



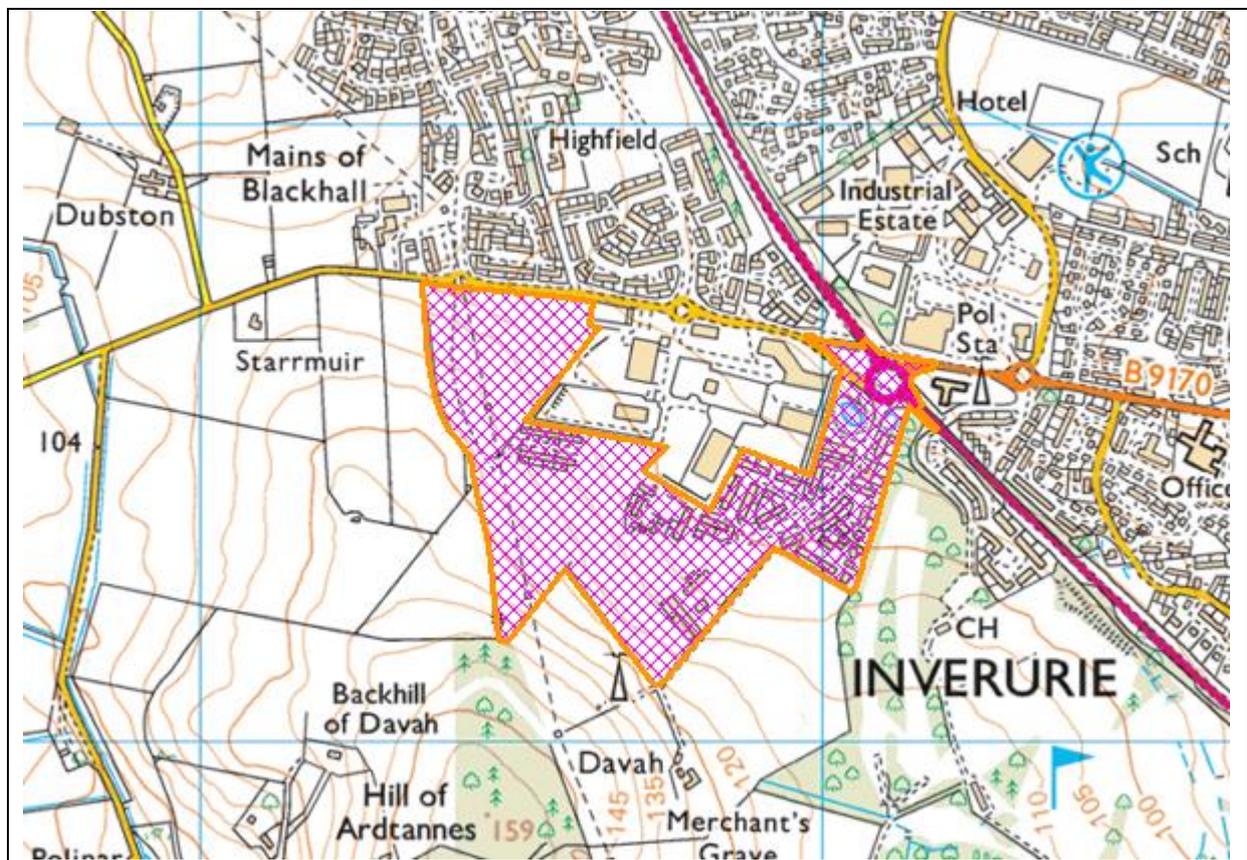
Garioch Area Committee Report – 09 November 2021

Reference No: **APP/2021/1370**

Full Planning Permission for Variation of Condition 9 of Planning Permission Reference APP/2011/2682 Without Compliance with Condition 1 (Alternative Scheme of Transportation Mitigation Measures) of Planning Permission Reference APP/2013/3665 at Westgate South Residential Development Blackhall Road, Inverurie

Applicant: Malcolm Allan Housebuilders Limited
Agent: Burness Paull

Grid Ref:	E:375771 N:821418
Ward No. and Name:	W11 - Inverurie and District
Application Type:	Full Planning Permission
Representations:	1
Consultations:	2
Relevant Proposals Map Designations:	Within Inverurie Settlement, OP10
Complies with Development Plans:	Yes
Main Recommendation:	Grant



NOT TO SCALE

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1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.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 Ewenson – this application merits further discussion by the members of the Area Committee
 - Councillor Whyte – For committee to consider the relevant planning history and to consider the impact of this proposal to vary a condition
- 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 has been made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) for Variation of Condition 9 of Planning Permission Reference APP/2011/2682 Without Compliance with Condition 1 (Alternative Scheme of Transportation Mitigation Measures) of Planning Permission Reference APP/2013/3665.
- 2.2 The approved planning permission (APP/2011/2682) is for the erection of 221 dwellings, associated infrastructure including roads, roundabout, foot paths, cycle paths, open space and landscaping and the provision of employment land. This development is complete with almost every unit sold. An application was submitted in 2014 (APP/2013/3665) which sought to vary Condition 9 so that the modifications to the roundabout were required to be completed prior to the occupation of the 51st individual dwellinghouse rather than the first as detailed in the condition.
- 2.3 As a result, Condition 1 was placed on application APP/2013/3665 which states that:

“1(a) Prior to occupation of any part of the development hereby permitted the detailed design for the modifications to the A96 north of Port Elphinstone Roundabout, generally as illustrated on Fairhurst drawing 87161/1002, shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland.

1(b) subsequently, and prior to the occupation of the 51st dwelling, the modifications approved in (a) above shall be implemented to the satisfaction of the Planning Authority, in consultation with Transport Scotland.

Reason: To mitigate the adverse impact of the development on the safe and efficient operation of the development.”

- 2.4 The modifications have not yet been approved and implemented. This application therefore seeks to vary Condition 1 of the Section 42 consent by replacing it with the following wording: -

“Within three months of the date of the decision notice, a scheme of transportation mitigation measures for the Port Elphinstone Roundabout widening shall be submitted for the approval of the Planning Authority. The development shall be undertaken in accordance with the approved transportation mitigation works unless otherwise agreed in writing with the Planning Authority.”

- 2.5 For the avoidance of doubt, there are to be no other changes to the approved planning permission as a result of this application or to any of the other conditions stated within it. This application simply seeks to resolve a breach of planning control, formalise the situation and allow a mechanism to secure the improvements to the Port Elphinstone roundabout which are due to commence in early 2022.

2.6 Relevant Planning History

- APP/2013/3665 – Variation of Condition 9 (Occupation) of Planning Permission Reference APP/2011/2682. Approved 14/03/2014.
- APP/2011/2682 – Erection of 221 no. Residential Units (Private, Affordable and Flatted), Road, Roundabout, Foot and Cycle Paths, Landscaping, Public Open Spaces, other Infrastructure and Relocation of Employment Land. Approved 06/08/2013.
- APP/2006/3002 – Proposed Class 6 (Storage and Distribution) Use. Withdrawn 18/08/2010.
- APP/2003/0184 – Residential Development. Withdrawn 07/10/2009.
- APP/2002/0005 – Commercial and Residential Development. Withdrawn 07/10/2009.

2.7 Supporting Information

- Planning Statement by Burness Paull submitted 09/06/2021

3. **Representations**

- 3.1 A total of 1 valid representation (1 objection) has been received as defined in the Scheme of Governance. All issues raised have been considered. The letter raises the following material issue: -

- *The planning application should not be determined until the DPEA report of the hearing into the stopping up orders (reference SUO-ABS-002 and SUO-ABS-003) is published. The DPEA report will have important information regarding the original proposals for the A96 road modifications*

including the requirement for the differential acceleration lane and the safety and traffic issues involved. This information should be made available to the Planning Service to enable an informed judgement to be made on the revised proposals.

4. Consultations

4.1 Internal

Environment and Infrastructure Services (Roads Development and Transportation Joint Response) confirms it has reviewed the proposed amendment to the condition as set out in the Burness Paull supporting planning statement and can confirm that Transportation has no objection to the new condition as proposed.

4.2 External

Transport Scotland confirms that it does not propose to advise against the granting of permission.

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 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

None

6. Discussion

- 6.1 The key planning issue for consideration is whether the variation of the condition for implementing the infrastructure improvements to the A96 Port Elphinstone Roundabout prior to the occupation of the 51st dwellinghouse, would have any impact on the surrounding road infrastructure. It must be noted that the developer has confirmed that all but two dwellinghouses at Westgate are now occupied while mitigation works remain outstanding.

- 6.2 As highlighted in the supporting planning statement, the Agent has provided justification as to why there have been delays that have prevented the necessary mitigation works progressing at Port Elphinstone. These include:
- inability to deliver the differential accelerator lane (DAL) linked to the stopping up orders
 - reference to the previous drawing in the condition, which is no longer the proposed scheme
- 6.3 Transport Scotland is the authority responsible for the A96 trunk road and its improvements, therefore its comments are crucial to the decision the Planning Service makes. It has not objected to the variation and is satisfied with the wording of the proposed condition. Similarly, Roads Development and Transportation are in agreement with the variation.
- 6.4 The issue of the stopping up orders is mentioned in the representation. These appeals remain undetermined at the time of writing. Whilst it is accepted that there are linkages between the previously proposed scheme and the stopping up orders, this application is a separate process which can be determined. Granting the application may have implications for the appeals, however there is no legal requirement to await the outcome from Scottish Ministers due to the separate natures of the processes. What is now proposed and forms the basis of discussions with Transport Scotland is a scheme for a shorter DAL as shown in Appendix 2 of the Supporting Statement.
- 6.5 Taking into account the above, it is therefore considered that the proposed variation is acceptable as it would not have a significant detrimental impact on the safe and efficient operation of the A96 Aberdeen to Inverness trunk road. The proposal therefore complies with Policy RD2: Developers' obligations 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

None

- 9.3 The application is not a Departure from the Local Development Plan or Strategic Development Plan and no departure procedures apply.

- 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 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.

10. Recommendation

10.1 **GRANT Full Planning Permission subject to the following condition:-**

1. Within three months of the date of the decision notice, a scheme of transportation mitigation measures for the Port Elphinstone Roundabout widening shall be submitted for the approval of the Planning Authority. The development shall be undertaken in accordance with the approved transportation mitigation works unless otherwise agreed in writing with the Planning Authority.

Reason: To mitigate the adverse impact of the development on the safe and efficient operation of the development.

10.2 Reason for Decision

The Planning Authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Development Plan 2017. The proposed condition is considered to be acceptable and will not result in any detrimental impact on the A96 trunk road, whilst ensuring a suitable scheme of mitigation is delivered in accordance with Policy RD1: Providing suitable services of the Aberdeenshire Local Development Plan 2017.

Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Victoria Grant (Planner)
Report Date: 14/10/2021

Comments for Planning Application APP/2021/1370

Application Summary

Application Number: APP/2021/1370

Address: Westgate South Residential Development Blackhall Road Inverurie

Proposal: Variation of Condition 9 of Planning Permission Reference APP/2011/2682 Without Compliance with Condition 1 (Alternative Scheme of Transportation Mitigation Measures) of Planning Permission Reference APP/2013/3665

Case Officer: Victoria Grant

Customer Details

Name: Dr Paul Davison

Address: Sangara, Fullerton Farm Thainstone, Kintore Inverurie AB51 0YR

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: This planning application should not be determined until the DPEA report of the hearing into the stopping-up orders SUO-ABS-002 and SUO-AB-003 made in July 2019 by the Scottish Government reporter Ms Frances McChlery is published. A lot of relevant information was submitted by Aberdeenshire Council, Transport Scotland and interested parties to the proposed modification. The DPEA report will have important information regarding the original proposals for the A96 road modifications including the requirement for the differential acceleration lane and the safety and traffic issues involved. This information should be made available to the planning service to enable an information judgment to be made on the revised proposals presented in this application.