



## Buchan Area Committee Report 6 September 2022

Reference No: APP/2022/0972

**Full Planning Permission For Erection of 2 Dwellinghouses at Plots 26 & 27, Millburn Rise Development, High Street, St Combs, Aberdeenshire**

**Applicant:** Claymore Homes Ltd, Aden Business Park, Newlands Road, Mintlaw, Aberdeenshire, AB42 5BP  
**Agent:** No Agent

Grid Ref: E:405220 N:863058  
Ward No. and Name: W05 - Peterhead North And Rattray  
Application Type: Full Planning Permission  
Representations: 0  
Consultations: 6  
Relevant Proposals Map: Aberdeenshire Local Development Plan  
Designations: Coastal Zone, Rural Housing Market Area  
Complies with:  
Development Plans: No  
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.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Monitoring Officer within Business Services has been consulted in the preparation of this report and has no comments to make and is 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 erection of two dwellinghouses adjacent to the Millburn Rise development, at St Combs (Appendix 1 Location Plan, Appendix 2 Site Plan). The Millburn Rise development is a residential development for 19 dwellinghouses and land set aside of affordable housing (four units), which was granted planning permission in June 2020, for which basic groundworks have commenced.
- 2.2 The application site is located on the northern edge of the previously granted residential development, and is approximately 460 square metres in size excluding all service land (for example the road). The house types are a pair of semi-detached dwellings, Abergeldie, providing accommodation over two levels, with a projecting single storey element to the rear providing a sun lounge, and an integral garage also occupying part of the ground floor. It should be noted that the Abergeldie is a house type that already features in the adjacent residential development as granted, with a projecting two story gable either side of the principal elevation. The ridge height is 7.65 metres, and the overall width is 15.1 metres with a depth of 14.2 metres overall including sunroom (Appendix 3 Elevation and Floor Plan, and Appendix 4 Streetscene).
- 2.3 Both plots feature parking area to the front, and a rear garden area of approximately 80 metres for both individual plots. Plot 26 overall measures approximately 235 square metres, and plot 27 220 square metres. The orientation of the houses are such that they are south facing, with principal elevation facing towards the public road. External materials include Dolomite White drydash render and Fyfestone, with Marley Modern roof tiles, and Anthracite Grey windows and doors. The base walls of the sun lounge appear to be in Fyfestone. The external materials correspond with the adjacent approved residential development.
- 2.4 Foul drainage and water supply would be via the public mains, and surface water is to be treated via the SUDS scheme granted for the wider site.
- 2.5 In support of the application a Planning Statement was received on 1 June 2022, a Drainage Report submitted on the 9 June 2022, and a SUDS maintenance scheme submitted 15 June 2022.

- 2.6 In terms of planning history, there are no records of applications having been granted on this site, however, the following application lies adjacent:-

APP/2019/1364 Erection of 19 Dwellinghouses and Land set Aside for Affordable Housing (for 4 units) and Ancillary Infrastructure. Granted subject to conditions, and section 75 agreement, 17 June 2020.

### 3. Representations

- 3.1 No valid letters of representation have been received.

### 4. Consultations

- 4.1 **Environment and Infrastructure Services (Roads)** advises that it has no objection subject to conditions, to include parking, gradient of access and dropped kerb.
- 4.2 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** in its initial consultation response requested additional information to include surface water drainage and maintenance of systems. Upon receipt of additional information it confirmed it has no further comment to make.
- 4.3 **Legal and People (Developer Obligations)** advised that the proposal will require a variation to the existing section 75 agreement to include the development proposed under this application. The contribution is to include the additional infrastructure and affordable housing requirements.
- 4.4 **Scottish Gas Networks** raised no objections, noting that any dig would have to be consulted with SGN directly, and provided advice on such works.
- 4.5 **Scottish and Southern Electricity Network** raised no objections.
- 4.6 **Scottish Water** advised that it has no objections, noting that currently there is sufficient capacity at Forehill Water Treatment Works and capacity for a foul only connection in the Fraserburgh PFI Waste Water Treatment works to service the development. Noting that capacity cannot be guaranteed or reserved.

### 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 R1 Special rural areas

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 PR1 Protecting important resources

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 2022 should be. 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 Reporter’s report of Examination of the Proposed LDP 2020 has now been published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase “settled view of the Council” can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the certainty associated with the Reporters’ Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter’s Report should be given overwhelming significant weight when it is most advantageous to the applicant’s proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council’s “settled view”.

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April with reference to the legislation the LDP 2017 becomes technically ‘out of date’. Notwithstanding the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the plan, as confirmed within Section 2 – ‘Influences of the Plan’. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

## **6. Discussion**

- 6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.

- 6.2 The site lies within the Coastal Zone, the Local Development Plan 2017 states that development in such a protected area must require a coastal location, and the social and economic benefits must outweigh any adverse environmental impact, or it must be the redevelopment of an existing building, or within the curtilage of an existing building. In any case there must be no coalescence of coastal developments or significant adverse impacts on natural coastal processes or habitats. Great care must be taken to access flood and erosion risk.”
- 6.3 The application is in conflict with Policy R1 as the development of housing, in this instance, does not require to be within the Coastal Zone, which is a prerequisite for any development within the coastal zone. The application site is outwith the settlement boundary. Given that St Combs has two allocated sites for development and provision of organic growth, then it is deemed that there is no need for the development of houses within the Coastal Zone outwith the settlement boundary.
- 6.4 Notwithstanding, Policy R2 is also considered applicable, Housing and employment development elsewhere in the countryside. This is because St. Combs is a settlement identified for growth, which allows for 20% growth of the existing settlement for additional housing outwith the settlement boundary (within 200 metres). Having regard to applications for housing development it is noted that the Planning Service has granted 10 houses during the 2017 Plan period and there is currently no remaining capacity for housing currently.
- 6.5 Nevertheless, it is noted that an extant planning permission, planning reference APP/2019/1364 exists for the site adjacent, which was granted planning permission in June 2020, in terms of principle, due to the extant planning permission in principle which existed at the time. This is because the 2012 Local Development Plan allocated the site, however in the 2017 Plan it was removed and placed outwith the settlement development boundary.
- 6.6 Having regard to the emerging Local Development Plan (2022), it is noted that the application site forms part of the allocated OP2 site in St Combs for 45 houses. The emerging Local Development Plan, as it has been to examination, has in some instances increased materiality, although it cannot be fully adopted until it has been approved by Full Council, currently timetabled for Autumn 2022. Having regard to Scottish Planning Policy, paragraph 34 states, that when a Development Plan is under review, it may be appropriate in some instances to consider whether granting planning permission would prejudice the emerging Plan.
- 6.7 In assessing this application, it is noted that whilst it is nevertheless in conflict with the policies contained within the Local Development Plan 2017, it is of note the intention to allocate the site in the emerging plan. Whilst the plan is still premature, and not the settled view of the Council, it nevertheless does set out the intentions. In considering the development adjacent to the site, the residential development granted for nineteen houses plus land for four affordable units, it is deemed that the addition of two houses, which

would be within walking distance of the settlement of St Combs, and be served by the infrastructure (roads, footpath, and SuDS) granted under application APP/2019/1364, would not be unsustainable, and is effectively infill. The approval would not prejudice the emerging plan, and even if not adopted as the settled view, the addition of two houses would not appear out of place, and would be a relative small addition, given the adjacent development on three sides (to the west, south and east). So much so, that externally the development would not be discernible within the wider landscape.

- 6.8 On the balance of the above considerations it is deemed that the principle of development can be supported when assessed against Scottish Planning Policy, as a minor Departure, as it would not prejudice the emerging Plan due to its siting and layout when assessed against the wider residential development which surrounds it.

#### Layout, siting and design

- 6.9 The proposed layout is acceptable, as it is broadly in line with the adjacent residential development and the individual properties in terms of ratio of developed and undeveloped curtilage, and it is set back from the road frontage similar to those adjacent. The housetype is one which features within the development and therefore would not appear alien to those previously granted which lie close by. It would be viewed as a visual entity. The application is deemed not to be in conflict with Policy P1 Layout, siting and design.
- 6.10 Given the orientation of the dwellings, with principal windows overlooking south and north, there would be no adverse impact on neighbouring properties by way of loss of privacy, or upon each other. Furthermore, the erection of boundary treatment, such as a 1.8 metre high fence as indicated in the block plan, details to be secured via condition, would screen views to and from adjacent properties along lateral boundaries.
- 6.11 Given the siting of the pair of semi-detached houses within the site, and their height, there would be no adverse impact in terms of loss of daylight and/or sunlight. The proposed development would not have an adverse impact on the amenity of neighbouring properties.

#### Services

- 6.12 The proposed dwellinghouses would connect to the public water and foul drainage systems. Surface water would be via the SuDs scheme granted in the adjacent residential development. The Planning Service notes that the SuDS scheme is now in place, and therefore there should be no concerns granted a conditional permission that requires such connection prior to first occupation of the dwellinghouses. It is noted that the Flood Risk and Coast Protection team have no concerns as a result of the additional information submitted.

- 6.13 The dwellinghouses would be served via road infrastructure granted in the adjacent residential scheme, and the application site does include the layout of the road to the public road. It is noted that the Roads Development team has no objections subject to conditions. One of the conditions seeks that the garage is set back six metres from the back of the footpath, the plans show this and thus it is not necessary to condition.
- 6.14 Given the above considerations, the proposed development is not contrary to Policy RD1 providing suitable services.

#### Other

- 6.15 The Developer Obligations Team advised that additional contributions are required for this application, and that the existing Section 75 Legal Agreement will require to be varied. The proposed development subject to the amendment is deemed not to be in conflict with Policy RD2 Developers' obligations.
- 6.16 The energy efficiency of the proposed dwellinghouses are not yet known however, there is no reason to suspect that any new build dwellinghouse would be unable to meet the energy efficiency and sustainability requirements of the Council. In order to secure this, it is reasonable to apply a condition to any approval issued. This condition would require the applicant to submit detailed SAP calculations to the Planning Service and any measures, for its approval in writing, prior to construction of either dwellinghouse. Subject to the addition of this condition, the application would comply with Policy C1 of the Local Development Plan.

#### Summary

- 6.17 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.18 In assessing this application, whilst it is in conflict with the policies contained within the Local Development Plan 2017, it is of note the intention to allocate the site in the emerging plan (2022). Whilst the 2022 Plan is still premature, and not the settled view of the Council, it nevertheless does set out the intentions. In considering the development granted adjacent to the site, the residential development granted for nineteen houses plus land for four affordable units, it is deemed that the addition of two houses, which would be within walking distance of the settlement of St Combs, and be served by the infrastructure (roads, footpath, and SuDS) granted under application APP/2019/1364, would not be unsustainable, and therefore this proposal is effectively infill. The granting of this application would not prejudice the emerging 2022 Development Plan, and even if the intended allocation was not to be adopted as the settled view, the addition of two houses would in any case not appear out of place, and would be a relatively small addition, given the adjacent development on three sides (to the west, south and east). So



much so, that externally the development would not be discernible within the wider landscape.

- 6.19 On the balance of the above considerations it is deemed that the principle of development can be supported when assessed against Scottish Planning Policy, as a minor Departure, as it would not prejudice the emerging 2022 Development Plan due to the developments siting and layout when assessed against the wider residential development which surrounds it.
- 6.20 In assessing the proposed development against the wider policies of SPP and the LDP 2017 and any other material considerations, there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

## **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 R1 Special rural areas.

- 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 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:-

- a) The conclusion of Developer Obligations; and,  
b) The following conditions:-**

01. No dwellinghouse hereby granted shall be occupied until the following has been provided within the curtilage pertaining to that dwellinghouse: -
- a) off street parking for two cars within each curtilage, all to be surfaced in hard standing materials, and thereafter retained in perpetuity;
  - b) the first 5 metres of the access road measured back from the public road shall not exceed a gradient of 1 in 20 and shall be surfaced in hardstanding materials;
  - c) a drop kerb footway crossing must be formed at the new driveway.

Reason: In the interests of road safety, to ensure vehicles can enter and exit the site in a forward gear, and to make sure that vehicles can be accommodated within the site with no overspill on to the public road.

02. No individual dwellinghouse hereby granted shall be erected unless an Energy Statement applicable to that dwellinghouse 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.

03. No dwellinghouse hereby granted shall be occupied until the boundary enclosures are completed in full in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. Once erected the means of enclosure shall thereafter be permanently retained in accordance with the approved details.

Reason: In the interests of residential amenity, the visual amenities of the area, and for the purposes of clarification.

04. 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.

05. 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.

06. The dwellinghouses hereby granted shall not be occupied unless it is connected to the surface water drainage system as detailed and granted in planning application APP/2019/1364 namely in accordance with the approved plans and Drainage Assessment Report by GMC Surveys dated October 2018.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

## 10.2 Reason for Decision

The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.

In assessing this application, whilst it is in conflict with the policies contained within the Local Development Plan 2017, it is of note the intention to allocate the site in the emerging plan (2022). Whilst the 2022 Plan is still premature, and not the settled view of the Council, it nevertheless does set out the intentions. In considering the development granted adjacent to the site, the

residential development granted for nineteen houses plus land for four affordable units, it is deemed that the addition of two houses, which would be within walking distance of the settlement of St Combs, and be served by the infrastructure (roads, footpath, and SuDS) granted under application APP/2019/1364, would not be unsustainable, and therefore this proposal is effectively infill. The granting of this application would not prejudice the emerging 2022 Development Plan, and even if the intended allocation was not to be adopted as the settled view, the addition of two houses would in any case not appear out of place, and would be a relative small addition, given the adjacent development on three sides (to the west, south and east). So much so, that externally the development would not be discernible within the wider landscape.

On the balance of the above considerations it is deemed that the principle of development can be supported when assessed against Scottish Planning Policy, as a minor Departure, as it would not prejudice the emerging 2022 Development Plan due to the developments siting and layout when assessed against the wider residential development which surrounds it.

In assessing the proposed development against the wider policies of SPP and the LDP 2017 and any other material considerations, there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

The layout, siting and design are such that the development will be in-keeping and not cause an adverse impact upon residential amenity, in compliance with Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan 2017.

**For noting:-**

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

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

Alan Wood  
Director of Environment and Infrastructure Services  
Author of Report: Sally Wood  
Report Date: 24 August 2022









