Angus Local Development Plan Team
Angus Council
William Wallace House
Orchardbank
Forfar

30 April 2015

Dear Sir/Madam,

Proposed Angus Local Development Plan

Objection - Omission of Land at Pathhead, Kirriemuir for retail development

Elite Homes (Tayside) Ltd wish to lodge a formal objection to the Proposed Angus Local Plan regarding the failure of the Plan to reflect the planning consent for a retail use (reference 11/00150/PPPM) which was issued by the Council in June 2013 for land at Pathhead, Kirriemuir. The site is show outlined in red on Document P1 and the planning consent forms Document P2 to this objection.

The defined development boundary for Kirriemuir in The Angus Local Development Plan requires to be amended to include the Pathhead site within the settlement.

Site details

The site at Pathhead is located out with but adjacent to the development boundary of Kirriemuir as shown in the Angus Local Plan Review 2009. The site has existing development to the north, which comprises existing residential properties and a commercial building which accommodates a vets practice, and to the south lies the employment area of East Mains of Logie and to the west residential property.

Elite Homes lodged a planning application for retail development on the site in February 2011. The proposal was reported to a special meeting of Angus Council on the 1st February 2012. At that time the Councillors resolved to grant planning consent for the following reasons:

1. That the proposed development would reduce retail expenditure out with Kirriemuir, which would result in a reduction in CO2 emissions and the creation of additional employment which would be to the benefit of the economy of Kirriemuir

2. The proposal would not have an adverse impact upon Kirriemuir or any other Angus town and there was sufficient retail capacity to support both this proposal and the proposal at the Gairie Works
3. The uptake of prime agricultural land was justified on the basis of the resultant economic benefits that would accrue as a consequence of the proposed development which, by imposition of planning conditions, could be provided without detriment to road safety or pedestrian safety.

4. The proposed development was in compliance with the development plan and that even if the proposals were considered not compliant with the development plan then the reasons referred to above for granting the application constituted a material consideration for departing from the development plan.”

Copy of the minutes of the Special Meeting of Angus Council of 1/2/12 are provided as Document P3.

The planning conditions were subsequently agreed at the meeting of Angus Council of the 22 March 2012.

After conclusion of the planning obligations Section 75 agreement planning consent was issued on the 17th June 2013.

Main Issues Report

The MIR page 83 as it relates to Kirriemuir, Paragraph 3, makes reference to the planning consent at Pathhead. It is therefore surprising that the development boundary was not altered to include the site within the settlement as this is the first opportunity for the Local Plan to be updated to reflect permissions granted since 2009.

The planning consent at Pathhead is extant and Elite Homes is actively in discussions with potential operators.

An alternative site at the Gairie Works which also had consent for a supermarket ref 06/00684/OUT which was issued on 10th November 2010 was proposed in the MIR as an opportunity site on the basis that the retail consent had lapsed without implementation. The Gairie Works site is identified in the PALDP as an opportunity site. This can be contrasted with the extant permission at Pathhead.

Proposed Angus Local Development Plan

The PALDP neither includes Pathhead within the settlement boundary, nor does it allocate it for retail use reflecting the extant planning consent.

Page 121 of the Plan makes reference to

“3.2 ha of land at Pathhead has planning permission for Retail Use (planning application 11/00150/PPP). Angus Council will support proposals that are in accordance with this permission.”

Conclusion

Elite Homes submits that the development boundary of Kirriemuir should be amended to include the Pathhead site within the settlement. The land should also be identified as a site suitable for retail use, consistent with the justification given by the Council in granting the permissions to Elite Homes and in line with the comments on page 121 of the Plan itself.
The PADLP should reflect the Council’s intention to see additional retail development in Kirriemuir. The Council has not put forward any indication that it no longer wishes the residents of Kirriemuir to benefit from a new supermarket in the town. With the allocation of the Gairie Works as a redevelopment opportunity site for housing, it is even more important to preserve the Pathhead site as a site which the Council has found to be suitable for retail development. It makes no sense and is factually incorrect in a plan led system to leave a site with extant retail permission out with the settlement boundary and subject to countryside policies.

In order to provide confidence to a supermarket operator it is considered essential that the development boundary reflects the extant retail consent. Failure to do so is likely to impact negatively on the marketing of the site to suitable operators.

Modification Sought

We seek the inclusion of land at Pathhead, Kirriemuir within the settlement boundary of Kirriemuir and allocation of the site for retail use reflecting the extant planning consent 11/00150/PPPM and the ongoing retail requirement within the town.

If you require any further information in the consideration of these matters please do not hesitate to contact me on

Yours Faithfully

Documents

P1 Site Plan
P2 Consent Notice 11/00150/PPPM
P3 Minutes of Special Meeting of Angus Council 1/2/2012
P4 Pathhead Proposed Supermarket – Indicative layout
ANGUS COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (SCOTLAND)
REGULATIONS 2008

PLANNING PERMISSION - CONDITIONAL APPROVAL
Reference 11/00150/PPPM

To: Guild Homes (Tayside) Ltd
Chapelpark House
17 Academy Street
Forfar
DD8 2HA

With reference to your application dated 25 February 2011 for planning permission under the above mentioned Acts and Regulations for the following development viz:-

Planning Permission in Principle for Demolition of Newton Cottage and Erection of Supermarket, Associated Parking, Landscaping and Improved Road Layout Including Access at Land At Pathhead Farm Forfar Road Kirriemuir for Guild Homes (Tayside) Ltd

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby Grant Planning Permission (Committee Decision) 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 Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

(i) details of the layout of the site including the sitting, design and external appearance of the buildings on the site, to include detailed plans, sections and elevations of the proposed building(s), internal road layout, car and cycle parking (which shall be in accordance with Angus Council and national maximum parking standards), service areas and landscaping;
(ii) details of the means of pedestrian and vehicular access to the site which shall include full details of the roundabout on the A926 public road and associated road realignment; controlled pedestrian crossings on the A926 public road to the southeast of the new roundabout and to the south of the existing access to Thrums Veterinary Centre; a footway on the east side of Forfar Road between the Thrums Veterinary Practice and the south-eastermost corner of the site beyond the new roundabout; the means of access to the proposed buildings; as well as all other matters relating to road layout design and specification including provision of street lighting;
(iii) existing and proposed finished ground and building floor levels in relation to a fixed datum point on or adjacent to the site;
(iv) all proposed boundary treatments and hard and soft landscaping within the site;
(v) the means of foul and surface water drainage, including any flood prevention or mitigation measures, which shall accord with the CIRIA Sustainable Urban Drainage Systems Design Manual. All water retention/detention features shall be designed to minimise danger to the public and shall be fully landscaped and fenced where necessary to achieve this purpose.
(vi) all fixed external lighting, including lighting fixed to the building(s);
(vii) details of any refrigeration system, mechanical ventilation system or extraction system for the removal of cooking odours from the premises. Any extraction system shall be designed, installed, operated and maintained so that cooking odours are not detectable within neighbouring premises;
(viii) a scheme for protecting neighbouring noise sensitive dwellings from noise generated from the development when operational. This shall include noise limits, details of hours of operation, hours for delivery of goods, any restriction on such hours necessary to protect amenity and any acoustic fencing which may be required around the service yard;
(ix) details of the location and specification of public transport infrastructure and relocation of existing bus stops as necessary. Such details shall include full details of bus stops, bus lay-bys, the bus lay-over area and associated infrastructure (which shall include enclosed and lit bus shelters, real time bus information and raised boarding kerbs);
(x) a sustainability statement detailing proposals for reducing energy consumption and waste disposal;
(xi) the provision of an area for recycling within the car park accessible to members of the public; and,
(xii) a scheme for the phasing of all works.

The measures that are approved shall be implemented in their approved form prior to the opening of the foodstore for trading unless otherwise detailed in conditions attached to this permission or in a subsequent approval of matters specified in conditions.

2 The application for the approval of details specified in condition 1 above shall be accompanied by the following:

(i) a Design Statement (as advocated in PAN68 - Design Statements). The Design Statement should draw upon the conclusions of the Landscape Appraisal & Design Statement dated 14 December 2010 submitted by the applicant and shall provide for a site layout and design that reflects the Conceptual Framework Masterplan provided at Figure 4.2 therein;
(ii) a noise impact assessment, in accordance with a method statement approved in writing by the planning authority;
(iii) a lighting assessment, in accordance with a method statement approved in writing by the planning authority;
(iv) a landscaping scheme, to include species, sizes, planting distances and proposed arrangements initial planting and subsequent maintenance;
(v) a supplementary transport assessment to include service access to the site and a travel plan to promote travel to the store by means other than private car and measures for future monitoring, review and enhancement of the travel plan
(vi) a detailed drainage strategy which shall demonstrate that the proposed development would not increase the risk of flooding outwith the site for critical flood events up to and including a 1 in 200 year return period.

3 The proposed foodstore shall not be subdivided to form more than one retail unit and it shall comply with the following requirements:

(i) a maximum gross floor space not exceeding 3,995 square metres; and
(ii) no more than 719 square metres of net floorspace to be used for the sale of comparison goods. Comparison goods are as follows: books; clothing; footwear; furniture; floor coverings; household textiles; radio, electrical and other durable goods; hardware and DIY supplies; chemist goods; jewellery, silverware, watches and clocks; recreational and any such other miscellaneous goods, which are approved in writing by the planning authority before they are offered for sale.

4 Unless the planning authority has given written approval in advance, no construction work that causes noise audible at any neighbouring noise sensitive dwelling shall take
place outwith the following times: 0730 hours to 1730 hours Mondays to Fridays and 0730 hours to 1500 hours on Saturdays.

5 No works in connection with the permission hereby approved shall commence until evidence has been submitted to and approved in writing by the planning authority to demonstrate Scottish Water’s agreement that a connection can be made for the foul drainage system of the proposed food store to the public drainage network at the time of the food store opening for trading. Thereafter the foul drainage system of the proposed food store shall be connected to the public drainage network prior to its opening to the public and for all time thereafter;

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 To enable the planning authority to consider the matters detailed in condition 1, in the interests of visual amenity, flood prevention, safeguarding amenity of noise and light sensitive properties and accessibility.

3 To retain control over the format of retail development at the site in the interests of sustaining and enhancing the vitality and viability of Kirnemuir town centre.

4 To protect the amenity of nearby residents.

5 In order to evidence that capacity exists to serve the proposed development within the public drainage network.

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

1. That the proposed development would reduce retail expenditure outwith Kirnemuir, which would result in a reduction in CO2 emissions and the creation of additional employment which would benefit the economy of Kirnemuir;

2. The proposal would not have an adverse impact upon Kirnemuir or any other Angus town centre and there was sufficient retail capacity to support both this proposal and the proposal at the Gairie Works;

3. The uptake of prime agricultural land was justified on the basis of the resultant economic benefits that would accrue as a consequence of the proposed development which, by the imposition of planning conditions, could be provided without detriment to road safety or pedestrian safety;

4. The proposed development was in compliance with the development plan and that even if the proposals were considered not compliant with the development plan then the reasons referred to above for granting the application constituted a material consideration for departing from the development plan.

Dated this 17 June 2013

Head of Planning and Transport.
Communities
County Buildings,
Market Street,
FORFAR DD8 3LG
NOTES

A planning obligation under Section 75 of the act is relevant to this permission. The terms or a summary of the terms to which this obligation relates can be inspected at Angus Council, Corporate Services, Law & Administration Division, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

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

No amendments.

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) Acts 1959 and 1970, Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004.

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
Development at Land At Pathhead Farm Forfar Road Kirriemuir

Notice is hereby given that planning permission has been granted subject to conditions to Guild Homes (Tayside) Ltd on 14 June 2013.

Application reference 11/00150/PPPM

The development comprises Planning Permission in Principle for Demolition of Newton Cottage and Erection of Supermarket, Associated Parking, Landscaping and Improved Road Layout Including Access

Further Information regarding the planning permission including the conditions, if any, on which it has been granted can be obtained at all reasonable hours at:

Angus Council
Planning & Transport Division
County Buildings
Market Street
Forfar
DD8 3LG

Enquiries should be directed to the Head of Planning & Transport at the above address or to planning@angus.gov.uk
1. **APOLOGIES**

Apologies for absence were intimated on behalf of Councillors Brian Boyd, Jean Lee, Bill Middleton, Donald Morrison, Margaret Thomson and Sandy West.

2. **DECLARATIONS OF INTEREST/INTIMATIONS OF CONTACT**

   - Councillor Gaul intimated that he had received numerous telephone calls in connection with the application but had not discussed the matter and would be taking part in the discussion and voting.
   
   - Councillor Andrews declared an interest as she was a member of the Co-operative Society and used her membership card in the supermarket in Kirriemuir. She had also attended meetings of Community Councils where the applicant had made presentations, but had never expressed an opinion. She indicated that she would take part in the discussion and voting.
   
   - Councillor Mackintosh declared an interest as he knew the developer, Mr Mark Guild and that he had been present at a meeting of Kirriemuir Community Council, when the application was to be discussed. However he had left the Community Council meeting prior to any discussion on the application. He indicated that he would take part in the discussion and voting.

**PART 1 - PRE-DETERMINATION HEARING**

3. **LAND AT PATHHEAD FARM, KIRRIEMUIR**

There were submitted:

   (i) Report No 85/12 detailing application No 11/00150/PPPM for the demolition of Newton Cottage and erection of a supermarket with associated car parking, landscaping and improved road layout, including access to employment land to south for Guild Homes (Tayside) Ltd on land at Pathhead Farm, Kirriemuir. The application was recommended for refusal;

   (ii) paper with amended paragraph 7.47 to Report No 85/12;

   (iii) an amended Hearing Procedure in relation to the pre determination hearing; and

   (iii) guidance note from the Head of Law and Administration advising members that, when determining a planning application, the planning authority was required to make the determination in accordance with the Development Plan unless material considerations indicated otherwise.

The Council at this stage, resolved:

   (i) to regard amended paragraph 7.47 as part of Report No 85/12;

   (ii) to adopt the amended Hearing Procedure; and
(iii) to note the Development Plan guidance note.

Thereafter, Mr Alan Hunter, Development Standards Manager gave a detailed presentation to members on the application. In addition, Mr Roderick McLean of Roderick McLean Associates, the Council’s Retail Consultant, presented certain elements of the Report.

Slides were shown and the following individuals were heard:-

**Statutory Community Council Consultee**

Mr R J W Proctor of Kirriemuir Community Council

**Objectors on behalf of CWP**

Mr Bob Low, Director of J & D Wilkie Ltd;
Mr Bruce Weir, Director of CWP

**Supporters**

Mr Mike Ivy and Mr Ivan Laird of Kirriemuir and Landward East Community Council.

**Applicant/Applicant’s Agents**

Mr Ian Meechie of Mongague Evans
Mr Robin Duncan of Dugald Bailie
Mr Mark Guild of Guild Homes (Tayside) Ltd.

At each stage of the proceedings, the opportunity was given for members to ask questions of each of the individual speakers.

The pre-determination hearing being concluded (at 7.45pm) a 15 minute recess was held.

The meeting re-convened at 8.00 pm

**PART 2 - DETERMINATION**

The opportunity was then afforded to members to comment on the application and make any associated statements, following which, the Provost called for formal motions/ amendments.

Councillor Lumgair, seconded by Councillor Nield, moved that the application be refused for the following reasons:-

1. That the proposed development would, when considered in conjunction with other developments constructed or with extant planning permission, have an unacceptable impact on the vitality and viability of Kirriemuir and other Angus town centres and as such the application was contrary to Scottish Planning Policy, Town Centres and Retailing Policy 4 of the Dundee and Angus Structure Plan 2002 and Policy SC26 of the Angus Local Plan Review 2009;

2. That the application site was located out-of-town and there was an available and suitable edge of centre site capable of accommodating large scale retail development in accordance with the sequential approach for siting of large scale retail development. As such, the application was contrary to the provisions of Scottish Planning Policy, Town Centres and Retailing Policy 4 of the Dundee and Angus Structure Plan 2002 and Policy SC26 of the Angus Local Plan Review 2009;

3. That the local road network could not accommodate the proposed development within its existing capacity when considered in conjunction with other built or planned developments and the proposal to signalise the Forfar Road/ Glamis Road/ Bellies Brae/ The Moon junction would compromise road traffic and pedestrian safety contrary to Transport Policy 4 of the Dundee and Angus Structure Plan 2002 and Policy S2 of the Angus Local Plan Review 2009;
4. That the application would result in the permanent loss of prime agricultural land in circumstances where the development was not essential for implementation of the strategy of the development plan and as such was contrary to Environmental Resources Policy 7 of the Dundee and Angus Structure Plan 2002 and Policy ER30 of the Angus Local Plan Review 2009; and

5. That the application was contrary to Policy S1 of the Angus Local Plan Review 2009 as the site was outwith but contiguous with the development boundary and it had not been demonstrated that there was a proven public interest and overriding need for the development which could not be met within the development boundary.

COUNCILLOR ANDREWS, SECONDED BY COUNCILLOR MYLES, MOVED AS AN AMENDMENT, THAT THE APPLICATION BE GRANTED AND THAT THE DETERMINATION OF SUITABLE AND APPROPRIATE CONDITIONS TO BE ATTACHED TO THE GRANT BE REFERRED TO THE COUNCIL’S DEVELOPMENT STANDARDS COMMITTEE.

THE REASONS FOR APPROVAL BEING:

1. THAT THE PROPOSED DEVELOPMENT WOULD REDUCE RETAIL EXPENDITURE OUTWITH KIRRIEMUIR, WHICH WOULD RESULT IN A REDUCTION IN CO2 EMISSIONS AND THE CREATION OF ADDITIONAL EMPLOYMENT WHICH WOULD BENEFIT THE ECONOMY OF KIRRIEMUIR;

2. THE PROPOSAL WOULD NOT HAVE AN ADVERSE IMPACT UPON KIRRIEMUIR OR ANY OTHER ANGUS TOWN CENTRE AND THERE WAS SUFFICIENT RETAIL CAPACITY TO SUPPORT BOTH THIS PROPOSAL AND THE PROPOSAL AT THE GAIRIE WORKS;

3. THE UPTAKE OF PRIME AGRICULTURAL LAND WAS JUSTIFIED ON THE BASIS OF THE RESULTANT ECONOMIC BENEFITS THAT WOULD ACCRUE AS A CONSEQUENCE OF THE PROPOSED DEVELOPMENT WHICH, BY THE IMPOSITION OF PLANNING CONDITIONS, COULD BE PROVIDED WITHOUT DETRIMENT TO ROAD SAFETY OR PEDESTRIAN SAFETY;

4. THE PROPOSED DEVELOPMENT WAS IN COMPLIANCE WITH THE DEVELOPMENT PLAN AND THAT EVEN IF THE PROPOSALS WERE CONSIDERED NOT COMPLIANT WITH THE DEVELOPMENT PLAN THEN THE REASONS REFERRED TO ABOVE FOR GRANTING THE APPLICATION CONSTITUTED A MATERIAL CONSIDERATION FOR DEPARTING FROM THE DEVELOPMENT PLAN.

With the assent of the mover and seconder of the amendment, the phrase “the Council’s Development Standards Committee” was replaced with “the Council acting as Planning authority”.

On a vote being taken, the members voted as follows:-

For the motion:

Councillors Fairweather, Lumgair, Millar, Nield and Spink (5).

For the amendment:

Provost Leslie Melville, Depute Provost Murphy, Councillors Andrews, Brown, Evans, Gaul, King, Mackintosh, May, Glennis Middleton, Murray, Myles, Oswald, Rymer, Salmond, Valentine, Welsh and Whyte (18).

The amendment was declared carried and the Council resolved accordingly.
P4 Proposed Supermarket, Pathhead, Kirriemuir, Indicative Layout