

APPEAL DECISION (DPEA)
Appeal Reference
PPA-110-2433
Planning Reference
APP/2021/2238
Planning Proposal
Erection of care home and associated car parking and landscaping
Policy Issues
<p>The application was recommended for approval by the Planning Service, however was refused by the Marr Area Committee with the decision notice dated 21st June 2022.</p> <p>The site formed part of a masterplan, which showed a care home in this location. The Marr Area Committee considered the proposal to create amenity impacts on nearby residential properties amounting to a refusal on the basis that the proposal did not support good design and failed to meet Policy P1 of the Aberdeenshire Local Development Plan (2017) and Scottish Planning Policy.</p> <p>The reported acknowledged the masterplan identifying the site for such use, and did not consider the siting, scale and design of the building to pose any significant detrimental impact and would contribute to a sense of place and acceptable form of development.</p>
Additional Points
None.
Actions
None
Note Decision

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Appeal Decision Notice

Decision by Gordon S Reid, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2433
- Site address: land to the west of Provost Webster Road, Hill of Banchory, Banchory, AB31 5BH
- Appeal by Priory CC24 Limited against the decision by Aberdeenshire Council
- Application for planning permission APP/2021/2238 dated 22 October 2021 refused by notice dated 21 June 2022
- The development proposed: erection of care home and associated car parking and landscaping
- Application drawings: listed in schedule of drawings
- Date of site visit by Reporter: 4 November 2022

Date of appeal decision: 05 December 2022

Decision

I allow the appeal and grant planning permission subject to the nine conditions listed at the end of the decision notice. Attention is drawn to the two advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are the principle of development, layout siting and design and the impact on residential amenity.
2. The development plan consists of the approved Aberdeen City and Shire Strategic Development Plan 2020 and the adopted Aberdeenshire Local Development Plan 2017. I agree with parties that there are no strategic policies of particular relevance to the consideration of the appeal proposal. In addition, reference is made to the policy guidance within Scottish Planning Policy (2014).

Principle of development

3. The appeal site is located within an area allocated as R1 (community uses) within the local development plan. Planning permission (APP/2016/1834) was granted in August 2017 for a neighbourhood centre on this site and included a masterplan setting out five phases for the delivery of the development. The appeal site is located within the area identified as phase five for a care village, associated landscaping and infrastructure. I note that the indicative layout intended the care home to be located within the southern part of phase five. The appellant advises that due to the proposed new health centre being built on another site, the indicative layout has been amended with the care home being developed on the northern part with the proposed sheltered residential accommodation to the south. I

acknowledge that the masterplan layout was indicative and that over time changes in circumstances can arise with a phased development. Notwithstanding the changes to the original indicative layout, I note that the care home is still located within the area identified as phase five for the care village with the original access arrangements and link road maintained.

4. At my visit I observed that phases one to four of the masterplan have been completed and include a residential area to the north, a sports centre to the southeast and a food store/community facility to the east. In addition, I note that planning permission (APP/2022/0483) has been granted for the proposed link road in accordance with the masterplan and would provide access to the appeal proposal.

5. Overall, I am satisfied that the principle of a care home in this area has been established through planning permission APP/2016/1834 and the allocation of the area as Site R1 within the adopted local development plan. In addition, I find that as the appeal proposal would utilise vacant land within the settlement and provide new community facilities it would accord with the provisions of policy P3 (infill and householder developments within settlements) and policy P6 (community infrastructure).

Layout, siting and design

6. Local development plan policy P1 (layout, siting and design) advises that the design of new developments will only be approved where it can be demonstrated that the six qualities of successful places (as listed in the policy) are met.

7. The council raises concerns in relation to the scale of the building. In particular the council considers that given its size, height, dimensions and design it would have an overbearing appearance within the area.

8. I observed at my visit that all of the surrounding properties have been built over the last few years and consist of the mix of uses as set out in the approved masterplan. The design of these properties is of a modern contemporary style utilising a range of materials and with an overall layout that seeks to create a sense of place.

9. The appeal proposal would form a single large building with a pitched roof and would be of a similar height (two storeys) to the other uses within the masterplan area including the two storey residential properties to the north. It would also be of a similar overall scale to the sports centre. I note that due to the topography of the site a lower ground floor would be formed as part of the east side of the building. However, I am satisfied that this does not significantly affect the overall height of the building. The care home is designed in a modern contemporary style with a mix of materials and colours similar to the other new properties within the masterplan area. In addition, the submitted landscaping plan proposes trees, shrubs and grassed areas throughout the appeal site including at the main entrance and would be similar to the existing areas of landscaping within the wider area.

10. Overall, I am satisfied that given the scale, design, materials and landscaping the appeal proposal would complement the existing properties and would not result in an overbearing feature within the area. As such I consider that the appeal proposal would build on the distinct sense of place and local identity sought by the approved masterplan for the area.

11. I note that the layout of the care home provides for a clear distinction between private and public spaces. The elevations facing onto the surrounding streets all have numerous windows at ground and first floor level providing both visual interest and surveillance of the surrounding area. I consider that the enclosed private landscaped garden area would provide a safe outdoor space for residents. In addition, the upper floor communal lounge areas would have access to outdoor balconies. The entrance to the care home would be clearly visible when approaching from the surrounding road network. As indicated above, landscaping including grassed areas, trees and shrubs would be provided at the entrance and around the perimeter of the site.

12. A separate pedestrian access would be provided and link into the surrounding network of pedestrian/cycle paths within the masterplan area. This would allow for connections into the wider active travel network within the settlement, including public transport facilities.

13. Therefore, I am satisfied that the appeal proposal would create a safe and pleasant environment for residents, would be welcoming, easy to understand in terms of its function and would connect well into the existing active travel networks in the area.

14. As the appeal proposal is for a care home, I am satisfied that such a use would be capable of integrating with the other surrounding land uses and would have the potential to meet the future needs of the population within the settlement of Banchory. In addition, as the development is for the construction of a new build property, I see no reason why it would not be efficient in terms of its use of resources. Given its south facing orientation, I also consider that it would benefit to some degree from solar gain.

15. Taking the above factors into account, I am satisfied that the appeal proposal would meet the six qualities of successful places and would accord with the provisions of policy P1 and policy E2 (landscape).

Residential amenity

16. Concerns have been raised by residents in the properties to the north regarding the potential adverse impact on their amenity from overshadowing and overlooking (privacy).

17. The appeal proposal is for a two-storey building with a pitched roof located to the south of the existing residential properties which are also two-storey with pitched roofs. As indicated above, I am satisfied that the lower ground floor provision does not impact on the overall height of the appeal property relative to the properties to the north. The main elevations of the appeal proposal run east to west and would be some 48 metres from the rear elevations of the residential properties to the north. I note that the gable of the central section of the building (some 15 metres wide) would be closer at approximately 24 metres.

18. Taking account of the appellant's evidence in relation to sunlight, daylight and overshadowing and given the height of the appeal proposal relative to the distance from the residential properties, I am satisfied that there would be no significant adverse impact in terms of loss of sunlight or daylight or from overshadowing of the rear elevations or garden ground of the adjacent residential properties.

19. In relation to overlooking, I note that the north facing gable elevation of the central section of the building contains one relatively small window at first floor level. Given the size of the window and that it relates to a stairwell, I am satisfied that it would not result in a significant adverse impact on the amenity of the residential properties to the north.

20. The windows in the main north facing elevation are primarily bedroom windows at both ground and first floor levels and would be some 48 metres to the south of the rear elevations of the residential properties. I observed at my visit that the rear gardens of the residential properties are enclosed with a 1.8 metre high fence. A fence of a similar height is proposed for the northern boundary of the appeal proposal. Accordingly, I am satisfied that these fences would screen any potential overlooking from ground floor windows.

21. Whilst there would be some level of overlooking from the first-floor windows, I am satisfied that given the intervening distance of 48 metres, this would not result in a significant adverse impact on the amenity or privacy of the residents to the north.

22. Overall, I am satisfied that the appeal proposal, for the reasons set out above, would accord with policies P1, P3, P6 and E2 of the adopted local development plan.

Material considerations

Scottish Planning Policy

23. Paragraphs 41 to 46 of Scottish Planning Policy (SPP) requires new development to demonstrate that the six qualities of successful places are met. In line with this guidance policy P1 of the local development plan sets out a similar requirement for new development. Although there are some minor variations to the wording, I find that the six qualities stated in policy P1 are in essence broadly similar to those in SPP. Having established above the appeal proposal meets the six qualities of policy P1, I am satisfied that for the same reasons the appeal proposal would accord with the provisions of SPP.

24. As the local development plan (2017) is over five years old, paragraph 33 of SPP is relevant and states that in such cases the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In considering this, decision makers are required to take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in the SPP. Paragraph 29 of SPP sets out the principles for establishing whether a development would contribute to sustainable development.

25. Given the nature and location of the appeal proposal and taking account of the consultee responses and my above considerations, I am satisfied that it would provide net economic benefit; support good design and meet the six qualities of successful places; make efficient use of land and infrastructure; be accessible by different modes of transport; and, protect the amenity of new and existing development. In addition, I consider that the appeal proposal would be consistent with the other principles, in so far as they are relevant, as set out within paragraph 29 of SPP. Based on my findings, I am satisfied that there would be no adverse impacts which would significantly or demonstrably outweigh the benefits. Overall, I find that the appeal proposal would contribute to sustainable development and meet the wider objectives of SPP including the delivery of Outcome 1 (a successful, sustainable place).

Proposed plan

26. The proposed Aberdeenshire local development plan (March 2020) sets out the council's settled position in terms of the strategy and policies for future development. The proposed plan generally restates the policy guidance from the adopted local development plan in relation to matters relevant to the appeal proposal. The council has not referred to

the policies of the proposed plan in its reasons for refusal or brought any relevant changes of policy to my attention. Accordingly, I am satisfied that there are no proposed changes to the relevant policies that would lead me to a different conclusion in relation to the appeal proposal.

Consultees

27. No objections were received to the appeal proposal from any of the consultees, subject to conditions being imposed in relation to tree protection and landscaping, safeguarding breeding birds during construction, the provision of the approved link road (planning permission APP/2022/0483), traffic calming interventions, off-street parking and visibility splays. I have attached conditions relating to these matters at the end of this notice.

Representations

28. Six representations raising objections to the appeal proposal were received. The relevant planning matters of concern include the scale of the building; safety concerns for pedestrians (including school children) due to the increase in traffic; the detrimental impact on privacy of neighbours; overshadowing; an adverse impact on the character of the area; the impact on the natural environment; and, that it would be contrary to the local development plan.

29. Based on the evidence before me and the response from the council confirming no protected species or habitats were identified within the site, I am satisfied that there would be no adverse impact on the natural environment. In terms of pedestrian safety, I note that given the limited level of traffic generated by the proposal; the provision of the link road; and, the inclusion of traffic calming interventions, the council is satisfied that there would be no adverse impact in terms of road and pedestrian safety. In addition, I observed during my visit that there were segregated pedestrian/cycle paths adjacent to the appeal site. Taking account of the evidence, I am satisfied that there would be no significant adverse impact in terms of road or pedestrian safety arising from the appeal proposal. I have addressed all the other matters of concern in my findings as set out above.

30. Overall, I consider that there are no material considerations that would justify refusal of the appeal proposal.

Conditions

31. The council submitted suggested conditions which it wishes imposed on planning permission, if granted. The appellant raises no issues of concern in relation to the wording of the draft conditions. Subject to some minor wording alterations, I find that the draft conditions are appropriate in relation to the appeal proposal.

Conclusion

32. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission.

Gordon S Reid
Reporter

Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of grant of this permission.

Reason: section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permission limiting its duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.

2. 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 occupants and visitors.

3. The building hereby approved shall not be occupied unless the proposed foul and surface water drainage system has been provided in accordance with the approved plans and Drainage Statement prepared by Ramsay and Chalmers dated September 2021. The foul and surface water drainage system shall be permanently retained thereafter in accordance with the approved maintenance scheme.

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

4. 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 five 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.

5. No development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 25 metres in both directions along the channel line of the public road has been provided from a point 2.0 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the road in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: to enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

6. Prior to the occupancy of development, off-street parking for 19 cars, surfaced in hardstanding materials must be provided within the site.

Reason: in the interest of road safety.

7. Prior to the construction of any of the roads associated with the development, Roads Construction Consent shall be obtained and all associated traffic calming measures on Provost Webster Road shall be agreed in writing with the planning authority, in consultation with the roads department. The agreed traffic calming measures should subsequently be installed prior to the occupation of the care home.

Reason: in the interest of road safety.

8. The tree management proposals shall be carried out in complete accordance with the Tree Survey Report and associated drawings by Struan Dalgleish Arboriculture dated December 2019.

Reason: to preserve the character and visual amenity of the area.

9. No removal of hedgerows, trees or shrubs or site clearance shall take place during the bird nesting season, unless a detailed check of the site for active birds' nests has been undertaken and written confirmation has been submitted to the planning authority that no birds will be harmed and that there are appropriate measures in place to protect nesting bird interest on the site. The check shall be undertaken no later than 14 days before the commencement of the development and no site clearance or other works in connection with the development hereby approved shall commence unless the written confirmation and protection measures have been submitted to and approved in writing by the planning authority. The development shall be carried out in accordance with the approved protection measures.

Reason: in the interest of safeguarding the habitat of local bird species.

Schedule of drawings

1. Site location plan
2. Site plan as existing (6398-01B)
3. Site plan as proposed (6398-02D)
4. Ground floor plan (6398-03G)
5. Lower and first floor as proposed (6398-04B)
6. Elevations (6398-05F)
7. Cross section diagrams (6398-06B)
8. Drainage layout (C4322-101B)
9. External works details (C4322-103A)
10. Landscape layout (CCG 102 21 SL-01)

Advisory notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm

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the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).