Abstract:

This report deals with planning application No. 13/01163/FULL for the formation of a new access road. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

2. INTRODUCTION

2.1 The applicant seeks planning permission for the formation of a new access road between River Street and Ferry Street in Montrose.

2.2 The application provides for the formation of a new access road which includes improvement and realignment of existing sections of Hill Street, River Street, Mill Lane and Ferry Street. The site is linear in nature and runs through mixed use areas that comprise commercial and residential properties. A Warehouse building and dwellinghouse on River Street and a Garage building on Ferry Street would be demolished to allow for the construction of a new section of the roadway linking River Street with Ferry Street.

2.3 The proposal has been advertised in the press as required by legislation.

2.4 The application has not been subject of variation.

2.5 This application requires to be determined by the Development Standards Committee as Angus Council is the applicant.

3. RELEVANT PLANNING HISTORY

3.1 In September 2009 the Strategic Policy Committee approved Report 654/09 and agreed that Council Officers should begin formal discussions with stakeholders and external agencies with a view to obtaining support and commitment for the commissioning of a Master Plan for the regeneration of the South Montrose area. As a result, a Strategic Review (2.3 MB PDF) and a Draft Development Masterplan (3.2 MB PDF) for the regeneration of the area were prepared by consultants Ironside Farrar on behalf of Angus Council, GlaxoSmithKline, Montrose Port Authority, Scottish Enterprise and TACTRAN (Tayside and Central Scotland Transport Partnership). These documents assessed current land uses, planning considerations and economic development opportunities and sought to establish a strategy for the regeneration of the area in future years.

3.2 In January 2012 the Infrastructure Services Committee approved Report 38/12. That report introduced planning guidelines for South Montrose which identified objectives for that area including improving accessibility, encouraging physical regeneration and improvement of the area, balancing the requirements of business with the improvements to the local amenity and environment.
4. **APPLICANT’S CASE**

A supporting document entitled ‘South Montrose Spine Road – Landscaping Proposals’ has been submitted and can be summarised as follows:

- It states that in preparing hard and soft landscaping proposals for the River Street and Caledonia Street road improvement works, due and careful regard has been given to the South Montrose Draft Development Masterplan.
- The soft landscaping proposals are appropriate to the local context and are in accordance with current best practice set out in Manual for Streets 1 and 2.
- The removal of buildings creates the space and opportunity to ensure soft landscaping can be meaningful and functional space.
- The planting proposed would be evergreen, easily maintained and create a foil for surrounding buildings.
- The planting proposed would provide good nesting and foraging opportunities.
- Street trees, shrubs and grass would be introduced and the species selected are detailed in the statement.
- The statement includes a number of illustrations of boundary treatments proposed in the area and provides views of the landscaping proposed.
- An accompanying landscaping areas plan details the location and nature of the landscaping proposed.

5. **CONSULTATIONS**

5.1 **The Roads Service**: has raised no objection.

5.2 **Scottish Water**: has no objection to the application.

5.3 **Community Council**: no response has been received within the prescribed consultation period.

5.4 **Environmental Health**: has offered no objections to the proposal.

5.5 **The Health and Safety Executive**: has not advised against the granting of planning permission on safety grounds.

5.6 **Aberdeenshire Council Archaeology Service**: this service provides advice to Angus Council on Archaeology as part of a Service Level Agreement. The Archaeology Service has indicated that the application affects buildings dating from the 19th century site and has advised that conditions should be attached requiring a Standing Buildings Survey and a Archaeology watching brief.

6. **LETTERS OF REPRESENTATION**

The application has attracted three representations. The letters will be circulated to Members of the Development Standards Committee and copies will be available to view in the local library and on the council’s Public Access website. The three letters express objection to the proposal and in summary, the issues raised relate to:

- **Traffic** - including aspects such as noise, pollution (fumes), safety and parking availability.
- **Health and safety concerns** - specifically in respect of the demolition of the warehouse between River Street and Mill Lane.

These matters are discussed below under Planning Considerations.

7. **PLANNING CONSIDERATIONS**

7.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
7.2 As the application for planning permission also relates to subjects within a conservation area, Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in determining this application.

7.3 Given that this application for planning permission affects a listed building or its setting, Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 also requires the Council to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

7.4 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

The relevant policies of the development plan framework are reproduced at Appendix 1 to this report.

7.5 Policies 3 and 4 of the TAYplan are relevant to this application. Policy 3 seeks to safeguard land at Montrose Port for port related uses to support freight, economic growth and tourism. It also seeks to safeguard land for future infrastructure provision. Policy 4 of TAYplan identifies Montrose Port as a Strategic Development Area. TAYplan indicates that improving port access is key to securing the role of ports within the region (incl. Montrose Port) as major parts of the UK's east coast offshore energy infrastructure. The spine road will improve accessibility to the Montrose Port area and would support and sustain the role of the Port in accordance with the strategic aims outlined in TAYplan policies 3 and 4.

7.6 The Angus Local Plan Review recognises the importance of Montrose Port to the Angus economy. It indicates that the Council supports the maintenance and further development of the Port, including improved transport linkages. The ALPR indicates that whilst there may be scope for regeneration of the area, the current road layout and configuration of buildings restricts accessibility within the area and to the harbour. It further indicates that the Council will continue to investigate measures to facilitate regeneration and environmental improvement. This ALPR position is linked to the development of the South Montrose Draft Development Masterplan and South Montrose Draft Planning Guidelines referenced under Planning History above. Both documents identify an indicative route for a new spine road to improve accessibility to the South Montrose area and are material to the determination of this application.

7.7 There are no specific policies within the local plan relating to the proposal and the route the site follows is not specifically allocated in the ALPR. However, as indicated above the general route alignment is identified in both the South Montrose Draft Development Masterplan and South Montrose Draft Planning Guidelines. In this respect, and having regard to TAYplan policy and the text of the ALPR, I consider that the general principle of the proposed road improvements and realignment attracts some support from the development plan and associated guidance. Accordingly the key issues in relation to this application are whether the proposed road alignment and associated demolition of buildings gives rise to any unacceptable impacts having regard to other relevant policies of the development plan. Schedule 1 of Policy S6 contains a number of assessment criteria relating to amenity, roads/ access/ parking, landscaping/open space/biodiversity, drainage and flood risk, waste management and supporting information.

7.8 Firstly, the general form of the roadway and resultant street pattern is considered acceptable for the area. There are listed buildings in the general area and the Conservation Area lies to the east of Ferry Street, however I am satisfied that the proposed road realignment and associated demolition of buildings will have no adverse impact on the setting of the listed buildings or on the character and appearance of the Conservation Area. The proposal includes provision for appropriate landscaping that will improve the general appearance and amenity of the area.

7.9 A storage shed on River Street and a garage premises on Ferry Street will be demolished however these are of little architectural or townscape merit and the removal of these buildings and the associated uses has potential to improve the general amenity of the area. The dwellinghouse on River Street that is to be demolished is not unattractive but it is not of significant architectural or historic interest. It is sandwiched between two large storage sheds
and its amenity is compromised by this relationship. The demolition of these buildings will clearly have direct impacts on the owners/occupiers. However, I accept that demolition of buildings is necessary in order to facilitate the road realignment and that the wider public interest lies with allowing a development that will improve access to an important employment area within the town.

7.10 Third parties have raised concern regarding amenity impacts associated with the development, including impact during construction and impacts relating to noise and air quality. In this respect some existing houses would be closer to new sections of the realigned road than they are to the existing roadway. However, they would be a similar distance to the new roadway as some existing properties are to the other roadways in the area; the resultant relationship/proximity of houses to the roadway would not be unusual in an urban setting. The character and amenity of some properties would change and in some instances this change might be in part positive with the removal of utilitarian buildings and potentially noisy uses that abut residential property. It is not unusual to have development within urban areas, including demolition and road works and in this respect I do not consider that construction activities are likely to give rise to any unacceptable impacts. The Environmental Health Service has considered the application in terms of noise and air quality and has offered no objection. As indicated above there are existing residential properties in the wider area that are close to the road carriageway. I do not consider that the realigned roadway will impact residential properties to any greater extent than is otherwise typical in urban areas and certainly not to an extent that would justify refusal of the application.

7.11 The proposal may increase the attractiveness of South Montrose as an investment area and in this respect might contribute to some increase in vehicle movements in the area. However, such increase would be unlikely to be to a level that would significantly affect amenity having regard to the level of vehicle movement that can be experienced in other residential areas. In terms of road traffic and pedestrian safety the realigned road would be designed to meet relevant safety standards and in this respect should not adversely affect road traffic or pedestrian safety and indeed should result in some improvement. I note the concerns raised regarding a resultant reduction in potential for on-street car parking but as noted this proposal would see the removal of a number of commercial premises and this might reduce demand for car parking in the area. Notwithstanding, this does not appear to be an area where there is particularly high demand on the existing on street parking provision and I do not consider that any reduction in on street parking provision would significantly affect amenity of the area and it would not adversely impact road traffic or pedestrian safety. Whilst I note the concern regarding increased risk to pets, as indicated above, the resultant relationship between the realigned roadway and existing housing would not be unusual within an urban area and any pet straying onto a public roadway will be at some risk. I do not consider that this matter justifies refusal of this application.

7.12 The site is within an area considered to be at risk from coastal flooding as shown in SEPA’s indicative flood mapping. However, the proposal provides for the removal of buildings within that flood risk area and includes for the provision of appropriate drainage infrastructure. The Roads Service, in its capacity as Flood Prevention Authority, has offered no objection to the application and I am satisfied that the proposal is unlikely to significantly increase flood risk in the area.

7.13 In relation to archaeology, the Aberdeenshire Council Archaeology Service has identified that this is an area that might offer some archaeological potential and in this respect has requested conditions to safeguard any such interest.

7.14 With regard to concerns relating to the possible contamination of neighbouring dwellings during demolition of a warehouse building, it is understood that this is regulated under legislation administered by the Health and Safety Executive (HSE). Scottish Planning Policy (SPP) states that the planning system should not be used to secure objectives that are more properly achieved under other legislation. Concerns regarding asbestos dust are controlled under other legislation and in accordance with SPP it is not appropriate to duplicate controls through planning condition that are more properly achieved under other legislation.

7.15 The application provides for a new spine road to improve accessibility to the South Montrose area, including Montrose Port. Such improvement is consistent with development plan policy and offers potential to attract investment to the area to assist with regeneration and economic activity. I note the representations submitted in respect of the application and have considered these in the determination of the proposal. However, I am satisfied that the proposal complies
with development plan policy and that there are no material considerations that justify refusal of the application.

7.16 The Council has a financial interest in this application. However, as the application is not significantly contrary to development plan policy, there is no requirement to notify the Scottish Ministers of the Council's intention to approve the application.

8. HUMAN RIGHTS IMPLICATIONS

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. 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.

9. EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that the application be approved for the following reason and subject to conditions as follows:

Reason(s) for Approval:

That the proposed development will improve accessibility in and around South Montrose in a manner that is compatible with relevant development plan policies. The proposal will not adversely affect the setting of listed buildings or the character and appearance of the Conservation Area. There are no material considerations that justify refusal of the application.

Conditions:

1. That all planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development or at earlier stages and any plants or trees which within a period of 5 years from the completion of development; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
   
   Reason: In order to comply with the landscaping requirements of the Planning Authority and to ensure subsequent maintenance.

2. That, prior to any works commencing, the developer shall secure the implementation of a Level 1 archaeological standing building survey of the extant structures, to be carried out by an archaeological organisation acceptable to the planning authority. The scope of the archaeological standing building survey will be set by the Aberdeenshire Council Archaeology Service on behalf of the planning authority. The name of the archaeological organisation retained by the developer shall be given in writing to the planning authority not less than 14 days before the survey commences. Copies of the resulting survey shall be deposited in the National Monuments Record for Scotland and in the local Sites and Monuments Record upon completion.
   
   Reason: To record features of the historic environment of the structure.

3. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any groundbreaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service. The name of the archaeological organisation retained by the
developer shall be given in writing to the planning authority and to the Aberdeenshire Council Archaeology Service not less than 14 days before development commences
*Reason: In order to record items of archaeological interest.*

**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.

P&P/IM/DB/IAL
27 February 2014

Vivien Smith
Head of Planning and Place

Appendix 1: Relevant Development Plan Policies
RELEVANT DEVELOPMENT PLAN POLICIES

TAYplan

Policy 3: Managing TAYplan’s Assets

Transport

- safeguarding land at Dundee and Montrose Ports, and other harbours, as appropriate, for port related uses to support freight, economic growth and tourism; and,
- safeguarding land for future infrastructure provision (including routes), identified in the Proposal Map of this Plan or other locations or routes, as appropriate, or which is integral to a Strategic Development Area in Policy 4 of this Plan, or which is essential to support a shift from reliance on the car and road-based freight and support resource management objectives.

Policy 4: Strategic Development Areas

A. Identify specific sites for the Strategic Development Areas and allocate land for the uses set out in table 1, below and identified in the Proposals Map of this Plan:

Montrose Port: Employment land for port related uses.

ANGUS LOCAL PLAN REVIEW (ALPR)

Policy S1 : Development Boundaries

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Policy S3 : Design Quality

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Policy S5: Safeguard Areas

Planning permission for development within the consultation zones of notifiable installations, pipelines or hazards will only be granted where the proposal accords with the strategy and policies of this Local Plan and there is no objection by the Health & Safety Executive, Civil Aviation Authority or other relevant statutory agency.
Policy S6 : Development Principles

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Policy ER12 : Development Affecting Conservation Areas

Development proposals within conservation areas or affecting the setting of such areas will be supported where they:

(a) respect the character and appearance of the area in terms of:
   - density, scale, proportion and massing;
   - layout, grouping and setting;
   - design, materials and finish;

(b) contribute positively to the setting of the area and maintain important views within, into or out of
   the area;

(c) retain particular features which contribute to the character and appearance of the area;
   - open spaces;
   - walls and other means of enclosure;
   - ground surfaces;
   - natural features such as trees and hedgerows;
   - accord with the Character Statement for the area.

Policy ER16 : Development Affecting the Setting of a Listed Building.

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.

Policy ER19 : Archaeological Sites of Local Importance

Where development proposals affect unscheduled sites of known or suspected archaeological interest, Angus Council will require the prospective developer to arrange for an archaeological evaluation to determine the importance of the site, its sensitivity to development and the most appropriate means for preserving or recording any archaeological information. The evaluation will be taken into account when determining whether planning permission should be granted with or without conditions or refused.

Where development is generally acceptable and preservation of archaeological features in situ is not feasible Angus Council will require through appropriate conditions attached to planning consents or through a Section 75 Agreement, that provision is made at the developer’s expense for the excavation and recording of threatened features prior to development commencing.

Policy ER24 : Surface Water Disposal

Sustainable Urban Drainage Systems are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water run-off collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water.

Proposals that adopt ecological solutions to surface water management which promote local biodiversity by the formation of ponds and/or wetlands for example, and create or improve habitats will also be encouraged.

Policy ER28 : Flood Risk Assessment

Proposals for development on land at risk from flooding, including any functional flood plain, will only be permitted where the proposal is supported by a satisfactory flood risk assessment. This must demonstrate to the satisfaction of Angus Council that any risk from flooding can be mitigated in an environmentally sensitive way without increasing flood risk elsewhere. In addition, limitations will be placed on development according to the degree of risk from coastal, tidal and watercourse flooding. The following standards of protection, taking account of climate change, will be applied:-
• In Little or No Risk Areas where the annual probability of flooding is less than 0.1% (1:1000 years) there will be no general constraint to development.

• Low to Medium Risk Areas where the annual probability of flooding is in the range 0.1% - 0.5% (1:1000 – 1:200 years) are suitable for most development. Subject to operational requirements these areas are generally not suitable for essential civil infrastructure. Where such infrastructure has to be located in these areas, it must be capable of remaining operational during extreme flood events.

• Medium to High Risk Areas (see 2 sub areas below) where the probability of flooding is greater than 0.5% (1:200 years) are generally not suitable for essential civil infrastructure, schools, ground based electrical and telecommunications equipment.

(a) **Within areas already built up** sites may be suitable for residential, institutional, commercial and industrial development where an appropriate standard of flood prevention measures exist, are under construction or are planned.

(b) **Undeveloped or sparsely developed areas** are generally not suitable for additional development.