

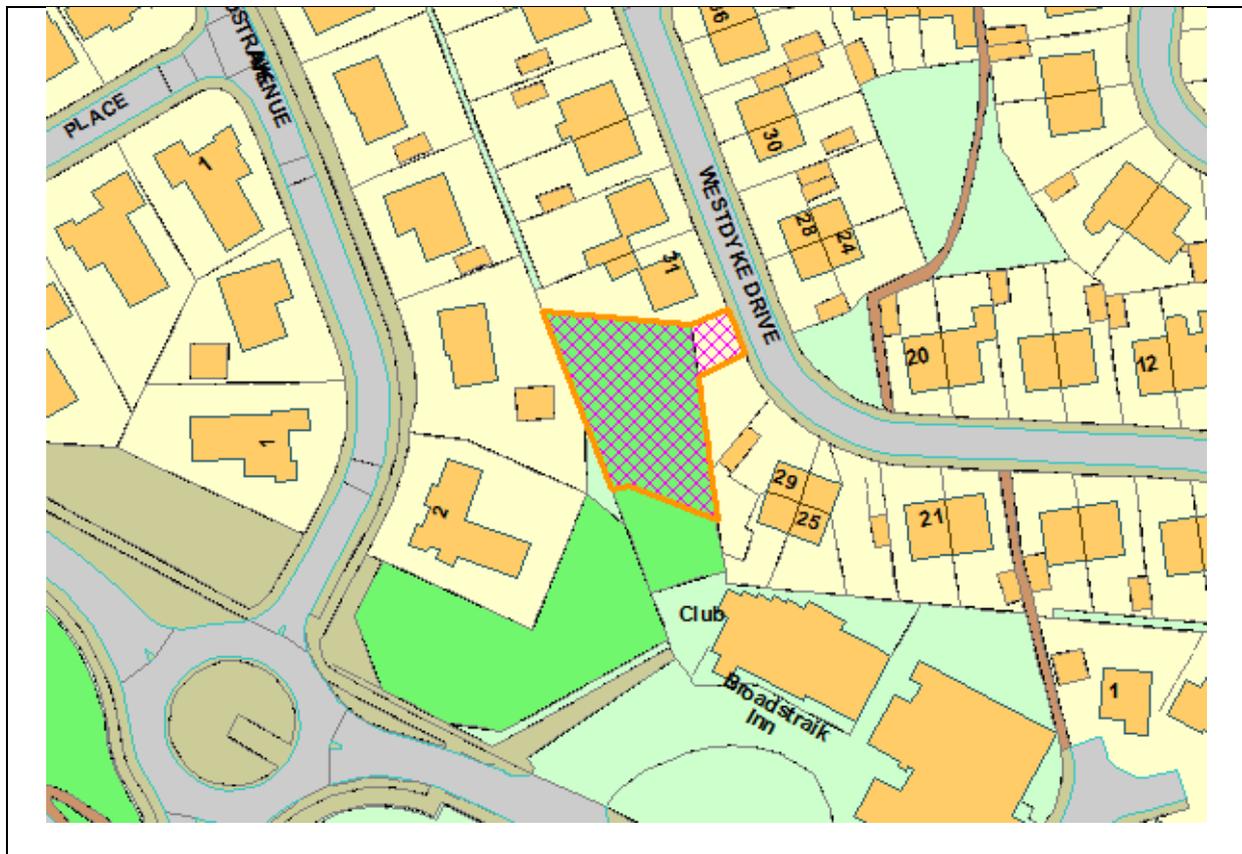
## Garioch Area Committee Report – 9 October 2018

Reference No: APP/2017/3131

**Full Planning Permission for Erection of Dwellinghouse at Site at Westdyke Drive, Westhill, Aberdeenshire**

**Applicant: The Peter Nicol Squash And Fitness Centre**  
**Agent: McAdam Design (Scotland) Ltd**

Grid Ref:	E:381859 N:806763
Ward No. and Name:	W13 - Westhill And District
Application Type:	Full Planning Permission
Representations	2
Consultations	6
Relevant Proposals Map	
Designations:	Within Westhill Settlement
Complies with Development Plans:	No
Main Recommendation	Refuse



**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.8.1 of Part 2A List of Committee Powers and Section C.3.1g of Part 2C Planning Delegations of the Scheme of Governance as there is an unresolved objection from a consultee.
- 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.

## 2. Background and Proposal

- 2.1 Full Planning Permission is sought for the erection of a dwellinghouse on an area of land between Broadstraik Avenue and Westdyke Drive in Westhill. The site is located within the settlement boundary and to the west of Westhill.
- 2.2 The application site comprises two distinct parts, an area of rough grass with a number of mature trees bound to the north and west by residential properties and an area of open space adjacent to Westdyke Drive to the east. An overflow car park area serving the Peter Nichol Squash and Fitness Centre lies to the south beyond the site boundary.
- 2.3 The proposed development would consist of a one and three-quarter storey dwelling with attached double garage, which would be located towards the northern portion of the site. The south of the site would comprise the majority of garden ground although some grassed area and landscaping would be located along all boundaries of the site. Access would be taken over an area of open space to the west of the dwelling leading to Westdyke Drive.
- 2.4 The proposed dwelling with garage would measure approximately 9m in height, 16m in length and 11m in width. The dwelling would accommodate a vestibule, living room, dining room, shower room, open plan family room/kitchen, utility and double garage on the ground floor, while the upper floor would see 4 bedrooms (including 1 master bedroom with en-suite) and a bathroom. The proposed materials include brown concrete tiles, timber windows and skye marble dry dash with splitface Fyfestone.
- 2.5 The relevant planning history includes:
  - APP/2011/1253 – Erection of Dwellinghouse – FPP Granted, 16/01/2012.
  - APP/2010/3800 – Erection of Dwellinghouse – FPP Withdrawn, 20/04/2011.
- 2.6 The following information was submitted in support of the application:
  - Design Statement
  - Drainage Impact Assessment
  - Attenuation Tank Design

- Installation Circular Chamber
- Percolation Test
- Tree Survey Report and associated documents
- Vortex Flor Control Design

### 3. Representations

3.1 A total of 2 valid representations (2 objections) have been received as defined in the Scheme of Governance. This does not include multiple representations from the same household which equate to 4 letters in total. All issues raised have been considered. The letters raise the following material issues:

- *Loss of public open space*
- *Loss of trees*
- *Noise*
- *Road safety*
- *Proximity to neighbouring properties*

### 4. Consultations

- 4.1 **Business Services (Developer Obligations)** has confirmed that contributions for this site were obtained under APP/2011/1253 and therefore no additional contributions are required.
- 4.2 **Infrastructure Services (Environment – Natural Heritage)** has confirmed that the submitted tree survey and associated documentation is acceptable and the Service has no concerns with regards to the public access.
- 4.3 **Infrastructure Services (Flood Risk and Coastal Protection)** has reviewed the application in terms of flooding and drainage and the Service confirms that it has no objection to the proposed development.
- 4.4 **Infrastructure Services (Roads Development)** has confirmed that it has no objection to the development subject to conditions.
- 4.5 **Scottish Water** has confirmed that it has no objection to the proposed development. Scottish Water has commented that there is sufficient capacity in the Invercarnie Water Treatment works and the Nigg PFI Waste Water Treatment Works.
- 4.6 **Westhill and Elrick Community Council** has objected to the development due to concerns of the loss of public open space within the local community and the loss of trees within the site. Please refer to Appendix 1.

### 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  
Policy P3 Infill and householder developments within settlements (including home and work proposals)  
Policy PR1 Protecting important resources  
Policy C1 Using resources in buildings  
Policy C4 Flooding  
Policy RD1 Providing suitable services  
Policy RD2 Developers' obligations

## 5.4 Other Material Considerations

None

## 6. Discussion

- 6.1 The key planning issues to consider with this application are the principle of development, the potential impact of the development on the character and amenity of the surrounding area and the potential loss of public open space, public access and trees.
- 6.2 The site as it stands would appear to be an undeveloped area of land within Westhill, which is occupied by rough grass and mature trees. However, a portion of the site, required to gain vehicular access to the site, is located on land owned by the Council, which is considered to be an area of open space used as an amenity area by the local community. It is noted that a similar application previously gained planning permission for a dwelling using the same access under APP/2011/1253. Whilst planning history is a material consideration, this permission has since lapsed. In addition, two local development plans have been adopted in the intervening period since the last application was granted in 2012. As such, the principle of development is required to be assessed against the relevant policies of the current Aberdeenshire Local Development Plan.
- 6.3 In light of the above, the principle of development must be assessed against Policy P3 Infill and householder developments within settlements (including home and work proposals). However, as a portion of the site includes land considered to be public open space, Policy PR1 Protecting important resources will also be used when considering the principle of development. Policy P3 supports development on unallocated land within a settlement which can contribute towards housing requirements, as long as the development respects the scale, density, character and amenity of the surrounding area. The proposal should also have no impact on the existing or proposed uses of neighbouring sites.
- 6.4 In terms of this application, the Planning Service is satisfied that the main part of the site has no specific land use allocation and could comfortably accommodate a dwelling with attached garage and garden ground. However, the access to the site is located on a separate area of land that constitutes public open space. This point is reinforced through letters of representation and the comments from Westhill and Elrick Community Council. While this area of land is not protected as open space in the 2017 Local Development Plan, it is considered to be an area of amenity land by both the Planning Service and Landscape Services, who maintain it, and therefore should be retained as such. Although small in scale, the incremental loss of such areas has the potential to impact on the attractiveness and quality of the overall settlement. The Planning Service therefore has a presumption against the loss of such land to development, a point reinforced by the Estates Team. In addition, Policy PR1 Protecting important resources does not permit the loss of open space. While only a portion of this area would be lost, it is considered that overall the amenity of the area would be impacted upon due to this loss as would the established character of the area.

- 6.5 Whilst, it is accepted that the site could accommodate a dwelling, it is considered that as a result of the loss of land considered to be public open space, the character and amenity of the area would be impacted upon. As such, the Planning Service is unable to support the proposed development as it fails to comply with Policy P3 and PR1.
- 6.6 Policy P1 Layout, siting and design, assesses the proposed development in terms of layout, siting and design. As previously mentioned, the site can comfortably accommodate a dwelling with sufficient garden ground. In terms of the design of the dwelling, the site is surrounded by a number of residential properties ranging from one and a half to two storey's in height. In light of this it is considered that the height of the dwelling would be acceptable in this area, in addition the design of the dwelling would not be dissimilar to the properties that surround it. It is therefore considered that the proposal complies with the above policy.
- 6.7 The issue of whether the main part of the site was used for public access was raised in the comments by the Community Council. While it is noted on the site visit conducted by the Planning Service that some desire lines can be seen through the site, the boundary to the east is fenced off, therefore the public are unable to gain easy access through the site. It also may be considered that the main parcel of land is incidental open space and an anomaly left over by surrounding development and whilst it may be used informally by the community it is not defined as open space within the Aberdeenshire Local Development Plan nor is it owned by the Council, therefore access to the site through the car park of the Fitness Centre to the south could be removed by the owner at any time. As such, the Planning Service cannot request that public access be maintained through the site under Policy P2 (Open space and access in new development) as it has never been in place before. In addition a formal public access route from Westdyke Drive to Straik Road lies approximately 50m to the east of the site.
- 6.8 In terms of vehicular access to the site, as previously mentioned this could only be achieved by the loss of an area of public open space to the west of Westdyke Drive. Roads Development has reviewed this proposal and confirm that the minimum splays and required car parking spaces can be provided. The Service therefore has no objection to the proposed development. Policy RD1 Providing suitable services states that new accesses must also cause minimal impact on the character of the site and surrounding area. The Planning Service consider that the loss of open space in this area would result in an impact on the character of the area. It is therefore considered that this aspect of the proposal does not comply with the above policy.
- 6.9 In terms of servicing, the applicant has indicated that the development would connect to the public water and waste water supplies. Scottish Water has confirmed that there is existing capacity and therefore has no objection. The Planning Service is satisfied with this aspect of the proposal as connection to the public supplies is always preferred. The applicant has also indicated that surface water run-off would be disposed of via a soakaway located within the site. Submitted documentation confirms that a percolation test has been

carried out and that the site can accommodate a surface water soakaway. Flood Risk and Coastal Protection has reviewed this aspect of the proposal and while the Service has no objection to the development, it recommends that if the proposal is to be granted, a condition regarding the surface water drainage be attached. The Planning Service is satisfied with this aspect of the proposal.

- 6.10 In terms of Policy RD1 Providing suitable services, the Planning Service cannot satisfactorily state that all aspects of the proposal comply with this policy. While the servicing of the site is acceptable, it is considered that the access is unacceptable. Therefore, overall the proposed development fails to comply with the above policy.
- 6.11 The site is occupied by a number of mature trees and concerns have been raised through letters of representation and the comments from Westhill and Elrick Community Council regarding the loss of these trees due to the development. In order to support the proposal a tree survey has been submitted, this confirms seven trees would require to be removed. The submitted documentation has been reviewed by the Environment Team and it is considered that the information is acceptable, and the trees identified within the plan submitted can therefore be removed. While it is considered that the loss of these trees would be unfortunate and would have an impact on the character of the area, it is noted that these trees are not of a type that would be normally found in residential areas. If the application were to be approved and all trees removed, compensatory planting within the site would be required and this would be sought via a landscaping condition.
- 6.12 Flood Risk and Coastal Protection has reviewed the proposal and has confirmed that it is generally satisfied with the level of flood risk associated with the site, as such the proposal is considered to comply with Policy C4 Flooding.
- 6.13 All development must be designed to reduce carbon-dioxide emissions and proposal should aim to achieve a Gold sustainability level. The submission of an energy statement is required to establish if the development can achieve such a level, however, this information is not required at this time. In the event permission is to be granted, a condition could be required to ensure the submission of such a document in order to comply with Policy C1 Using resources in buildings.
- 6.14 Developer Obligations has reviewed this proposal and has confirmed that the site previously secured contributions under APP/2011/1253, therefore no further contributions are required. As such, the proposal is considered to comply with Policy RD2 Developers' obligations.
- 6.15 A number of concerns raised through letters of representation have been addressed throughout the report, while the following concerns will now be addressed:
- Noise,

- Road safety, and
- Proximity to neighbours

- 6.16 The issue of noise from the public road, in this case Straik Road, was raised in relation to the loss of trees. In the event permission is granted and the trees are removed, the site would be occupied by a dwelling. As such the impact of traffic noise would be no greater to the residents of Westdyke Drive. In addition, it is not considered that these trees act as a barrier given the sites location in relation to Straik Road.
- 6.17 Road Safety was also raised as a concern, however, this site has been reviewed by the Council's Road Development Service who has confirmed that the site can obtain the required visibility splays.
- 6.18 The proximity to neighbouring properties was also raised, this is in relation to the property to the north of the site, however upon reviewing the plans it is noted that the proposed dwelling lies approximately 2m from the boundary to the north and given the high density of this settlement, this distance is considered acceptable. In addition, there are no windows on the north elevation of this dwelling therefore no overlooking would occur.
- 6.19 In conclusion, it is considered that the principle of development fails to comply with the relevant policies of the Aberdeenshire Local Development Plan 2017, specifically Policy P3 Infill and householder developments within settlements (including home and work proposals) and Policy PR1 Protecting important resources. It is considered that this development due to the loss of an area of public open space would result in an impact on the character and amenity of the surrounding area. In addition, the proposed use of public open space for the vehicular access is not considered to be compliant with Policy RD1 Providing suitable services. It is therefore considered that the Planning Service is unable to support this development and recommends that planning permission be refused.

## **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 Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with 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. Departures, Notifications and Referrals**

### **10.1 Strategic Development Plan Departures**

None

### **10.2 Local Development Plan Departures**

Policy P3 Infill and householder developments within settlements (including home and work proposals)  
Policy PR1 Protecting important resources  
Policy RD1 Providing suitable services

- 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 REFUSE Full Planning Permission for the following reasons:-**

01. The proposal is considered to be contrary to Policy P3 Infill and householder developments within settlements (including home and work proposals) as contained within the Aberdeenshire Local Development Plan 2017, in that the development would have an impact on the character and amenity of the surrounding area.
02. The proposal is considered to be contrary to Policy PR1 Protecting important resources as contained within the Aberdeenshire Local Development Plan 2017, in that the development, if approved, would result in the loss of public open space, which is considered to be of

benefit to the local community. It is considered that the loss of this public open space would impact the amenity of the surrounding area.

03. The proposal is considered to be contrary to Policy RD1 Providing suitable services as contained within the Aberdeenshire Local Development Plan 2017, in that the vehicular access would result in the loss of public open space, which would therefore impact the character of the surrounding area.

**Stephen Archer**  
**Director of Infrastructure Services**  
**Author of Report: Aoife Murphy (Senior Planner)**  
**Report Date: 21/09/2018**

# Comments for Planning Application APP/2017/3131

## Application Summary

Application Number: APP/2017/3131

Address: Site At West Dyke Drive Westhill Aberdeenshire

Proposal: Erection of Dwellinghouse

Case Officer: Sheena Lamont

## Customer Details

Name: Mr John Long

Address: 52 Dunecht Road Westhill

## Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Sent on behalf of WECC

Westhill and Elrick Community Council have concerns about this application being granted due to the function it performs as public open space within the local community. It is unsure at present if it is deemed public open space on the Local Development Plan but with its present usage can be considered as incidental public open space enhancing the local area. The land is owned by Aberdeenshire Council and therefore if no sale is forthcoming the land requested for access way can continue to remain public open space for the benefit of the local residents.

There is another issue regards the removal of trees which are on the Council owned land. The tree removal is being supported by a private survey which was implemented in 2011 which raises doubts to its final conclusions and recommendations.

The site was recently visited and WECC have decided to continue to raise the issue of wishing to protect what existing open space there is within the local community. We therefore ask again that careful consideration is given to the impact on the Public Open Space policy of Aberdeenshire Council.

# Comments for Planning Application APP/2017/3131

## Application Summary

Application Number: APP/2017/3131

Address: Site At West Dyke Drive Westhill Aberdeenshire

Proposal: Erection of Dwellinghouse

Case Officer: Sheena Lamont

## Customer Details

Name: Mrs Claire Taylor

Address: 20 Westdyke Drive Westhill

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This has been applied for previously and declined.

The suggested access to the new dwelling house is over a piece of grass that is used by the local young children in the community. They are too young to venture up to the park. The access would remove half of this grass and would remove a number of the well established trees that add a significant sound barrier to the area from the traffic on the main road.

The bend in the road is would mean the drive way would be hidden from approaching cars.

# Comments for Planning Application APP/2017/3131

## Application Summary

Application Number: APP/2017/3131

Address: Site At West Dyke Drive Westhill Aberdeenshire

Proposal: Erection of Dwellinghouse

Case Officer: Sheena Lamont

## Customer Details

Name: Mr Alexander Lawson

Address: 31 Westdyke Drive Elrick Westhill

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sheena,

As you can see by my address, I own the property adjoining the site to the north of this proposed dwelling house and, as such, will probably suffer the greatest direct impact of the construction. I therefore would like to make sure that you are aware of the following:

This is the second such application for said proposed dwelling house, the first application acceptance having "timed out".

Your records should also show that I agreed to support the original application only after it was agreed to move the house some metres away from my border. This was primarily due to the highly significant shadowing that its original "border hugging" location would cause to my property especially given the large area available at the opposite side of the site.

I am therefore extremely disappointed to find that the new application has moved it right back adjacent to my border again and hence my current objection.

Please also be aware that I am currently out of the country and not due to return until 20th February. I therefore must apologise for not meantime being able to consult with my actual records.

However, if my memory serves me correct, the acceptable compromise solution only involved removing the northward dog-leg in the currently proposed drive way. Thus by realigning the garage doors directly in line with the driveway, an increase in the gap distance between their garage and my border was thereby achieved.

Insofar as none of the salient factors above have materially changed, I trust that the same logic can be applied this time.

Regards,

Alex Lawson.

Mob: 07984051222 (operational whilst abroad)

# Comments for Planning Application APP/2017/3131

## Application Summary

Application Number: APP/2017/3131

Address: Site At West Dyke Drive Westhill Aberdeenshire

Proposal: Erection of Dwellinghouse

Case Officer: Sheena Lamont

## Customer Details

Name: Mr Lucas Taylor

Address: 20 Westdyke Drive Westdyke Drive Westhill

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I play on this piece of grass as I am not allowed up to the park yet. We have very little space here to play and this is the only area.

# Comments for Planning Application APP/2017/3131

## Application Summary

Application Number: APP/2017/3131

Address: Site At West Dyke Drive Westhill Aberdeenshire

Proposal: Erection of Dwellinghouse

Case Officer: Sheena Lamont

## Customer Details

Name: Mr Paul Taylor

Address: 20 Westdyke Drive Westhill

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This application has been rejected before, what's changed now?

Driveway access is on a blind bend, where young children play.

Trees offering a sound barrier too the main road are to be taken away, how will the noise be controlled then?