ref. 00/00159/OUT) for the erection of nursing home, children's nursery and mixed needs housing development of 41 houses on the overall site was approved on the

23 May 2000 subject to a number of conditions. The children's nursery and nursing home were sited on the land now forming part of this application site.

## **2 APPLICANT'S CASE**

- 2.1 In accordance with conditions imposed on the previous outline consent a noise assessment has been carried out on behalf of the applicants by Charles Fleming Associates and a survey of possible land contamination has been carried out by Gemmell, Hammond and Partners. Not only was the survey carried out but some contamination was identified and has already been remedied.

## **3 CONSULTATIONS**

- 3.1 Subject to the imposition of some fairly standard conditions, neither SEPA nor the Director of Roads have any adverse comments.
- 3.2 As with the adjoining development, the application conditionally approved by the Committee at the last meeting, the Director of Environmental and Consumer Protection has again expressed concerns with respect to noise generation from an adjacent property, namely Strathtay Bus Depot. Accordingly, a noise assessment was carried out on behalf of the applicant by Charles Fleming Associates and was copied to the Director of Environmental and Consumer Protection who responded along the following lines. Noise levels in excess of suggested limits for sleeping accommodation in properties close to the bus depot were recorded. The levels exceeded the margin by a considerable amount (+12.1 dBA without barrier attenuation, 6.1 dBA with). The calculations submitted initially assumed the sleeping accommodation within plots 12-17 would be on the elevation closest to the bus depot. If this were the case, noise nuisance even in consideration of the reduction in the propagation due to the effect of barrier attenuation, could be established, particularly in the early hours when buses are being started and left to idle. This matter was raised with the developer and noise consultant and calculations were submitted assuming the sleeping accommodation would be located on the elevation furthest from the bus depot. This obviously increased the level of barrier attenuation and, if employed in conjunction with a suitably constructed brick wall, (details to be forwarded by developers) separating plots 12-17 from the bus depot, I am of the opinion that noise levels within the sleeping accommodation should be acceptable. Both these measures should therefore be conditional to consent.

## **4 LETTERS OF REPRESENTATION**

- 4.1 Two letters of objection have been received to the proposal and are appended to the report. The main areas of concern are:-
- loss of view;
  - damage during construction;
  - loss of access for repair to property and maintenance.
- 4.2 A letter has also been received from Strathtay Bus Company with regard to the application. Strathtay Buses are concerned that the development may inhibit their business from being carried out in a satisfactory manner consistent with their current operation requirement. Strathtay Buses indicate that their business involves significant movement of vehicles from 6:00 hours to 24:00 seven days a week

including the maintenance of these vehicles at the site. These issues have been considered by the Director of Environmental and Consumer Protection who has indicated that following the information submitted by Charles Fleming Associates he is satisfied that, with appropriate conditions to achieve noise attenuation, an acceptable residential environment may be achieved without detriment to the operation of the bus depot.

- 4.3 With regard to the objection from the resident in Wyllie Street it should be noted that this application is in outline only so no height is indicated and damage during construction is a civil not a planning matter.

## **5 PLANNING CONSIDERATIONS**

- 5.1 In this instance the determining issues for the Committee and whether the proposal complies with:-

- Structure and Local Plan policies;
- has an acceptable impact on surrounding properties;
- provides a suitable environment for housing.

- 5.2 There are no specific policies in the structure plan which relate to the site subject of the application however housing policy 9 does indicate that brownfield land in Forfar will accommodate some local demand.

- 5.3 Proposal F/H12 of the Angus Local Plan does relate specifically to the site in question. The Local Plan identifies 2.6 hectares of land between Roberts Street and Prior Road as an opportunity for a mix of compatible uses, including residential, business or community use. The plan recommends that development must be undertaken in a comprehensive manner with vehicle access from Roberts Street and that appropriate surface water disposal will be required.

- 5.4 While in policy terms there are no major obstructions to the eventual redevelopment of the site, the issue to be determined is whether the site is suitable for the proposed use and whether there are any other factors such as the impact of the bus depot (in particular noise) which may have a detrimental effect on the suitability of the site for housing.

- 5.5 Following consideration of the industrial noise assessment carried out by Charles Fleming Associates the Director of Environmental and Consumer Protection recommended that a programme of noise control measures should be undertaken. This would involve the erection of a three metre high wall along the west side of the road providing access to Plots 12-17 and assurances that all sleeping accommodation will be located on the elevation furthest from the bus depot.

- 5.6 A three metre high wall this close to new houses could appear oppressive and therefore discussions have been held with Environmental Health officials and the applicant in order to secure a better solution. The solution arrived at is a two metre high wall with no habitable room windows above ground floor facing the bus depot and any other windows to the frontage or first floor to be fitted with acoustically attenuated ventilators. The wall will be of a zig-zag pattern in plan with some planting on the side facing the houses.

- 5.7 With these measures in place, any noise problems affecting residential amenity or the operations of the bus depot should be resolved and I would recommend that planning consent be granted.

## **6 HUMAN RIGHTS IMPLICATIONS**

- 6.1 The recommendation in this report for grant of planning permission, 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. Any actual or alleged infringement of neighbours' rights to peaceful enjoyment of their property and/or interference with their privacy/home/family life arising from grant of this application is in accordance with the Council's legal duties under the Planning Acts to determine planning applications such as the present one and the grant of planning permission is justified and necessary in the public interest on the basis that any such actual or alleged infringement is not significant or material as balanced against the applicant's freedom to carry out reasonable development and/or activities over his property as supported by the Development Plan, and other material considerations which, as referred to in the report, are supportive of the proposed development. 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.

## **7 RECOMMENDATION**

- 7.1 It is recommended that the application be approved with conditions.
1. That the building(s) be no higher than two storeys.
  2. That prior to or as part of the submission of a detailed planning application, details of the proposed two metre high acoustic wall shall be submitted for the approval of the Director of Planning & Transport, the details to include materials, collision protection measures and provision of climbing plants.
  3. That none of the proposed houses on Site 1 have windows to habitable rooms on the west elevation at first floor level and that all windows at first floor level or on the western elevation of the ground floor, be fitted with acoustically attenuated ventilators.
  4. That existing perimeter boundary walls be retained and where necessary repaired to the satisfaction of the Director of Planning & Transport.
  5. That the rainwater run off from all surfaces be directed to a soakaway system to the satisfaction of the Building Control Authority.

6. That all details relating to access, road layout design and specification including the provision of street lighting and surface water drainage shall be to the satisfaction of the Director of Planning and Transport in accordance with the standards of Angus Council.
7. That the roof covering(s) be dark blue/grey in colour.
8. That the sketch layout plan provided in support of the outline consent (Plan No. SFPD102/SKD2) does not form part of this planning consent.

**Reasons:**

1. In order that the visual amenity of the area shall not be adversely affected.
2. In order that the Council may verify the acceptability of the proposals on amenity grounds.
3. In the interest of residential amenity.
4. In the interests of visual amenity.
5. In order that the drainage arrangements to serve the site are to the satisfaction of this Authority.
6. In the interests of road traffic and/or pedestrian safety.
7. In the interests of visual amenity.
8. For clarification purposes and for the avoidance of any possible misunderstanding.

**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.

AA/JJ/IAL  
9 October 2001

Alex Anderson  
Director of Planning and Transport