Buchan Area Committee Report - 19 June 2018

Reference No: APP/2017/3124

Planning Permission in Principle For Erection of Dwellinghouse (Plot 9) at Land At Nether Aden, Nether Aden Road, Mintlaw, AB42 5BS

Applicant: David Barron & Rural Projects & Dev (Aberdeen) Ltd, Per Agent
Agent: NORR, 3 Bon Accord Crescent, Aberdeen, AB11 6XH
Grid Ref: E:399513 N:847615
Ward No. and Name: W04 Central Buchan
Application Type: Planning Permission in Principle
Representations: 1
Consultations: 6
Relevant Proposals: Aberdeenshire Local Development Plan 2017
Map
Designations: RHMA
Complies with Development Plans: No
Main Recommendation: Refuse

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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.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but at least two Local Ward Members in the Ward in which the development is proposed, have requested that the application be referred to the Area Committee.

- Cllr. Anne Simpson has requested that the application is referred to committee to “consider policies RD1, RD2 and links to the masterplan”.

- Cllr. Jim Ingram requested that the application is referred to committee “to give further consideration to roads and masterplan issues”.

- Cllr. Marion Buchan requested that the application is referred to committee “to discuss policy RD2 and give further consideration to proposed development and developers’ obligations”.

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 The applicant seeks Planning Permission in Principle for the erection of a dwellinghouse on Land at Nether Aden, Nether Aden Road, Mintlaw.

2.2 It should be noted that this application is one of twelve applications in total for individual dwellinghouses on the wider site – land at Nether Aden. Although each application has an independent application reference, they share the same applicant and agent and are all intended to be part of the same development.

2.3 The plots are all located to the south of Nether Aden Road in the south of Mintlaw. The principal access would be taken from the existing private access road which connects to Nether Aden road, approximately 530m west of the junction with the A952. Plot 9 is surrounded by other proposed plots as part of the wider development. To the north is Sycamore View, an existing residential property. The planning application for Plot 3 (APP/2017/3119) shows an extension to the existing private road would be intended to service the development, which would include visitor parking and a passing place in the eastern half of the development, and a cul-de-sac turning area and visitor parking to the west, but it does not form part of this planning application.

2.4 The design and layout of the dwelling is not yet known as the application is for Planning Permission in Principle. These details would therefore be more comprehensively assessed as part of any subsequent Matters Specified in Conditions application in the event of any approval being issued.
2.5 The application form notes that the land is currently agricultural. It is proposed that the house will connect to the public water supply and to the public drainage network.

2.6 **Relevant Planning History**

**Proposed Development**

- APP/2017/3118 – Erection of dwellinghouse and garage (Plot 15) (Planning Permission in Principle – Pending Decision)
- APP/2017/3119 – Erection of dwellinghouse (Plot 3) and formation of vehicular access roads (Planning Permission in Principle – Pending Decision)
- APP/2017/3120 – Erection of dwellinghouse (Plot 7) (Planning Permission in Principle – Pending Decision)
- APP/2017/3121 – Erection of dwellinghouse and associated infrastructure (Plot 6) (Planning Permission in Principle – Pending Decision)
- APP/2017/3122 – Erection of dwellinghouse and associated infrastructure (Plot 5) (Planning Permission in Principle – Pending Decision)
- APP/2017/3123 – Erection of dwellinghouse (Plot 8) (Planning Permission in Principle – Pending Decision)
- APP/2017/3125 – Erection of dwellinghouse (Plot 10) (Planning Permission in Principle – Pending Decision)
- APP/2017/3127 – Erection of dwellinghouse (Plot 12) (Planning Permission in Principle – Pending Decision)
- APP/2017/3128 – Erection of dwellinghouse (Plot 13) (Planning Permission in Principle – Pending Decision)
- APP/2017/3129 – Erection of dwellinghouse (Plot 14) (Planning Permission in Principle – Pending Decision)
- APP/2017/3132 – Erection of dwellinghouse (Plot 11) (Planning Permission in Principle – Pending Decision)

**Adjacent Sites/Previous Approvals**

- APP/2016/0265 – Condition 1 of Planning Permission (APP/2015/2490) for the erection of dwellinghouse (Matters Specified in Conditions – Approved 27/05/16) **This plot is identified as Plot 2 within the development**
- APP/2015/2490 – Erection of dwellinghouse (Planning Permission in Principle – Approved 28/10/15)
- APP/2015/2104 – Erection of dwellinghouse (Planning Permission in Principle – Approved 20/11/15) **This plot is identified as Plot 1 within the development**
- APP/2015/2489 – Erection of dwellinghouse (Planning Permission in Principle – Approved 06/10/15) **This plot is identified as being Plot 3 within the development**
- APP/2016/1996 – Upgrade of access road and formation of detention basin (Full Planning Permission – Approved 14/09/16) **This application includes the SUDS/Detention Basin**

- APP/2015/2484 – Erection of dwellinghouse (Planning Permission in Principle – Approved 25/11/15) **This plot is identified as Plot 4 within the development**

- APP/2015/0756 – Formation of access road (Full Planning Permission – Approved 25/05/15)

- APP/2013/0651 – Erection of dwellinghouse with ancillary annexe and erection of domestic garage (Full Planning Permission – Approved 31/05/13)

- APP/2014/4000 – Erection of dwellinghouse (Full Planning Permission – Approved 16/01/15)

- APP/2013/2761 – Erection of dwellinghouse (Planning Permission in Principle – Approved 26/11/13)

Sites relating to the approved Masterplan surrounding application sites

- APP/2017/2547 – Mixed use development – erection of 500 dwellinghouses, business, community, services for the elderly, retail and 5ha of employment land (Planning Permission in Principle – PENDING DECISION)

- APP/2017/1347 – Mixed use development – erection of 500 dwellinghouses, business, community, services for the elderly, retail and 5ha of employment land (Planning Permission in Principle – Application Returned)

- ENQ/2015/1691 – Mixed use development comprising 530 no. residential units, care home, nursery & primary school and business park (Masterplan – Approved 05/09/17)

2.3 Supporting Information

Supporting Statement – IAAB17-0030 (NORR) (Received 12 December, 2017)

This identifies that the proposed development would be developed on a plot by plot basis. Three approvals have already been granted within the proposed development (all for Planning Permission in Principle). Approvals have also been granted in relation to the infrastructure that would serve the development (APP/2015/0756) for Phase 1 of the access road, and (APP/2016/1996) for Phase 2. The sites are surrounded by the approved Masterplan for 500 houses, which also currently has an application under consideration for Planning Permission in Principle. It also outlines the belief that the principle of development can be established under Policy P3: Infill and householder developments within settlements. It also identifies that the “proposed development of the 12 houses will also ensure the completion of an adoptable road to the existing housing and will provide a SUDS basin for attenuating and treating surface water from the road.”
Supporting Statement – OP1 Allocation (NORR) (Received 2 May, 2018)

This statement seeks to address the possible conflict between the OP1 allocation and the 12 plots proposed as part of the whole development of Nether Aden (to which this plot contributes). This identifies that Plots 8, 9, 14 and 15 are located within the settlement boundary for Mintlaw but outwith the OP1 allocation. These can therefore be considered against Policy P3 – Infill and householder developments within settlements (including home and work proposals). It goes on to state that the Masterplan agreed at the Buchan Area Committee for the OP1 site was intended as “the context for the general layout and approach for subsequent planning applications”. Plots 3, 5, 6 and 7 do not interfere with the Masterplan, as this area of land was omitted from the Masterplan despite being part of the allocation. Plots 10, 11, 12 and 13 are also within the allocated site but overlap with an area of the Masterplan which is indicatively intended to have a care home. They have highlighted that the Masterplan only identifies that there is the “possibility of demand for a care home arising in due course”. The supporting statement goes on to identify that if the care home was to come forward, there would still be sufficient space within the allocated site to build a care home even if Plots 10-13 were approved. Consequently this proposal does not “compromise the overarching design objectives for the development of the masterplan identified within the Settlement Statement.”

Vehicle Swept Path Analysis – Ramsay & Chalmers, 20 November, 2017
(Received 12 December, 2017)

Drainage Layout Drawings 130A & 131A – Ramsay & Chalmers, 20 November, 2017 (Received 12 December, 2017)

2.4 Variations & Amendments

None.

3. Representations

3.1 A total of 1 valid representations (1 objection) has been received as defined in the Scheme of Delegation. This does not include multiple representations from the same household which equate to 1 letter in total. All issues raised have been considered. The letters raise the following material issues:

- Road safety
- Inadequacy of road servicing proposed development

4. Consultations

4.1 Infrastructure Services (Development Obligations) has advised that the developer has agreed to the Heads of Terms for contributions towards sports & recreation, health care and provision of on-site affordable housing or provision of a commuted sum to spend within the catchment area of Mintlaw Academy in lieu of on-site provision.
4.2 **Education & Children’s Services (Education)** commented that the allocated sites within the local development plan have been taken into account for the School Roll Forecasts, additional unallocated sites in the catchment area will put additional pressure on capacity. It concludes that it is able to support the application.

4.3 **Infrastructure Services (Housing)** have outlined that there is a requirement for a contribution of 3 residential units out of the 12 proposed units, on the basis that this would be an onsite contribution of 25% Affordable Housing. The requirement is for 3 dwellings in this instance (1 x 2-bedroom flat/house and 2 x 3-bedroom houses). The provision of the 3 units would need to be secured via a Section 75 Legal Agreement.

4.4 **Infrastructure Services (Roads Development)** identified that individual parking will be assessed at a Matters Specified in Conditions stage in the event of any approvals being issued. They have some concerns with regard to the current access arrangements and advise that no development of the plots in application references (2017/3123, 3124, 3125, 3132, 3127, 3128, 3129 & 3118 should take place until the Phase 1 & 2 Roads have been completed to an adoptable standard in line with the approved Roads Construction Consents. Construction Consent will be required for the Phase 3 Road and a Road Bond lodged before the commencement of any house building related to this phase. They otherwise do not object to the development subject to this, and other conditions and informatives being added to any approval issued.

4.5 **Infrastructure Services (Waste)** have outlined that collection vehicles will access the development if the private road surface is constructed to an adequate standard. If the access road falls below the required standard for the refuse/recycling vehicles to use, then the collection point will revert to the nearest public road. Waste have no objection if this is taken into account.

4.6 **Scottish Water** have no objection to the applications, however they do not confirm that the proposed development can be currently serviced. It advises that there is sufficient capacity in the Turriff Water Treatment works, and the Mintlaw Waste Water Treatment Works.

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 H2 Affordable housing
Policy P1 Layout, siting and design
Policy P3 Infill and householder developments within settlements (including home and work proposals)
Policy PR2 Protecting important development sites
Policy E2 Landscape
Policy C1 Using resources in buildings
Policy RD1 Providing suitable services
Policy RD2 Developers’ obligations

5.4 Other Material Considerations

None.

6. Discussion

6.1 The main issues for consideration with regard to this application are whether the principle of development can be established under Policy P3, whether the plots can be adequately serviced, and whether they would compromise the deliverability of the allocated site surrounding the proposed development, and it’s approved Masterplan.
6.2 Plot 9 is located immediately to the south of Sycamore View (approved under APP/2014/4000) and is located immediately adjacent to proposed Plot 10, (to the west), and proposed Plot 8 (to the east).

6.3 The principle of development is established for this plot on the basis that the site is located within the settlement boundary for Mintlaw, but it is not allocated for any specific purpose. The plot is effectively located within a gap site within the settlement, nearby the boundary of the approved Masterplan site. In principle the site could accommodate a property that would not impact materially on the amenity of the area, however this could only be fully assessed as part of any subsequent Matters Specified in Conditions applications.

6.4 The layout, siting and design of the proposal cannot be comprehensively assessed at this stage as the application is only for Planning Permission in Principle. As identified previously, it is considered that a property could be adequately accommodated on site, subject to appropriate scale, position and design

6.5 Affordable Housing policy dictates that any development of four or more houses must include 25% provision of service plots. Although each of the 12 plots has been submitted independently, they are part of the same development and are therefore subject to the same requirement. Consequently there is an expectation that 3 of the proposed properties will be designated as Affordable Housing units, or that a contribution will be agreed and secured prior to the issuing of any decision.

6.6 The proposal would not impact upon the deliverability of the approved Masterplan Site, as the proposed plot is located adjacent to the boundary of the approved Masterplan, but not within it. In this particular instance the proposal would therefore not be in conflict with Policy PR2.

6.7 The energy efficiency of the property on the plot is not known at this stage due to the unknown design of the property. There is no reason to believe that a new dwellinghouse on this site could not meet the energy efficiency and sustainability requirements of the Council. In order to ensure compliance with this particular policy, it is considered sufficient to apply a condition in the event of an approval. This condition would require the applicant to submit SAP calculations to the Planning Service for their written approval, prior to commencement of development. In attaching the condition, the proposal would comply with Policy C1.

6.8 The proposal could be adequately serviced by drainage and a water supply. However the proposed site does not have an access to the public road. The intended connection to the public road would be via an access track only proposed as part of a tandem application (APP/2018/3119) for Plot 3; there is no existing access road that serves the plot. Therefore the access to the development is entirely dependent on the acceptability of the tandem application (which would service the development). Planning applications must include all proposed development, including all servicing; the reliability of
the servicing cannot be subject to a separate application in which the outcome is unknown. As the Planning Service can only consider the application that has been submitted for determination, then there is little alternative but to recommend refusal as the application fails to provide suitable and appropriate infrastructure. Consequently the ability to service the development is outwith the control of this application, and it is concluded that the plot cannot be adequately serviced. As a result of this, the proposal is deemed to be contrary to Policy RD1 on the basis that there is insufficient roads infrastructure to service the development.

6.9 One of the criticisms alluded to in the representation against the application is the safety of the existing private access road that connects to Nether Aden Road. The proposed development is intended to utilise the same access road, but it is not included within the application site boundary. The Planning Service cannot impose enforceable conditions to require the upgrade of the access road, to the standard that the Roads Development Team request, because the access is not included within the application site boundary.

6.10 One objection has been lodged against the planning application. To summarise the objection is based on road safety and the inadequacy of road servicing the proposed development. It is noted that the Roads Development Team has no technical objection which could not be overcome by a legal agreement and conditions.

6.11 The Developer Obligations Team has confirmed that the developer has agreed to the heads of terms and therefore the proposal is not in conflict with Policy RD2.

6.12 There are no other outstanding matters. Matters raised by consultees can be secured by way of conditions and a legal agreement.

6.13 In conclusion, Plot 9 is recommended for refusal on the basis that the plot cannot be adequately serviced by a suitable access road. Connection to the existing public road would be reliant on another application being approved, and the Planning Service cannot effectively secure connection via conditions on the basis that the access road is not included within the site boundary of this application.

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 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 proposed development is, in tandem with the wider proposed development, in the opinion of the Head of Planning and Building Standards, in significant conflict with Aberdeenshire Local Development Plan 2017 ‘Policy PR2: Protecting important development sites’. This is on the basis that the application would significantly prejudice the deliverability of the allocated OP1 site and the approved Masterplan, and if the Committee is minded to approve then the application (in tandem with the other pending applications) will have to be referred to Infrastructure Services Committee.

11. **Recommendation**

11.1 **REFUSE Planning Permission in Principle for the following reasons:-**

01. The proposal is contrary to Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017, on the basis that the
application does not include a connection to a suitable vehicular access, or to the public road, and there is no existing access.

For noting:-
Part 2C (Planning Delegations) states at Section C.3.2b for Local Development, that following consultation with the Chair and Vice-Chair of the determining Committee, the Head of Planning and Building Standards can refuse planning applications for which Section 75 Agreements are not completed or Developer Obligations are not paid within four months from the date of the Committee at which the application is determined. Local Ward Members shall be notified of any such refusal.

Please note that this power may be exercised in respect of the application which is the subject of this report if the application is approved by the Committee.

Stephen Archer
Director of Infrastructure Services
Author of Report: Rory Hume
Report Date: 28 May 2018
Comments for Planning Application APP/2017/3124

Application Summary
Application Number: APP/2017/3124
Address: Land At Nether Aden Nether Aden Road Mintlaw AB42 5BS
Proposal: Erection of Dwellinghouse (Plot 9)
Case Officer: Rory Hume

Customer Details
Name: Mr Ian Laidlaw
Address: The Steading Nether Aden Mintlaw

Comment Details
Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
Comment: Myself and my neighbours have recently been in correspondence with the Aberdeenshire Council's Planning and Infrastructure Services Department regarding the lack of progress on the construction of a suitable access road to service the existing properties located at Nether Aden. It has been confirmed that Phase 1 of the road reconstruction (from Nether Aden Road southwards to beyond The Steading) has to be completed by 21 May 2018 with Phase 2 of the works (to the south of The Steading) being completed by 26 October 2019. It would now appear from the detail of this application and the wording of the 'Supporting Statement' that the reconstruction of the road is being linked to the construction of a further 12 dwellings. Given the state of the current access road and the indeterminate timescales for the construction of these further dwellings it is totally unacceptable that the existing obligation to reconstruct the existing access road is further delayed.
The existing road is no better than a dirt track with neither street lighting, surface water drains nor footpaths. As a result Council service vehicles rightly refuse to use the road hence we do not have the benefit of individual bin collections or gritting. As a result of the recent winter weather a number of vehicles have been unable to exit the area and vehicles accessing the area have resorted to parking on what is a very narrow access road with soft shoulders, hence presenting a hazard to all users. Due to the lack of a footpath and no gritting pedestrian access is dangerous. The applicant neither maintains the existing access road nor clears snow and ice and as a result the residents have resorted to infilling the pot-holes with gravel. In addition none of the residents can complete their driveways for want of a level to tie into. My own driveway has now became inundated with sand and silt washing off the access road due to the lack of suitable surface and surface drainage on the access road.