



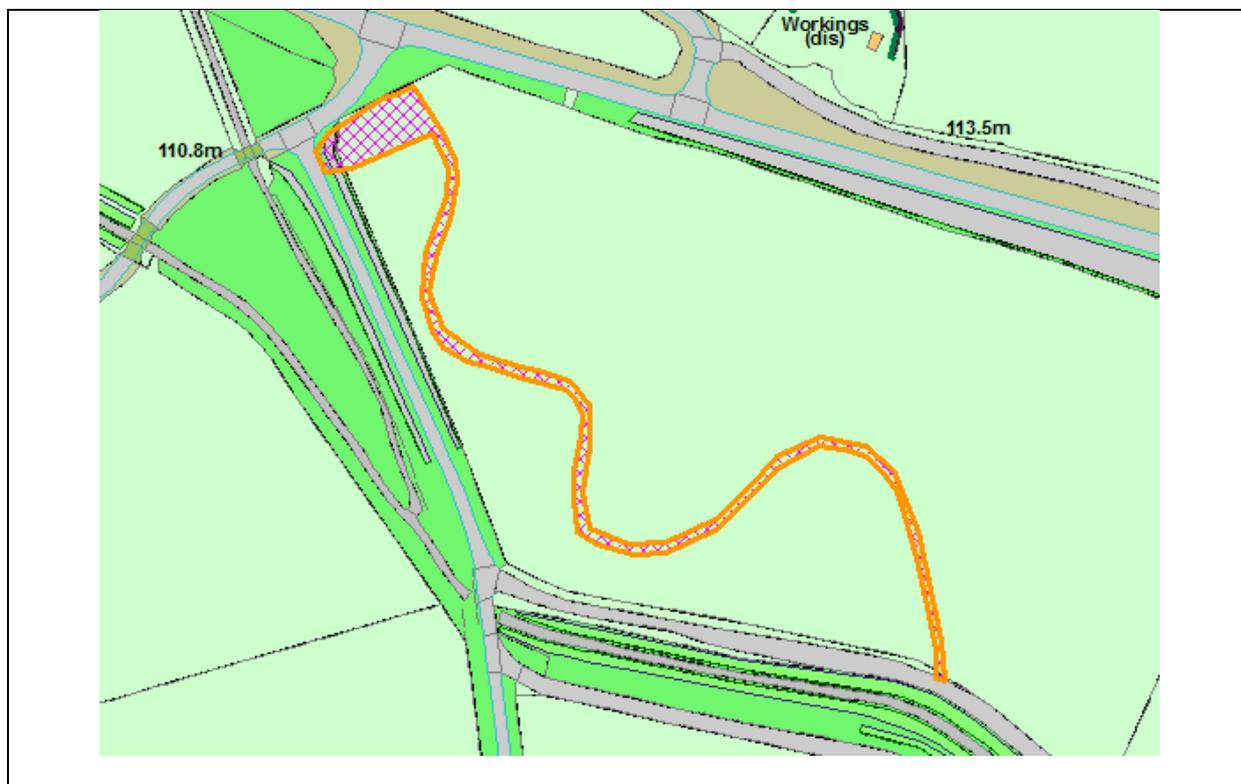
Marr Area Committee Report 4 May 2021

Reference No: APP/2021/0186

Full Planning Permission for Formation of Car Park, Access and Footpath at Land to North East of Nethermain's Cottage, Mid Beltie, Torphins

Applicant: 2D Developments Limited, Cruan, Auchattie,
Banchory, Aberdeenshire, AB31 6PT
Agent: No Agent

Grid Ref: E:363756 N:800594
Ward No. and Name: W15 - Aboyne, Upper Deeside And Donside
Application Type: Full Planning Permission
Representations: 2
Consultations: 5
Relevant Proposals Map: Aberdeenshire Local Development Plan
Designations: Rural Housing Market Area
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.3.1e of Part 2C Planning Delegations of the Scheme of Governance as there have been valid objections from five or fewer individuals or bodies with separate postal addresses or premises, and at least two of the total number of Local Ward Members in the Ward in which the development is proposed have requested that the application be referred to the Area Committee.

- Councillor Paul Gibb – *I'd like Committee to discuss and consider Policy RD1.*
- Councillor Geva Blackett – *Committee should consider the implications of Policy RD1 on this proposal.*

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 Full planning permission is sought for the formation of a car park, access and footpath on land to the north east of Nethermains Cottage, Mid Beltie, Torphins.

2.2 The site is in the northern corner of an agricultural field, approximately 800 metres to the south east of the settlement of Torphins, to the south of the A980 and just east of the junction between the passing road to the south and the road linking the A980 to the B993 that effectively serves as a bypass of Torphins. The topography of the site is relatively flat, with a field entrance already formed into the site from its south western edge. A post and wire fence bounds the site at present, with some foliage and trees within the verges.

2.3 It is proposed to form a car park, rectangular in shape with 24 parking spaces, including 2 disabled spaces. Each space would measure 2.5 metres by 5 metres, constructed in a permeable stone surface with no kerbs. Surface water run-off from the site would filter through the permeable stone surfacing and discharge to the ground. A pedestrian path, also formed with loose stones, will link from the car park southwards, linking into the existing path which runs along the old railway line and north of the Beltie Burn. Vehicular access is proposed to be from the south western edge of the site, close to the adjacent junction.

Adjacent Site History

2.4 In August 2020 (APP/2020/0859), planning permission was granted for the restoration of a highly degraded section of Beltie Burn. The Beltie Burn was previously engineered for agricultural improvements and the creation of the

Deeside Railway line. The previous engineering work was extensive, and the stream has been straightened, embanked, widened and deepened. This has resulted in disconnection of the river from the floodplain, loss of wetland habitat and flood storage capacity. The 2020 application proposed restoring the quality of the environment and providing vital nature conservation. Those works are currently ongoing.

- 2.5 In addition, there is currently an application pending (APP/2021/0470) for the formation of a multi-user path with bridge. It involves creating a section of safe off-road multi user path from the end of the railway track bed heading east over the Blacklinn Burn, through Dam Wood and to the Glassel Road edge. The application for the multi-user path would benefit from the use of the car park proposed in this current application. However, Roads Development have confirmed they hold no objection as that proposal for the multi-user path, which includes a lay-by at the east end of the path, which will measure 12 metres long by 1.5 metres wide. That is sufficient provision to accommodate visitors associated with the path upgrades without reliance on the parking provision within this proposal.

3. Representations

- 3.1 A total of 2 valid representations have been received, 1 objecting to the proposal and 1 supporting the proposal, as defined in the Scheme of Governance. The letters raise the following material issues:

Objecting

- Access to the footpath is dangerous;
- Excessive size of car park for length of walk;
- Access to car park and proximity to junction will become congested and dangerous;
- No amenities at car park (bins/toilets);
- Location will bring little benefit to Torphins;
- Concern regarding flooding and drainage.

Supporting

- The car park and path will allow visitors to safely access the river restoration site, old railway path and further section of path which is being upgraded and pending consideration APP/2021/0470;
- Will support the future growth of the path network;
- Will provide a route to connect communities and provide an attractive outdoor environment.

4. Consultations

Internal

- 4.1 **Infrastructure Services (Contaminated Land)** request that a formal note is attached to the consent regarding the potential for the developer to encounter potentially contaminated ground material during site works.
- 4.2 **Infrastructure Services (Environment – Natural Heritage)** are supportive of public access facilities, and therefore the proposal is welcomed, with the proposal linking into wider path networks. Clarification was required on tree removal, however confirmation has been received from the applicant that no trees are to be removed to facilitate the development.
- 4.3 **Infrastructure Services (Flood Risk and Coastal Protection (FRCP))** have confirmed that due to the nature of the proposal, they have no comment to make.
- 4.4 **Infrastructure Services (Roads Development)** has objected to the proposal. The location of the entrance should be at least 15 metres from the nearby public road junction, and the entrance to the car park should be 5.5 metres wide. The entrance to the car park should be shown as a bituminous/asphalt surface to a distance of 5m back from the public road. Visibility splays should be shown on the plan and any vegetation/trees/fences within these splays noted for removal/relocation.

External

- 4.5 **Torphins Community Council** are supportive of this application, they consider that it will encourage members of the general public and visitors to enjoy the wetlands and would provide a safe access point for the walks. They comment on some specific aspects, including the scale of the car park with 24 spaces considered to be excessive, no details are provided as to whether the car park would have a gate and if so how it would be controlled, they feel this is necessary to ensure there is no overnight parking.

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 2020

The Strategic Development Plan was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. 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.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

5.3 Aberdeenshire Local Development Plan 2017

Policy R1 Special Rural Areas

Policy R2 Housing and employment development elsewhere in the countryside

Policy P1 Layout, siting and design

Policy E2 Landscape

Policy PR1 Protecting important resources

Policy C4 Flooding

5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the 'settled view of the Council' on what the final adopted content of the LDP 2021 should be. A period during which representations on the Proposed LDP 2020 could be made took place between 25 May and 31 July 2020.

The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Proposed LDP has been subject to public scrutiny and has now been submitted for Examination by an independent Reporter. Nevertheless, it is

considered that the level of weight that should be applied to the Proposed LDP 2020 remains as not significant at this time. The Aberdeenshire LDP 2017 remains the up-to-date LDP for the area and the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted.

6. Discussion

- 6.1 The main issues to be addressed in the determination of this application includes the principle of the car park at this location, layout, siting and design and consideration of the technical elements of the proposal.

Principle of development and layout, siting and design

- 6.2 Policy R2, by its reference to Policy R1 Special rural areas, supports development that is for a recreational use that is compatible with its agricultural or natural setting. The proposal involves the formation of a car park and rural footpath, which will lead from the parking facility southwards linking into an existing path network, and therefore the proposal is related to a recreational use appropriate to its setting. The existing path runs along the old railway line, to the north of the Beltie Burn. A planning application is pending consideration (APP/2021/0186), which proposes to upgrade the eastern section of the path to a multi-user path. This proposed car park and linking path will help facilitate that route and future plans to expand the networks. However, it is worth noting, the multi-user path is not reliant on this car park to gain planning approval or function. Roads Development have confirmed that the proposed lay-by at the Glassel end of the path is sufficient, and they hold no objection to APP/2021/0186.
- 6.3 One objector does not consider the proposal to benefit Torphins, as visitors will drive to the site to walk, rather than entering the village to use the facilities. In planning policy terms, the proposal is considered to serve a recreational use that is compatible with its surroundings, providing a base for vehicle users utilising the paths, which will benefit locals and visitors to the area. The proposal could avoid parking issues within the village, preventing visitors who wish to use the path from potentially clogging up residential streets, whilst giving them direct access to the recreational routes.
- 6.4 Turning to layout, siting and design, and to expand on the proposal being compatible with its setting as required under Policy R1, although Torphins Community Council outline their support for the proposal, they and a representee raise concerns regarding the scale of the car park, which can accommodate 24 cars. The car park proposes to cover the north western corner of the field, and although it will cover a substantial area, this will allow for a variety of vehicle types, while leaving sufficient space for cars to manoeuvre. The topography of the site is relatively flat, and the car park will not be elevated or in a prominent position, which may appear at odds with the area, therefore the proposal is not considered to impact on the landscape. No boundary treatments are proposed beyond the vegetation that already exists, and no security gate is proposed at the entrance, which will reduce any

potential urbanised nature of the car park. Although Torphins Community Council would like a gate to ensure no overnight parking, this is not material to the consideration of the planning application. The scale proposed may be more than will be required on a regular basis, but with local recreational walks becoming popular in the current pandemic/climate, and to avoid cars spilling out onto the local roads, a larger car park from the off should hopefully prevent overspill that may then create a road safety hazard.

- 6.5 Overall, the proposal is considered to benefit members of the public, without a detrimental impact on the landscape, and the principle of development is considered to be in accordance with Policy R2, P1, and E2. However, the proposal fails to be compliant with Policy RD1 Providing suitable services, as discussed below.

Technical considerations

- 6.6 Turning to Policy RD1 Providing suitable service, Roads Development object to the proposal on the grounds of road safety. This is primarily in relation to the location of the entrance to the car park and its proximity to the existing junction on the public road. The objecting representee also raises this as a safety concern. The car park is to be accessed from the road leading to the houses at Beltie Hill, close to the junction on a busy public road. The applicant has already formed a 'construction' access at the site, however this does not meet requisite standards in regard to the proximity to the junction, width, surfacing, bellmouth or visibility. Initially, Roads Development requested the entrance to be 25 meters from the junction. However, Roads Development confirmed that they are willing to compromise and reduce this distance to 15 metres, at the nearest access kerb, subject to provision of appropriate width, surfacing and visibility splays.
- 6.7 The applicant states they are providing this facility to benefit the Torphins Path Group and their upgrading/extending of countryside walkways. They believe that Roads Development are making assumptions regarding the likely number of people/vehicles entering and egressing the proposed car park on a daily basis, as well as the extents of visibility in the vicinity of the proposed access. This dismissive stance seems contrary to the nature of the proposal – with 24 spaces proposed, the intentions behind the application would seem to suggest a relatively high number of vehicular movements to and from the site on a regular basis, yet in attempting to dismiss the valid road safety concerns of roads development there is an attempt to downplay the significance of traffic to the site.
- 6.8 The applicant was given an alternative option, to explore relocating the access to beyond the 15m compromise distance. When this was rejected without any real reason, it was suggested that they provide a technical supporting statement outlining why, in this case, it is acceptable to go against established road safety Standards and not adhere to and resolve the concerns of Roads Development. The applicant was advised to base their justification on projected vehicle movements, visibility that would be provided, and their arguments set out in 6.7 above. This would have given the Planning

Service a basis to make a judgement as to whether this, and the public benefits of the proposal, would allow sufficient justification to support the proposal contrary to Roads Development's concerns and the recognised safety and design standards. Roads Development also gave the option to provide a Safety Audit, which would be similar to the information requested above, to confirm that the residual risks are low and to give Roads Development something further to consider to perhaps alter their view.

- 6.9 The applicant is not willing to make any amendments to the proposal or provide supporting information. This is disappointing and not conducive to resolving the issues that would otherwise allow a positive outcome for the proposal, which as outlined earlier in the report, has benefits to the local area. The applicant states that by moving the entrance to the car park the proposal will impact on trees. Notwithstanding this, the Planning Service have confirmed that the public benefits of the proposal would outweigh the loss of those trees along the verge (discussed further below). The applicant has been given a number of options and suggested compromises to move the application forward, however they have confirmed they would like to proceed as submitted with no amendment or justification for the proposal forthcoming. The applicant has been asked several times to either amend the proposal, which can be easily achieved with acceptable, minimal tree loss and easy re-siting of the access; or to provide supporting information to make a case for support, but no amicable solution has been delivered. This leaves no option other than for the Planning Service to consider that the proposal fails to comply with Policy RD1 Providing suitable services, based on an outstanding objection from a statutory consultee relating to road safety concerns, and the planning application cannot be supported.
- 6.10 Concern is raised through a representation regarding flooding and drainage, and the site is highlighted as containing SEPA surface water constraints. Subsequently, FRCP were consulted, however due to the nature of the proposal, being a porous surface of relatively small area, they have no comments to make, thus is considered compliant with Policy C4 Flooding.

Natural Heritage

- 6.11 The site is located in an agricultural field which is bound by foliage within the grass verge. The Council's Environment Team have confirmed that the former railway line to which this development would link is well used for outdoor access, and this public access facility is welcomed.
- 6.12 As currently proposed, no trees would be affected by the development, they have no concern in this regard. This does not account for the required visibility splays which may require some pruning or felling of trees. However, by moving the entrance to the car park further south, this would likely result in the loss of 3 trees within the road verge, which was discussed with the Environment Team whilst the Planning Service were trying to facilitate a solution. These trees are not protected by a Tree Preservation Order nor provide significant habitat or landscape value, and they could be compensated for on land within the applicant's ownership, which would be

considered acceptable and compliant with Policy PR1 Protecting important resources due to the proposal having benefits that would outweigh the loss of the 3 trees. Notwithstanding this, the applicant is not willing to relocate the access and remove these trees to allow the proposal to be serviced appropriately.

Conclusion

- 6.13 Overall, it is acknowledged by Planning Service that the proposal will have wider community and long term benefits and the principle of development is generally acceptable. However, the access arrangement would present a road safety hazard, and regrettably the applicant is not willing to alter the proposal to allow Roads Development to remove their objection. Similarly, the applicant has provided no justification, in the form of a Road Safety Audit or other appropriate study/evidence, to allow either Roads Development or the Planning Service to support the proposal contrary to established safety Standards. As a result, the proposal fails to comply with Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan and is recommended for refusal.
- 6.14 It is hoped that if refused the applicant will come back in with a revised application to allow this worthwhile proposal to proceed. Should the general site of the car park remain the same, within the same red line application site as this application, but the access be moved to a new location, this can be captured as a “free go” within 1 year from the date of refusal. The Planning Service have endeavoured to facilitate a workable solution for a safe access within this application, but unfortunately this has not been achieved.

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 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 reason:-

01. The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. The proposed location and design of the access to the car park is sub-standard and too close to the junction of the public road, thus creating potential vehicle conflict and road safety impacts and subsequently fails to comply with Policy RD1 Providing suitable services.

Alan Wood
Director of Infrastructure Services
Author of Report: Louise Smith
Report Date: 13 April 2021

From: 
To: [Planning Online](#)
Subject: Planning Application 2021/0186 - Formation of Car Park , Access and Footpath.
Date: 04 March 2021 16:11:48

For the Attention of Planning Officer : Louise Smith.

At a recent meeting of the Torphins Community Council (TCC) it was agreed that we would fully support this Planning Application. Its addition to the recently completed Beltie Burn restoration project will encourage the General public and vistors to enjoy the wetlands to their full advantage. It will also bring benefits to the local area and the car park and access point will provide a safe , pleasant starting point for those wishing to undertake short walks around the wetland , or for those wishing to walk or cycle further East towards Banchory.

The TCC wish to remain neutral with respect to the plan, however we would wish to offer comment on a few matters.

- Car Parking is absolutely essential, however it is thought that 24 parking slots is excessive. A full car park could mean 100+ people at any one time treading the path. TCC believe that this should be tempered by reducing the number of parking slots to approximately 10.
- No mention is made as to whether the access will be gated or left completely open. If gated , how would it be controlled?
- There is a danger of overnight parking by vendors , tourist vans , motor homes etc , therefore we would prefer to see some form of height restrictive barrier in place to avoid this event happening. Appropriate signage would of course be required.

TCC trust that their comments will be accepted favourably by the Planning Authority.

Thanks and Regards

Eric W. Day - Torphins Community Council (Treasurer and Planning)



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