

Formartine Area Committee Report - 5 June 2018

Reference No: APP/2018/0878

Full Planning Permission For Removal of Condition 2 (Cycle/Footpath) of Approved Application Reference APP/2012/0421 (Full Planning Permission for Amendment to Residential Development at Castle Meadows to vary Conditions 18 & 19 of APP/2009/2460 to Replace the Permanent Access from Golf Road with Temporary Construction Traffic Road & Permanent Cycle/Footpath Route) at Site At Castle Meadow, Market Brae, Ellon, Aberdeenshire

Applicant: Scotia Homes Ltd & Barratt North Scotland Ltd

Agent: Burness Paul LLP

Grid Ref: E:395965 N:830918

Ward No. and Name: Ellon And District

Application Type: Full Planning Permission

Representations: 62

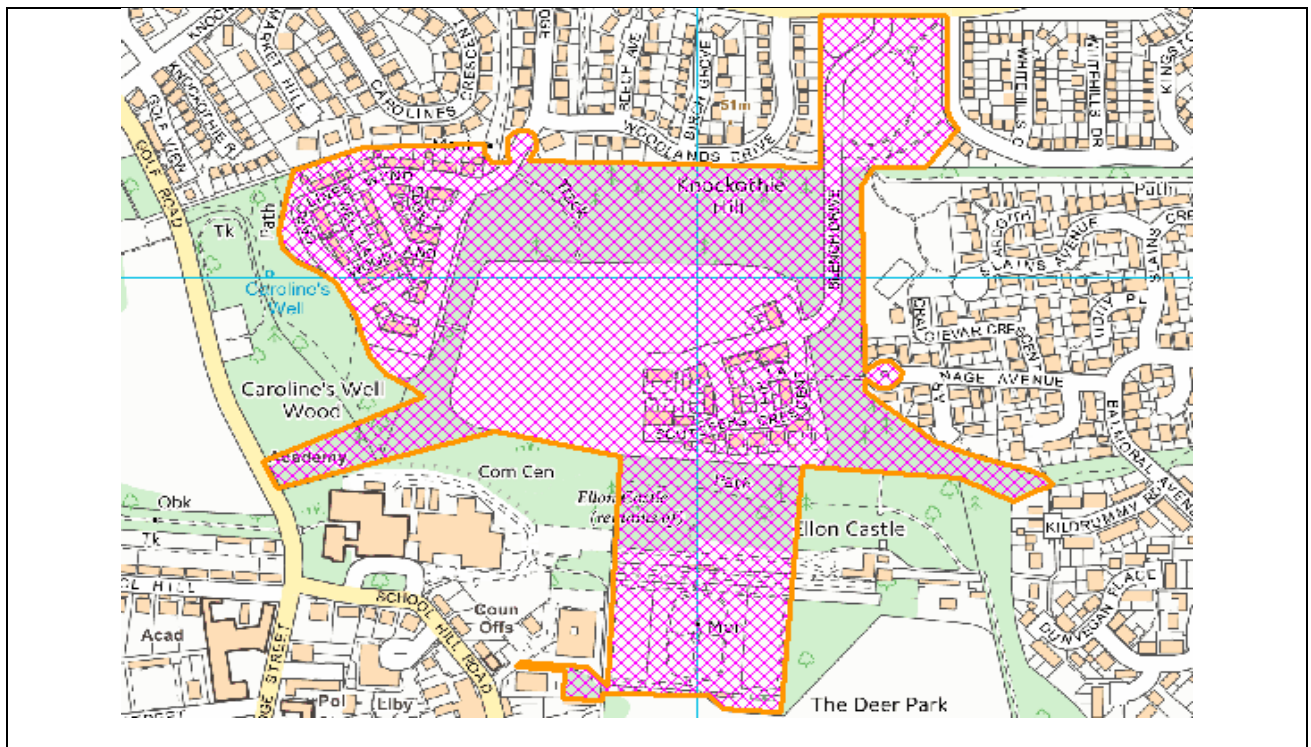
Consultations: 1

Relevant Proposals Map: Aberdeenshire Local Development Plan

Designations: AHMA

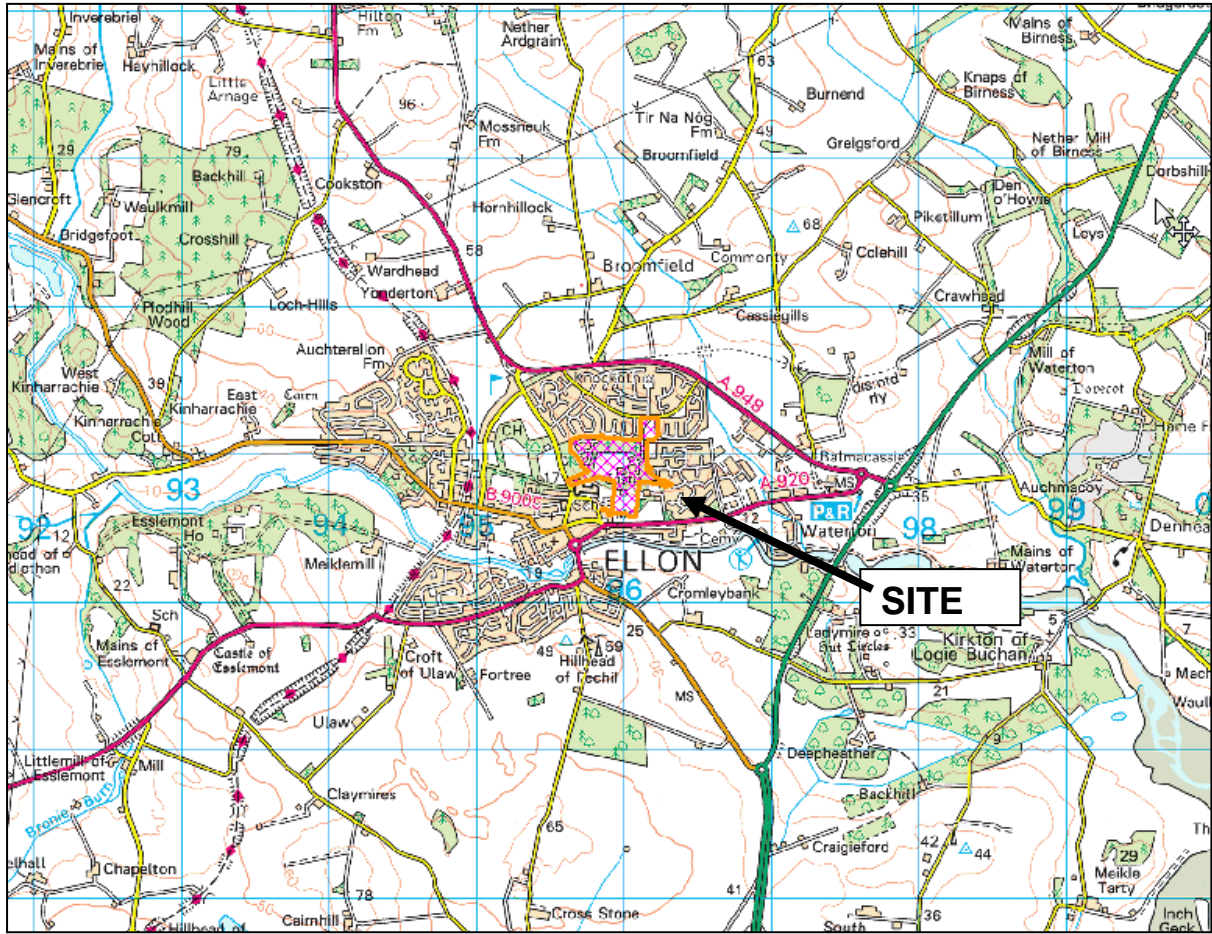
Complies with Development Plans: No

Main Recommendation: Grant



NOT TO SCALE

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1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.9.1 of Part 2A List of Committee Powers and Section C.3.1f of Part 2C Planning Delegations of the Scheme of Governance as there have been valid objections from six or more individuals or bodies with separate postal addresses or premises.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 This application is for the Removal of Condition 2 (Cycle/Footpath) of Approved Application Reference APP/2012/0421 (Full Planning Permission for Amendment to Residential Development at Castle Meadows to vary Conditions 18 & 19 of APP/2009/2460 to Replace the Permanent Access from Golf Road with Temporary Construction Traffic Road & Permanent Cycle/Footpath Route) at a site at Castle Meadow, Market Brae, Ellon.
- 2.2 The proposed formal cycle/footpath under consideration was designed to link the recent residential developments at Castle Meadows with Golf Road which leads to the north side of the centre of Ellon approximately 160 metres away. There is currently an informal pathway roughly where the formal pathway was to be provided and this is approximately between 1m and 1.5m in width and surfaced with loose stones in places. The pathway is partially located within Caroline's Well Wood which is a mixed woodland comprising in the main Sycamores, Beech trees and Norway Spruces. There are a number of mature Beech trees, Spruces and Sycamores directly adjacent to the current path with roots visible on the path.
- 2.3 Condition 2 of approval APP/2012/0421 states:

That within one month of the date of the expiry of this permission or the completion of the development approved under planning application APP/2009/2460 whichever is the earlier the cycleway/footpath shall be formed in accordance with the approved plans. The cycleway/footway is to be 3 metres wide and built to adoptable standards with associated street lighting. The proposed cycleway should also link with the existing paths network within the Wood and constructed in a way that these can be safely accessed. Full details of the proposed linkages with the existing paths network shall be submitted for the written approval of the Planning Authority prior to the commencement of the final phase of the development.

Relevant Planning History

APP/2009/2460 - Residential Development (247 No. Units) including Associated Infrastructure and Formation of New Access Routes – Approved

APP/2012/0421 - Amendment to Residential Development at Castle Meadows to vary conditions 18 & 19 of APP/2009/2460 to replace the permanent access from Golf Road with a temporary construction traffic road & permanent cycle/footpath route – Approved

Supporting Information

Supporting Planning Statement – Received (18/04/18)

3. Representations

3.1 A total of 62 valid representations (59 objections, 3 neither objecting nor supporting) have been received as defined in the Scheme of Governance. This does not include multiple representations from the same household which equate to 66 letters in total. These representations can be viewed on the Aberdeenshire Council website. All issues raised have been considered. The letters raise the following material issues:

- *Path is required for connectivity to Ellon town centre*
- *Path is not accessible for elderly and young (e.g push buggies)*
- *A formal path could boost trade in Ellon town centre*
- *Development is currently isolated from facilities. Alternative detours take a long time*
- *Current path is unsafe (particularly in bad weather)*
- *Path is frequently used. Potential erosion of ground and vegetation occurring*
- *Health and social benefits to formation of a formal path*
- *Currently unlit informal path leaves users vulnerable to crime*
- *Alternative path should be provided*

All other issues raised were not considered to be a planning matter although it is noted that 48 households have commented that the developer had promised the provision of a suitable pathway linking the development to Ellon town Centre.

4. Consultations

4.1 **Infrastructure Services (Roads Development)** were consulted and have no objections to the proposals.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

5.3 Aberdeenshire Local Development Plan 2017

Policy P1: Layout, siting and design
Policy P2 Open space and access in new development

5.4 Other Material Considerations

None

6. Discussion

- 6.1 Condition 2 of approval APP/2012/0421 requires a cyclepath/footpath to be formed in accordance with approved plans submitted under application APP/2009/2460. The condition states, amongst other things, that the footpath is to be 3 metres wide and built to adoptable standards with associated street lighting. The main issue to consider is whether the requirements of condition 2 of approval APP/2012/0421 can be reasonably delivered by the applicant. The Planning Service can recommend approval to remove the condition for the footpath/cyclepath or recommend refusal and maintain the condition. There is no alternative arrangement proposed as part of this application – it is solely for the removal of the suspensive condition.

Supporting Statement summary of events

- 6.2 The applicants submitted a Supporting Planning Statement which outlines a summary of events so far.
- In June, 2012 Scotia Homes and Barratt East Scotland Limited obtained approval for planning permission APP/2012/0421 to vary conditions 18 and 19 of permission reference APP/2009/2460 (Residential Development for 247 homes). The variation was to replace the originally proposed permanent vehicular access from Golf Road with a temporary construction traffic road and permanent cyclepath/footpath route. This application was submitted as the then Trustees refused permission for the permanent access through the wood. The proposed temporary construction traffic road and cyclepath/footpath route would have involved the removal of 99 trees.
 - APP/2012/0421 was approved by the Formartine Area Committee however the members in their capacity as Trustees of the Wood refused landowners permission for the temporary construction traffic road and cyclepath/footpath route and alternative arrangements for construction traffic were undertaken by the applicants.
 - All of the dwellinghouses within the development have been constructed and are occupied and the applicants are in the process of completing the landscaping within the development. Condition 2 of the approval therefore requires to be fulfilled and discharged.
 - In order to comply with condition 2 of APP/2012/0421 the applicants undertook an Arboricultural Impact Assessment which sought to explore a cyclepath/footpath which retained as many appropriate trees as possible. A cyclepath/footpath proposal which would involve the removal of 52 trees instead of 99 was developed.
 - The Trustees of the McDonald Public Park resolved to refuse landowners permission to construct the cyclepath/footpath proposal at a meeting held on 19th of March 2018. The reasons stated within the meeting minutes state concerns over the gradient of the path and the trees to be removed.
- 6.3 With these facts considered it is clear that the applicant has fully explored all options to comply with the terms of condition 2 of APP/2012/0421. A 3 metres wide cyclepath/footpath built to adoptable standards with associated street lighting is not deliverable as per the drawings approved under application APP/2009/2490 without the removal of at least 52 trees.
- 6.4 Whilst the removal of the condition would represent a departure from the Local Development Plan, and the installation of the path would be preferred, the Service is satisfied that the applicant has made all reasonable efforts to comply with the condition and Roads Development were consulted and have no objections to the proposals. Therefore the Service can support the removal of this condition.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An equality impact assessment is not required because the development is not considered to give rise to any differential impact on any of the protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

9. Sustainability Implications

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy P1: Layout, siting and design
Policy P2 Open space and access in new development

- 10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

11. Recommendation

11.1 GRANT Full Planning Permission

11.2 That the Committee agree the reason for departing from the Local Development Plan

01. The removal of the condition would represent a departure from Policy P1: Layout, siting and design and Policy P2: Open space and access in new development; however, the Service is satisfied that the applicant has made all reasonable efforts to comply with the condition and Roads Development were consulted and have no objections to the proposals. Therefore the Service can support the removal of this condition.

Stephen Archer
Director of Infrastructure Services
Author of Report: John Todd
Report Date: 18 May 2018