

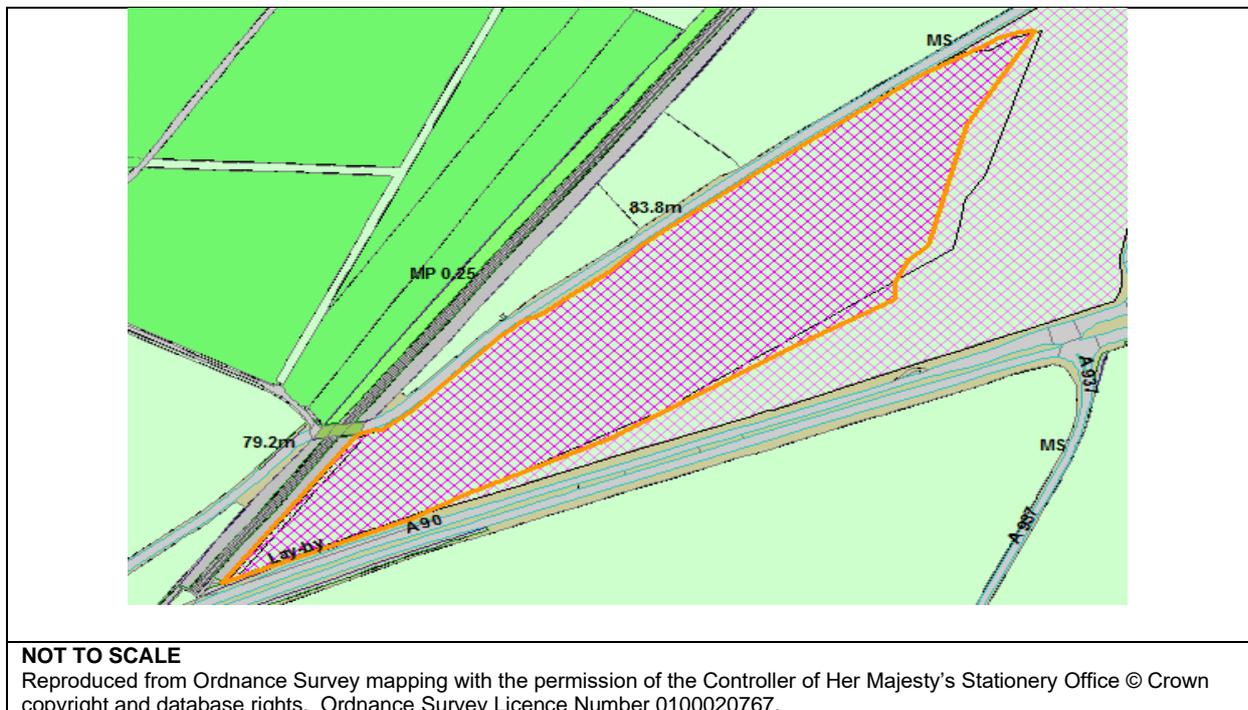
Kincardine & Mearns Area Committee Report 12th October 2021

Reference No: APP/2021/1231

Planning Permission in Principle for Mixed Use Roadside Services Development, Including Retail (Class 1), Food and Drink (Class 3), Hotel (Class 7), Rest Areas and Toilet Facilities, Petrol Filling Station (Sui Generis), Electric Vehicle Charging, Children's Play Area, Landscaping and Vehicle Parking at Land Adjacent to A90 / A937 Junction, Laurencekirk, Aberdeenshire

Applicant: A J Developments (Scotland) Ltd, C/o Agent
Agent: Fairhurst, Arngrove Court, 1 Barrack Road, Newcastle Upon Tyne, NE4 6DB

Grid Ref: E:370456 N:770219
Ward No. and Name: W19 - Mearns
Application Type: Planning Permission in Principle
Representations: 0
Consultations: 13
Relevant Proposals Map Designations: Aberdeenshire Local Development Plan 2017 Rural Housing Market Area
Complies with Development Plans: No
Main Recommendation: Grant (Refer to ISC)



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.2.1c of Part 2C Planning Delegations of the Scheme of Governance as the application is for major development, and the Head of Planning and Environment Service is of the professional opinion that the approval of the application would be a departure, albeit not a significant departure, from the Development Plan, and should the Area Committee decide to support the application, the application shall be referred to the Infrastructure Services Committee for determination.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 This application relates to a mixed-use roadside services development, to the south of Laurencekirk. The application site of approximately 8.1 hectares forms part of a field presently used for agricultural purposes, to the north of the A90, close to its junction with the A937, at the southern end of Laurencekirk. The application site is also bounded by the presently closed road to Denlethen Wood over the east coast main railway line, at the Oatyhill bridge. The land is identified as being prime agricultural land (Grade 2), which covers the majority of this part of the Howe of the Mearns. In this location, the topography is generally quite flat, with the land rising to the east beyond the A90 up the Garvock. To the north west is Denlethen Wood which acts as a partial backdrop to the site.
- 2.2 The A90/A937 Junction Improvement Scheme is proposed by the Scottish Government as part of a package of additional investment alongside the Aberdeen City Region Deal. It shall deliver a new grade separated junction located adjacent to the application site, to the south east, and east. It would introduce 4 slip roads to/from the A90 to two roundabouts on either side of a new overbridge spanning the A90. The scheme would sever the existing agricultural land thus leaving the application site isolated amidst the existing and proposed road infrastructure. The Draft Order and Environmental Impact Assessment has been published in late 2019, with Transport Scotland considering the responses received, and whether a Public Local Inquiry is required.
- 2.3 This application for planning permission in principle, seeks to provide:
- 100 bedroom hotel;
 - 10 bay Petrol Filling Station;
 - Roadside services (retail maximum of 200 square metres) and ancillary space for toilets, children's play areas, electric vehicle charging; parking, landscaping etc; and
 - Restaurant (969 sq.m)
- 2.4 The indicative plans submitted, illustrate how the development would appear as a standalone proposal, and against the aforementioned A90/A937 Junction

improvement scheme. The plans indicate that the hotel element would be positioned towards the south west of the site as the site tapers between the railway, Oatyhill bridge, and A90. The middle section would comprise the services and associated elements, while the Petrol Filling Station would be located towards the north. All aspects of the development would be served off the existing road, at two separate points.

- 2.5 The development would be served by connections to the public water and foul drainage networks.

Relevant Planning History

- 2.6 As outlined below, a number of pre application submissions have been received in relation to the specific development proposals:

ENQ/2020/1617 Proposal of Application Notice - Erection of Roadside Services (Mixed Use Development) including Ancillary Retail, Hotel, Restaurant, Petrol Station and EV Charging

ENQ/2020/0375 Environmental Impact Assessment Screening Opinion - Erection of Mixed Use Development Including Roadside Services, Hotel, Restaurant, Farm Shop, Garden Centre, Petrol Filling Station, Play Area, Open Space Areas and Parking Provision

ENQ/2020/0162 POAN Erection of Mixed Use Development for Roadside Services including Hotel, Restaurant, Farm Shop, Garden Centre, Petrol Filling Station, Play Area, Open Space Areas and Parking Provision

ENQ/2019/1729 Pre Major Application Enquiry - Erection of Mixed Use Development Including Roadside Services, Hotel, Restaurant, Farm Shop, Garden Centre, Petrol Filling Station, Play Area, Open Space Areas and Parking Provision

- 2.7 On the land to the immediate east of the A937, a planning application for 77 dwellings and 8 commercial units (Ref: APP/2010/2822) was approved in August 2016. That application has been lawfully implemented/commenced following the formation of the site access.
- 2.8 A parallel application, to the site to the east, for a Mixed Use Development comprising a residential, commercial, business units and retail/petrol station etc (Ref: APP/2010/2823) was also and Associated Roads, Landscaping and Public Open Space) was also granted planning permission in principle, but a subsequent Matters Specified in Conditions application never submitted. Therefore, that permission has expired.

Supporting Information

- 2.9 As part of the application submission, a number of supporting documents have been provided as follows:

Pre Application Consultation Report by Fairhurst dated 11 May 2021.

Confirms the methodology undertaken for pre application consultation which included an online consultation event, with follow up to outline how comments received had been taken into account. In total 9 attendees participated from the local community, community council, and Aberdeenshire Council.

Transportation Assessment by Fairhurst dated September 2021 (Revision 4)

Planning Supporting Statement by Fairhurst dated May 2021

Noise Impact Assessment by Vibrock dated 30 April 2021

Primarily prepared to consider the potential impacts on amenity of occupants of the hotel adjacent to the A90 Trunk Road.

Drainage Assessment by Fairhurst dated April 2021

Outlines that there are no public sewers in the application site, with the nearest approximately 200 metres north east of the A937. The proposal includes new foul gravity sewers, and surface water being disposed of by SUDS including filter trenches, extended detention basin, and grass swales.

Arboricultural Impact Assessment / Method Statement by Urban-Arb dated 7 April 2021.

Confirms that while only an application in principle approximately 21 trees would require to be removed in order to form the respective accesses into the site. This is in comparison to the 165 trees surveyed, 164 of which are considered either grade C (low quality/) or U (unsuitable for retention).

Air Quality Assessment by Vibrock dated 5 May 2021

Was prepared to consider air pollution which could arise as a result of the construction phase, and from increased vehicle movement once operational. Outlines potential mitigation for dust management, and that none of the changes in air quality pollutant concentrations are deemed to be significant.

Variations & Amendments

- 2.10 A change was made to the description to remove hot food take-away elements, which comprised two drive-thru restaurants (each of 300 square metres), and one drive thru coffee shop (200 square metres). In addition, the extent of retail proposal has been reduced to 200 square metres, from almost 1,000 square metres.

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

Internal

- 4.1 **Business Services (Legal and People – Developer Obligations)** has confirmed that the proposed development does not engage the Developer Obligations and Affordable Housing policies or associated supplementary guidance of the ALDP. Therefore, in this instance no contributions are required.
- 4.2 **Infrastructure Services (Archaeology)** has no objection. A condition should be attached in respect of a programme of archaeological works.
- 4.3 **Infrastructure Services (Contaminated Land)** has commented that further information has been provided in relation to the former use of the site. There is no indication of any past use which might have caused contamination. As such they have no further comments.
- 4.4 **Infrastructure Services (Environment – Natural Heritage)** has commented that the preliminary ecological survey carried out confirmed habitats were of relatively low ecological value. Conditions relating to the Construction Environmental Management Plan, and measures outlined in the Ecological assessment. A detailed landscaping plan shall ultimately be required to demonstrate the means of local habitat enhancement, and new planting of native species.
- 4.5 **Infrastructure Services (Environmental Health)** has no objection to the proposals. The air quality conclusions of the assessment are accepted. In respect of odour matters, while the drive thru and coffee shop elements have been removed from the proposals, a service building and restaurant building are still proposed. As such full details of odour control measures would still be required to be assessed. In respect of noise, a planning condition could control noise impacts in relation to the hotel. Similarly, lighting can also be adequately controlled via condition to prevent obtrusive light from affecting adjacent property, or indeed the adjacent A90.
- 4.6 **Infrastructure Services (Flood Risk and Coast Protection)** no response has been received.
- 4.7 **Infrastructure Services (Roads Development)** initially provided a holding objection until the receipt of additional information. Have subsequently confirmed that the site access with the U91K and A937 are proposed to be (in part) via new infrastructure which is yet to be delivered. These accesses will require to be designed in accordance with the Design Manual for Roads and Bridges and Aberdeenshire Councils Standards for Roads Construction Consent and Adoption. Construction will be subject to a separate legal agreement under section 56 of the Roads (Scotland) Act 1984. Details of the provision of two bus stops on the A937 are also required in due course. Final road and pedestrian layout details will require to be submitted for approval as part of any subsequent MSC or detailed application (which should include the

full lit adoptable footpath linkage from the development over the Gaugers Burn and into Laurencekirk).

They have no objection subject to the use of conditions relating to the final design of junction arrangements, road/pedestrian layouts, provision of layouts in full before occupation, pedestrian footpath connectivity, and parking in accordance with council standards.

- 4.8 **Infrastructure Services (Waste management)** initially indicated that in sufficient information had been provided. However, following clarification over the type of application being Planning Permission in Principle, it was subsequently confirmed as to the broad design parameters that should be adhered to for any further applications made as a result of a grant of planning permission.

External

- 4.9 **Mearns Community Council** has commented that members are supportive of the application. At the point of pre application discussions, potential concerns over the following aspects were discussed:
- Safe pedestrian access to Denlethen Wood;
 - Consideration of diversion routes for road traffic accidents on the A90, and particularly in light of the potential demolition of the Oatyhill Bridge.
- 4.10 **Network Rail** has commented that they have no issues regarding the principle of the proposal. Although conditions should be attached in respect of surface and foul drainage being sited outwith 10 metres of the railway boundary; and, a lighting scheme being developed to avoid light spill towards approaching trains.
- 4.11 **Scottish Water** has commented that they have no objection to the planning application. There is currently sufficient capacity at Whitehillocks Water Treatment Works, and a foul only connection to Laurencekirk Waste Water Treatment Works.
- 4.12 **SEPA** have no comments on the proposals.
- 4.13 **Transport Scotland** has confirmed that they have no objection to the development proposals. Should permission be granted, conditions should be attached relating to:
- Restriction to development levels proposed;
 - No part of the development being occupied until the A90/A937 junction improvement scheme is fully operational;
 - Details of lighting, landscaping and fencing/barrier provision; and
 - There be no drainage connection to trunk road drainage systems.

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 (SDP) 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 B2: Town Centres and office development
Policy B3: Tourist facilities
Policy R2: Housing and employment development elsewhere in the countryside
Policy P1: Layout, siting and design
Policy P2: Open space and access in new development
Policy P4: Hazardous and potentially polluting developments and contaminated land
Policy E1: Natural heritage
Policy E2: Landscape
Policy HE1: Protecting historic buildings, sites and monuments
Policy PR1: Protecting important resources
Policy PR2: Protecting important development sites
Policy C1: Using resources in buildings
Policy RD1: Providing suitable services
Policy RD2: Developers obligations

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.

5.5 Other Material Considerations

PAN 75: Planning for Transport

6. **Discussion**

6.1 In this instance, the main issues for consideration relate to:

- the principle of the development;
- the siting, layout and design;
- environmental matters;
- technical considerations, and consultation responses.

Each shall be addressed in turn.

Principle

- 6.2 At the outset, this is a relatively unique proposal, in that very few roadside service developments have been received other than a partially comparable proposal (Ref: APP/2017/1366) at Mains of Luther some 2 kilometres to the south west, at the junction of the A90 and B974. In that instance the application was refused, and the appeal subsequently dismissed. That was primarily in light of the siting not being well related to a settlement, scale of proposals, the loss of prime agricultural land, and road safety.
- 6.3 As a mixed use development, there are a number of component parts, but the over-riding thread through them relate to the provision of infrastructure currently lacking alongside the existing A90, and the linkages to tourism. At the same time, parts of the proposal would also constitute forms of retailing, which may not solely be utilised by existing road traffic, and therefore those aspects would also be considered under the other relevant policies of the LDP.
- 6.4 Ordinarily, a development of this scale being defined as major through the planning hierarchy, with a site of over 8 hectares, and the potential to employ over 30 people, would be encouraged to go through the LDP review process, for consideration as a subsequent allocation in a future LDP. However, the circumstances in this instance of A90/A937 junction improvement scheme shall see a significant change in the locality to allow consideration of this proposal at this current time, taking cognisance of the imminent change.
- 6.5 At the initial point of submission, it was noted that the scale of development significantly exceeded that previously tabled at the time of the proposal of application notice. Therefore, through negotiation with the applicant, an agreement was reached to delete the three drive thru facilities from the proposal, as it was deemed that they would serve a purpose and catchment far beyond that expected of a roadside services and would definitely have a greater conflict with Policy R2 which shall be discussed in more depth below.
- 6.6 Given the majority of this proposal would be deemed to be either a tourist facility, and accommodation, the edge of the site is only 400 metres to the south west of the defined settlement boundary of Laurencekirk. As such, it would be considered to be well related to the existing settlement, at a key node/junction on the regional transport network. In addition, in respect of the consideration of cumulative impact, the nearest services and petrol station are at Stracathro, approximately 8 kilometres away, just into the Angus Council area. Furthermore, the small number of local hotels in and around Laurencekirk has diminished over recent years, therefore this would cater for a gap in the current market. It would therefore be deemed in accordance with Policy B3 Tourist facilities.
- 6.7 Similarly, when it comes to the retail aspect of the proposal, concern was initially raised by the Planning Service as to the potential of 1000 square metres of Class 1 retail at the proposed facility. That could have equated to a medium sized supermarket. However, following discussion with the applicant, with reference to Annex F of PAN 75 Planning for Transport, it was flagged that it defines road side services as providing:

- free short term parking for commercial and private vehicles;
- fuel; toilets;
- picnic area;
- catering;
- retail limited to 200 square metres of net floorspace;
- overnight accommodation.

- 6.8 As such it is considered that the vast majority of the proposals would fall under those headline facilities above. In light of the specific reference to maximum retailing floorspace, the applicant agreed to reduce the level of class 1 retail by approximately 80 % in order to be within those limitation. That level can also be controlled through planning condition. Therefore at 200 square metres, it is not considered that it would result in any significant detriment to retail offerings within Laurencekirk. Notwithstanding, the latter is not a defined town centre as identified in the hierarchy of centres within the Aberdeenshire Local Development plan, and therefore the proposal is in compliance with Policy B2 Town centres and office development.
- 6.9 Turning to Policy R2 Housing and employment development elsewhere in the countryside, as outlined in the glossary to the Local Development Plan, in the case of employment uses, small scale development is defined as being a site of less than 0.5 hectares and employing 5 or less full time people. Therefore, with a site area of over 8 hectares and potential employment of over 30 people, this proposal would constitute a departure from Policy R2, but not one which would be considered significant as the proposed development would not jeopardise the delivery of allocated sites within settlements/ALDP, and it's also located in the Strategic Growth Area (SGA) where development is encouraged.
- 6.10 Therefore in light of the above, the broad principle of the development is considered to be in compliance with Policy B3 Tourist facilities, whilst aligning with the aims and objectives of economic growth within the Aberdeen City and Shire Strategic Development Plan (Approved August 2020).

Layout, Siting and Design

- 6.11 With this application being for planning permission in principle, the submitted plans are merely indicative at this stage. However, given the relatively low lying nature of the site, and the intended scale of development, it is considered that there is potential for a development of this type to be incorporated into the local landscape without detriment to the wider character of the area. This is further enabled by the backdrop of the existing Denlethen woodland, and the knowledge of the impending infrastructure project relating to the A90/A937 junction improvement scheme, which with its grade separated junction and associated flyover, shall have a considerably greater impact on the local landscape in comparison. It is therefore considered that the proposal is in compliance with Policy E2 Landscape. Similarly, in respect of Policy P1 Layout, siting and design, the indicative plans provided do show that the site of over 8 hectares has ample space to ensure that an appropriately design layout can be provided, that appropriate for the character and appearance of the local area, whilst also improving linkages back into

Laurencekirk, and the wider path networks around the settlement. This shall enable generous portions of landscaping to be incorporated into the site, which would further screen and enhance the visual appearance, in line with Policies P1 Layout siting and design, and P2 Open space and access in new development, with the specifics of the layout being considered at either the Matters Specified in Conditions (MSC) or full planning application stage.

- 6.12 In recognising the proximity to the A90 due cognisance has to be given to the ability to deliver a hotel development where an appropriate level of amenity can be achieved, in light of the adjacent noise source, as well as also ensuring that any development implemented does not have a nuisance upon existing property either during construction or whilst operational. Having analysed the submitted supporting information, Environmental Health are satisfied that the proposals themselves would not have any direct air quality impacts of significance above those experienced due to current traffic levels. Analysis of specific cooking odours, and lighting would be assessed at the time of future applications, and technical matters can be addressed through the use of conditions. It is therefore consideration that the proposal can be in accordance with Policy P4 Hazardous and potentially polluting developments and contaminated land.
- 6.13 Turning to Policy PR2 Protecting important development sites, it seeks to protect sites that may be reasonably needed for delivering improvements to transportation, among a number of other important infrastructure provisions. In this instance, the application site boundary has taken full cognisance of the draft orders published for the A90 / A937 junction improvement scheme, which also incorporated a degree of buffer alongside the actual road alignments. While it is acknowledged that the current bridge crossing over the railway at Oatyhill/Denlethen remains closed, and its future undefined, the current layout is merely indicative at this time, and any replacement infrastructure would have its own process to go through. Therefore, this application must be assessed in its own merits, and against the policies of the LDP, and any other material considerations. With no objections from consultees, it is considered that the principle of the development would have no impediment to the delivery of the aforementioned essential infrastructure project and would therefore comply with Policy PR2.

Environmental Matters

- 6.14 Ordinarily, as outlined in Policy PR1 Protecting important resources, the development of prime agricultural land would be discouraged. However, in this instance there are considered extenuating circumstances. Firstly, as a result of the emerging A90/A937 junction improvement scheme, a significant part of the existing field would already be lost to the necessary infrastructure improvements. As a result, that development would massively reduce the capability to be used for agricultural purposes, given the resulting tapered and isolated nature of the field to surrounding agricultural enterprises. Furthermore, there would be clear public economic benefits that would arise through the creation of jobs both during construction and operation of the proposals, with the latter estimated at 30. In addition, there would also be ongoing investment and expenditure in the local area through enhanced tourism opportunities.

- 6.15 In addition, of the overall 165 trees surveyed on the site, there would be a relatively small number potentially lost (approximately 21) through the formation of the access points into the site. Given that the existing coverage is largely contained within a linear boundary feature between the fields and existing road, and not of any particular maturity or graded value, their loss could be adequately compensated through additional compensatory planting and biodiversity enhancement. Therefore, the proposals would be in accordance with Policies PR1 protecting important resources and Policy E1 Natural heritage.
- 6.16 In respect of built heritage, consultation with the archaeology team has flagged the need for a site investigation before the commencement of works. This can be adequately controlled by condition and therefore in compliance with Policy HE1 protecting historic buildings, sites and monuments.

Technical considerations

- 6.17 In respect of Policy RD1 Providing suitable services, it is essential that development provides adequate road, waste management, water and waste water infrastructure. Through consultation with Roads development and Transport Scotland, no objections to the proposal have been raised. In both instances, the ultimate success of the development would depend upon the specific details and design of the proposals through future applications as is the case with applications for planning permission in principle. In addition, given the inherent linkages with the junction improvement scheme, a condition would also prevent any part of the development being occupied before the new junction is fully operational. Conditions would also be used to cover other matters such as layouts, pedestrian linkages, and parking provisions.
- 6.18 In addition, no objections have been received from Scottish Water, the Council Flood Risk and Coast Protection team, nor SEPA. The broad principles of the drainage and water infrastructure arrangements have been tabled through supporting information, and again, the final design would be assessed at the more detailed application stage. As outlined above, consultation with Network Rail has also thrown up a number of matters, which also have an element of crossover with the response received from Transport Scotland. In particular this relates to lighting proposals, and potential drainage implications onto road and rail infrastructure, again, confirmation of the finer details can be submitted at the next application stage, where further consultation would occur to analyse the specifics of the submissions. The proposals can therefore be deemed to accord with Policy RD1 Providing suitable services.
- 6.19 Again, in light of the development merely being considered in principle at this stage, full consideration of the measures proposed to reduce carbon dioxide emissions would be assessed once the final details of built form have been finalised. As such, that detail would have to accord with the detailed requirements of Policy C1 Using resources in buildings at that point.
- 6.20 Lastly, in light of Policy RD2 Developers obligations, it has not been flagged that any contributions would be payable in this instance for the type of

development proposed. It was however flagged that Road bonds may be necessary.

Summary

- 6.21 In conclusion, following the reduction in the scale of the development sought, the development proposals which are primarily based around a tourist facility, and associated infrastructure, are closely aligned to the delivery of the much needed A90 / A937 junction improvement scheme. While an area of prime agricultural land would be lost, the economic benefits through job creation and localised expenditure, provides sufficient justification to support the development as a departure from Policy R2 Housing and employment development elsewhere in the countryside. The proposal would directly abut the A90 one of a primary transportation route in the strategic growth area, within close proximity to the settlement of Laurencekirk, thereby being in compliance with Policy B3 Tourist facilities. Furthermore, it can likely be accommodated into the local landscape, without detriment to the character or amenity of the area, whilst also providing suitable access and servicing, and is compliant with all other relevant policies of the Aberdeenshire Local Development Plan (2017).

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 integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 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.
- 8.4 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.

9. Departures, Notifications and Referrals

9.1 Strategic Development Plan Departures

None

9.2 Local Development Plan Departures

Policy R2: Housing and employment development elsewhere in the countryside

- 9.3 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.
- 9.4 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.
- 9.5 The proposed development is in the opinion of the Head of Planning and Environment Service in significant conflict with Policy R2 Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan (2017) and if the Committee is minded to approve then the application will have to be referred to Infrastructure Services Committee.

10. Recommendation

- 10.1 **That Members agree that the application be referred to the Infrastructure Services Committee for determination and confirm their support for the application by agreeing that Authority to GRANT be delegated to the Head of Planning and Environment Service subject to the following conditions:**
01. Details of the specified matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No development shall begin on the site unless all of the details listed in this condition have been submitted to and approved in writing by the planning authority. The development shall be carried out in complete accordance with the details approved in relation to this condition.

Specified matters:

- (a) Full details of the layout and siting of the proposed development;
- (b) Full details of the external appearance and finishing materials of the proposed development;
- (c) A landscaping scheme and tree protection plan including proposed landscape features, including trees to be retained and planted; a tree survey should be submitted assessing the trees to inform the layout of the development including details of compensatory planting.
- (d) A detailed levels survey of the site and cross sections showing proposed finished ground and floor levels relative to existing ground levels and a fixed datum point;
- (e) Full details of any proposed boundary treatments/barriers;

- (f) Full details of the proposed means of disposal of foul and surface water from the development;
- (g) Full details of the proposed access to the development from the U91K; junction with the A937; and pedestrian connectivity to the north side of the Gauger Burn;
- (h) Full details of the proposed car parking/vehicle turning area for the development;
- (i) Full details of two bus lay-bys complete with shelters on the A937;
- (j) A Construction Environmental Management Plan;
- (k) Full details of external lighting;
- (l) Full details of a travel plan for any individual building; and
- (m) Full details of odour control and noise mitigation.

Reason: Permission for the development has been granted in principle only and subsequent approval is required for these matters in accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved written scheme of investigation. The written scheme of investigation shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use] unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

03. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the development hereby permitted shall not exceed the following levels:
- 10 Bay Petrol Filling Station (PFS)
 - 200sqm GFA Class 1 Retail within the main services building
 - 969sqm GFA Class 3 Restaurant
 - 100 Bedroom Hotel

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network.

04. No part of the proposed development shall be occupied until the A90 / A937 Laurencekirk Junction Improvement Scheme is fully operational, and the new accesses off the A937 and U91K serving this site are completed in full.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk or local road network.

05. The lighting details required under Condition 1(k) shall include the following requirements:

Prior to the commencement of the development details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, Network Rail and Environmental Health. The submission shall include full details of the proposed lighting for the development and an impact assessment of obtrusive light from the development. In addition, any lighting associated with the development including any floodlighting must not interfere with the sighting of signalling apparatus and/or train drivers' vision on approaching trains.

All lighting shall be provided and thereafter retained in accordance both with the approved scheme and the Guidance Notes for the Reduction of Obtrusive Light issued by the Institution of Lighting Professionals (GN01:20).

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road, that the safety of the traffic on the trunk road will not be diminished, in order to minimise the amount of obtrusive lighting from the development in the interests of the visual amenity of the surrounding area, and to ensure any lighting associated with the development does not interfere with the safe operation of the rail network.

06. The landscaping/boundary/barrier details required under Condition 1(c), and (e) shall include the following requirements:

Prior to commencement of the development, details of the landscaping treatment, and fencing/barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. All landscaping, fencing and barrier proposals shall be located such that it can be installed and maintained from within the development without requiring access to the trunk road.

Reason: To ensure that there will be no distraction to drivers on the trunk road, that the safety of the traffic on the trunk road will not be diminished, and to minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

07. The landscaping/boundary/barrier details required under Condition 1(c), and (e) shall include the following requirements:

Prior to commencement of the development, a further assessment of the requirement for vehicle barrier provision (such as a vehicle restraint system)

along the trunk road boundary, shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. The approved scheme will thereafter be implemented, prior to commencement of the development.

Reason: To ensure appropriate safety barrier provision is provided to protect trunk road drivers from the risks presented by roadside dangers.

08. The drainage details required under Condition 1(f), shall include the following requirements:

There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.

09. The drainage details required under Condition 1(f), shall include the following requirements:

No development shall take place on site until such time as a surface and foul water drainage scheme has been submitted to and approved in writing by the Planning Authority. Any Sustainable Urban Drainage Scheme must not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the needs of the development. The development shall be carried out only in full accordance with such approved details.

Reason: To protect the stability of the adjacent railway embankment and cutting and the safety of the rail network.

10. The access details required under Condition 1(g), (h) and (i) shall include the following requirements:

- all final junction access arrangements to the site with the public road (U91K) must be agreed in full, with the Planning Authority in consultation with Aberdeenshire Councils Transportation and Roads Development team.
- all final junction access arrangements with the A937 public road as generally indicated on drawing "134575/sk7001 rev A" (dated 13/09/21) are to be submitted and on approval be completed in full. All details to be discussed and agreed with Aberdeenshire Councils Transportation and Roads Development team. All works shall be carried out to the satisfaction of the Planning Authority in consultation with Aberdeenshire Councils Transportation and Roads Development team.
- final road/pedestrian layout details including details of proposed pedestrian links to existing public network, must be submitted for approval.
- Prior to occupation of any building within the development, a continuous fully lit 2m width footway link must be provided between the development

and the existing roadside public footway to the north side of the Gauger Burn. A minimum 2m footway width must be maintained across the Gauger Burn.

- Prior to occupancy of development, Parking spaces, surfaced in hard standing materials shall be provided within the site in accordance with the Council's Car Parking Standards.
- Prior to commencement of development, two number bus lay-bys (complete with shelters) on the A937 are to be designed in accordance with the Design Manual for Roads and Bridges and Aberdeenshire Councils Standards for Roads Construction Consent and Adoption. Lay-by details are to be discussed, submitted and agreed in full with Aberdeenshire Councils Transportation and Roads Development team. All works shall be carried out to the satisfaction of the Planning Authority in consultation with Aberdeenshire Councils Transportation and Roads Development team.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

11. The travel plan details required under Condition 1(l) shall include the following requirements:

No building hereby approved shall be brought into use unless a Travel Plan for that building has been submitted to and approved in writing by the planning authority. Each Travel Plan shall encourage more sustainable means of travel and shall include mode share targets. It shall identify measures to be implemented, the system of management monitoring review, reporting and duration of the incorporated measures designed to encourage modes other than the private car. No building shall be brought into use unless the measures set out in its respective approved Travel Plan have been implemented in full.

Reason: In the interests of encouraging a more sustainable means of travel to and from the proposed development.

12. The CEMP details required under Condition 1(J) shall include the following requirements:

No works in connection with the development hereby approved (including demolition, ground works and vegetation clearance) shall commence unless a construction environmental management plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include the following:

- (a) Risk assessment of potentially damaging construction activities;
- (b) Identification of biodiversity protection zones;
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- (d) The location and timing of sensitive works to avoid harm to biodiversity features;
- (e) The times during construction when specialist ecologists need to be present on site to oversee works;
- (f) Responsible persons and lines of communication;
- (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- (h) Use of protective fences, exclusion barriers and warning signs.

All works carried out during the construction period shall be undertaken strictly in accordance with the approved CEMP.

Reason: In the interests of protecting the biodiversity of the environment.

13. The development hereby approved shall be carried out in strict accordance with the approved Preliminary Ecological Appraisal by Eco North dated 3 May 2021, and the specific mitigation and compensation strategy outlined in Section 6, as submitted and agreed as part of the planning application].

Reason: In the interests of protecting the biodiversity of the environment.

14. The odour control and noise mitigation details required under Condition 1(m) shall include the following requirements:

No works in connection with the hotel development shall commence until details of the noise mitigation scheme for the hotel has been submitted to and approved in writing by the planning authority. The noise mitigation scheme shall be developed using the baseline and source noise data presented in the Noise Impact Assessment (R21.11007/3/RK, dated 30 April 2021) carried out by Vibrock, unless otherwise agreed with the Planning Authority as a result of updated information.

Reason: To ensure the implementation of a satisfactory means of noise attenuation in the interests of the amenities of the occupiers of the proposed development.

15. The odour control and noise mitigation details required under Condition 1(m) shall include the following requirements:

Full details of the odour control system to be installed in any Class 3 or sui generis food and drink outlet shall be submitted to and approved in writing by the planning authority. The design of the proposed odour control systems shall have regard to the document 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems, published by EMAQ as an update to the 2004 report prepared by NETCEN for the Department for Environment, Food and Rural Affairs'. No Class 3 or sui generis food and drink outlet shall operate unless the odour control system has been installed in accordance with the approved details.

Reason: To ensure that odour from the development does not result in undue loss of amenity for surrounding properties.

16. The landscaping details required under Condition 1(c), shall include the following requirements:

Details of the scheme shall include:

- a) A tree survey in accordance with BS 5837:2012;
- b) Existing landscape features and vegetation to be retained;
- c) Protection measures for the landscape features to be retained;
- d) Existing and proposed finished levels;
- e) The location of new trees, shrubs, hedges, grassed areas and water features;
- f) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- g) The location, design and materials of all hard landscaping works including walls, fences, gates, street furniture and play equipment;
- h) An indication of existing trees, shrubs and hedges to be removed;
- i) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

17. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

18. Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

19. No individual building hereby approved shall be erected unless an Energy Statement applicable to that building has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:

- a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development;
- b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2017.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

20. No works in connection with the development hereby approved shall commence unless a Phasing Plan setting out the details of the phasing of the development has been submitted to, and approved in writing by, the planning authority. Thereafter, the development shall be carried out in complete accordance with the approved Phasing Plan.

Reason: To ensure that build-out of the development is phased so as to avoid adverse impact on local services and infrastructure and in the interests of the visual amenity of the area.

Reason for Decision

The proposal is not in accordance with the Aberdeenshire Local Development Plan (2017), however the materiality of the forthcoming A90/A937 junction improvement scheme, coupled with the economic benefits through job creation and localised expenditure, provides sufficient justification to support the development as a departure from Policy R2 Housing and employment development elsewhere in the countryside. The proposal, is aside a primary transportation route in the strategic growth area, within close proximity to the settlement of Laurencekirk, and can therefore be considered in accordance with Policy B3 Tourist facilities. It can be accommodated into the local landscape, without detriment to the character or amenity of the area, whilst also providing suitable access and servicing, and is compliant with all other relevant policies of the Aberdeenshire Local Development Plan (2017).

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Report Date: 25 September 2021