



## Garioch Area Committee Report – 28 August 2018

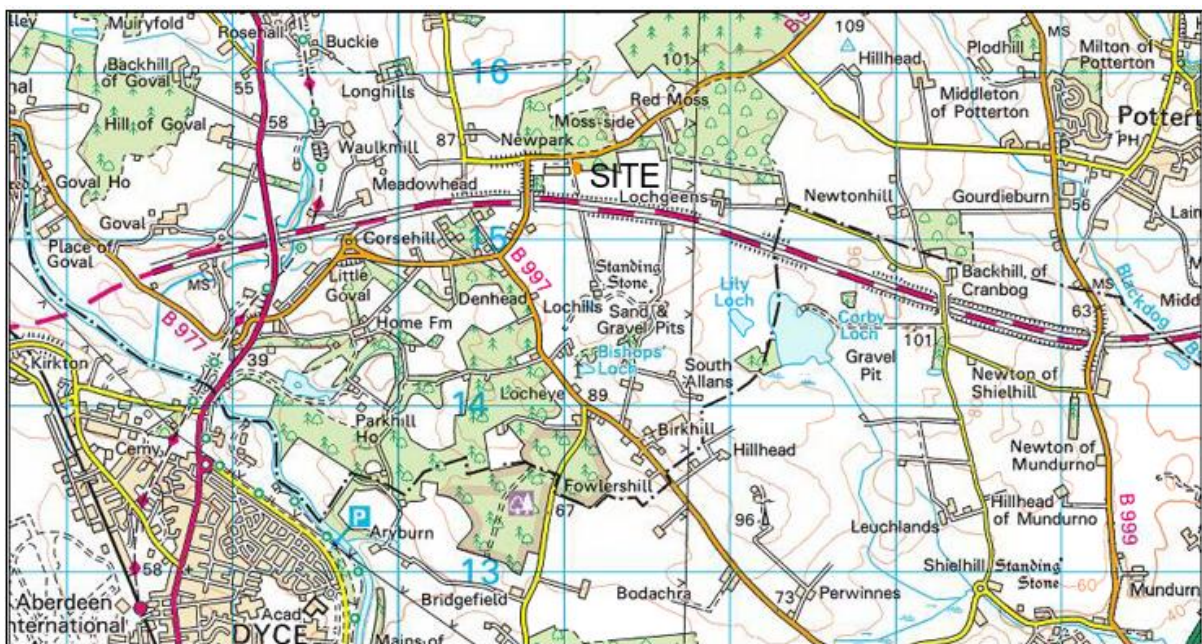
Reference No: APP/2018/0832

**Description: Full Planning Permission for Change of Use to Class 6 Storage and Distribution at 1 Moss Belt, Dyce, Aberdeenshire, AB21 7AS**

**Applicant: Mr Andrew Macfarlane**

**Agent: Lippe Architects & Planners Ltd**

Grid Ref:	E:391070 N:815431
Ward No. and Name:	W12 - East Garioch
Application Type:	Full Planning Permission
Representations:	1 (1 objection)
Consultations:	3
Relevant Proposals Map	Aberdeen North Greenbelt
Designations:	
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.9.1 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 Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

## **2. Background and Proposal**

- 2.1 This application is for the change of use to Class 6 (storage and distribution) of an area of land adjacent to Moss Belt, Dyce. The application site lies to the south of the B977 and to the east of a row of residential properties. The Aberdeen Western Peripheral Route (AWPR) is located to the south of the site and a number of infrastructure interventions associated with the AWPR will be located close by. The site is currently part of a larger site, which includes a number of caravans associated with workers accommodation in relation to the construction of the AWPR. Access is taken directly off the B977 and serves this site and the residential properties. The site is laid in hardcore and contains no permanent buildings. The western boundary of the site is demarcated by the vehicular entrance to the site, a bund and a number of mature trees. Outwith the site towards the north is an area of mature woodland, this provides a screen between the B977 and the site. The area to the east and the south is open with views over the remainder of the AWPR site and new infrastructure associated with the AWPR.
- 2.2 The applicant states that the site has been used for storage and distribution continuously since the 1970's. However, in 2015 the site was modified and extended as a temporary site for use as part of the AWPR project. The application site will remain as it currently is and no further works are proposed as part of this application. The rest of the site is anticipated to be returned to its former use and condition, as per the agreement with the AWPR contractors.
- 2.3 A supporting planning statement was submitted by the agent which includes details on the history of the site and previous uses, the relevant planning policies and the justification for a departure from the local development plan. Additional to this is a number of documents that provide evidence of the occupation of the site over the years. This includes historic photographs, historic field data, letters from occupiers, rates bills and valuation assessments. The following provides a brief planning history of the site. This is further discussed in the relevant sections;
  - ENQ/2015/0793 - AWPR Compound – Permitted development, no planning permission required.

- APP/2017/0651 - Certificate of Lawful Use - Existing Use of Land for Class 6 Use (Storage and Distribution) – Refused June 2017. An appeal submitted (CLUD-110-2001) was dismissed in October 2017

### 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 issues:

- Unsafe access to site
- Alternative storage space available
- Future extension of the site

### 4. Consultations

4.1 **Infrastructure Services (Environmental Health)** has no objection to approval of this application.

4.2 **Infrastructure Services (Roads Development)** advises that the site has been established for class 6 use for a number of years with no issues reported therefore has no comment to make.

4.3 **Transport Scotland** advises that it does not proposed 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 2014

The purpose of this Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. 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.

### 5.3 Aberdeenshire Local Development Plan 2017

Policy R1 Special rural areas  
Policy P1 Layout, siting and design  
Policy E2 Landscape  
Policy RD1 Providing suitable services

### 5.4 Other Material Considerations

As noted above the site has a significant historical use and this has been acknowledged by both the Planning Service and the Planning and Environmental Appeals Division through the consideration of a Certificate of Lawful Use appeal.

## 6. Discussion

6.1 Full planning permission is sought for a change of use to Class 6 (Storage and Distribution) at Moss Belt, Dyce. The main planning considerations are:

- whether the principle of development is acceptable and in line with the relevant policies of the Aberdeenshire Local Development Plan or if material planning considerations would allow it to be supported as a departure;
- whether the amenity impact on neighbours is acceptable; and
- whether the site can be sufficiently serviced by the required infrastructure.

### Principle

6.2 The proposed site is located within the countryside and designated as Greenbelt within the Aberdeenshire Local Development Plan 2017. The key planning issue for this application is whether the principle of the proposed development complies with Policy R1 Special rural areas. This policy is restrictive and only allows certain types of development within the greenbelt and coastal zone to reflect the special nature of these areas;

- the extension of an existing building or use that is ancillary to the main use;
- development for the purposes of agriculture, forestry, horticulture, nature conservation or essential public infrastructure;
- development for a recreational use that is compatible with its agricultural or natural setting;
- the sensitive restoration, conversion or extension of a vernacular building or other building of architectural merit;
- accommodation within the immediate vicinity of the place of employment required for a worker in a primary industry which is appropriate to the countryside and where the presence of a worker is essential to the

operation of the enterprise and there is no suitable alternative residential accommodation available;

- development identified as a national priority in the National Planning Framework;
- development of minerals under Policy R3 and waste facilities under Policy PR3 may be permitted where an essential need is identified;
- developments (including community infrastructure) under Policy PR2 may be permitted in the greenbelt where they meet an established need and where it can be adequately demonstrated that no alternative location can be found; and
- it is the replacement of a single non vernacular building on the same footprint, and for the same use. The replacement building must be consistent in scale, and no more intrusive than the existing building. In addition, it is generally expected that the new building will demonstrate a significant improvement in design to that of the existing building.

6.3 It is clear that the proposal does not comply with the above policy requirements, however, there are a number of material considerations which must be considered:

- Current and previous use of the site;
- Planning history;
- Economic development.

6.4 The site is currently in use as an ancillary site for the construction of the AWPR and contains plant storage and temporary residential caravans. The AWPR site extends significantly outwith the boundaries of the site currently being considered. Previous to the site being used by the AWPR it is claimed that it has been used as a storage site since 1970. On completion of the AWPR construction phase the site will revert to the previous use prior to the AWPR. Therefore the site currently under consideration will in effect revert to a hardstanding area. The other part of the AWPR site, not included as part of this application will revert to agricultural use. As discussed in the next section the Planning Service does not dispute that the site was previously used as a storage area.

6.5 The site has a significant planning history directly related to the application currently being considered. An enquiry (ENQ/2015/0793) received in April 2015 from representatives of the AWPR, sought confirmation that the site in question would not require planning permission. The proposed development included plant storage and accommodation, namely caravans, directly associated with the construction of the north section of the AWPR. It must be noted that the site area for this is significantly larger than the site currently being considered, however, it is contained within the larger site. It was determined that the proposed use was permitted development under the terms of an agreed Protocol with Aberdeen City Council to consider such requests. Specifically, certain ancillary uses adjacent to the AWPR 'land made available' for the project did not require planning permission. This is on the understanding that the development shall be removed and the site reinstated to its condition before the development was carried out. Consequently Flannery Plant Hire occupied the larger site in August 2015.

6.6 An application for a Certificate of Lawful Use was submitted in March 2017 on the basis that the site had been used for storage for a period of time greater than 10 years. Supporting information was submitted to the Planning Service

in regard to evidence that the site in question had been used continuously for a period of 10 years. This included letters from occupiers, rates bills, valuation reports etc. The Planning Service was satisfied that the site had been in use for a period greater than 10 years due to the information submitted. However, as noted above the site was occupied by AWPR contractors, namely Flannery Plant Hire, from August 2015 and in effect the 10 year period effectively ceased. Therefore as a Certificate of Lawfulness is based on fact and degree the Planning Service was not in a position to support this application. The application was refused as 'It has not been demonstrated that the site has been in continuous use for storage and distribution use for a period of 10 years and an intervening use has commenced.' It is worth noting that the Planning Service was satisfied that the information submitted did prove that the site had been in use for a 10 year period at the start of the AWPR occupation and if the Certificate of Lawful Use application has been submitted prior to occupation then it is likely that the Planning Service would have granted this.

- 6.7 Due to the fact that the Planning Service refused the application, the applicant subsequently appealed to Scottish Ministers (CLUD-110-2001). This appeal was dismissed and a certificate of lawful use was refused. The Reporter reiterated the point that the current use of the site is materially different from 'use for storage or as a distribution centre', therefore the application did not conform to the requirements that an application be for an existing use. The Reporter did note 'that evidence does point to there having been a ten-year period during which the appeal site was in a continuous use for storage and distribution.'
- 6.8 There is some slight argument in the fact that if the site is granted planning approval for use class 6 then then will be an economic benefit. The supporting statement highlights a number of national plans and policies that promote sustainable economic development including the National Planning Framework and Scottish Planning Policy. Furthermore a number of regional plans and policies have been highlighted including the Regional Economic Strategy and The Aberdeen City and Shire Strategic Development Plan 2014. Again these promote sustainable economic growth within the north east of Scotland. The submitted evidence would suggest that the site has supported a number of businesses over the years, therefore by default has provided some economic benefit. The granting of planning approval would allow this benefit to continue, albeit on a relatively small scale. The alternative is to refuse planning permission and in effect leave the land as existing. As noted the only stipulation of the AWPR occupation is to return the land to its previous use.
- 6.9 The Planning Service recognise that the site is located within the Greenbelt and the policy as noted above does not support this type of development within this designation. However, the Planning Service also recognise that the previous use on the site (Use Class 6) was established for a significant number of years prior to the current use. Furthermore, once the existing use concludes then all AWPR ancillary land will return to its previous use. This will be undisputed in most cases, included the area outwith the site boundaries in this case. However, the return of this site will in effect result in an area of hardstanding, furthermore it is clear that it has not been used for agriculture for a significant number of years. Once the existing use concludes, in effect this piece of land will have no specific land use designation. The granting of planning approval will confirm the historic use of this site and ensure that the

Planning Service can retain some control of the site including improvements to existing site layout. These controls may include timings of operations to ensure the amenity of neighbouring dwellings is not adversely impacted and the control of storage of materials to ensure the visual impact is minimised. Furthermore the site could be improved with the introduction of additional landscaping on the southern and western boundaries.

#### Siting, design and layout

- 6.10 All new development must comply with Policy P1 Layout, siting and design and Policy E2 Landscape. The site is already existing and the access road was improved as part of the AWPR works. No new development is proposed as part of this applicant. The wider area is now characterised by significant infrastructure improvements associated with the AWPR, however as noted above the site is already well screened from public view due to the existing mature trees and bunding. This proposal will not alter the existing position from a visual point of view.
- 6.11 As a result of ongoing works adjacent to the site, the development has minimal impact upon the wider area by virtue of its limited visibility. To the west of the application site are a number of residential properties. As noted the site use has been established for a number of years so it is considered that there will be no additional amenity impacts on these dwellings. The proposal will not cause any overshadowing issues or loss of privacy to neighbouring properties. The approval of this proposal would not create any additional adverse impacts on the character of the area and would not detract from the overall appearance or quality of the landscape. As such, the proposed development would comply with the Policy P1 Layout, siting and design and Policy E2 Landscape.

#### Technical issues

- 6.12 The access road from the application site to the B977 public road is deemed to be acceptable and has been improved as part of the AWPR works. Roads Development and Transport Scotland are satisfied with the proposal. The proposal would therefore comply with Policy RD1: Providing suitable services.

#### Representations

- 6.13 The letter of representation raises three concerns with regard to the site; safe access to the site, alternative storage accommodation and future expansion.
- 6.14 The access to the site is deemed suitable by the Roads Development and Transport Scotland. It is not contested that there may be alternative storage facilities within the locality, however as discussed above there are a number of material considerations that the Planning Service deem warrant support for this proposal including retaining control of some aspects of the proposed development. Any future expansion of the site would require an additional planning application and would be assessed at that time.
- 6.15 The proposed development is considered an acceptable departure from Policy R1 Special rural areas. It is acknowledged that the proposal does not meet the requirements of Policy R1, however material planning considerations including the previous use of the site and the planning history justify the Planning Service supporting this application this particular instance. The

granting of planning permission will allow the Planning Service to retain control of some aspects of the development. The proposal complies 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 equality impact assessment is not required because [state reasons using the guidance provided by the Equalities team] and does not have a differential impact on any of the protected characteristics.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

## **9. Sustainability Implications**

- 9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## **10. Departures, Notifications and Referrals**

### **10.1 Strategic Development Plan Departures**

None

### **10.2 Local Development Plan Departures**

Policy R1 Special rural areas.

- 10.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 10.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.



## 11. Recommendation

### 11.1 GRANT Full Planning Permission subject to the following conditions:-

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders the buildings and land shall be used only for a purpose within Use Class 6 (storage and distribution) and shall not be used for any other purpose without the express grant of planning permission from the planning authority.

Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

2. The site hereby approved shall not operate outwith the hours of 07:00 and 19:00 Monday to Friday, 07:00 and 12:00 on Saturdays and should not operate at any time on Sundays, Bank and other public holidays without the prior written agreement of the Planning Service.

Reason: In order to ensure that the development would not result in undue loss of amenity for surrounding properties.

3. Any external storage shall not be stored to a height greater than 3 metres above the existing ground level of the site at any time.

Reason: In the interests of the appearance of the development and the visual amenities of the area.

4. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) The location of new trees, shrubs, hedges etc.
- b) A schedule of planting to comprise species, plant sizes and proposed numbers and density.
- c) 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.

**11.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan.**

Despite not complying with Policy R1 (Special rural areas), there are material planning considerations including the previous use of the site and the planning history that it is concluded justify the Planning Service supporting this application this particular instance. The granting of planning permission will allow the Planning Service to retain control of certain aspects of the development and the proposal complies with all other relevant policies of the Aberdeenshire Local Development Plan 2017.

**Stephen Archer**  
**Director of Infrastructure Services**  
**Author: Matthew Watt (Planner)**  
**Date: 03/08/2018**

# Comments for Planning Application APP/2018/0832

## Application Summary

Application Number: APP/2018/0832

Address: 1 Moss Belt Dyce Aberdeenshire AB21 7AS

Proposal: Change of Use to Class 6 Storage and Distribution

Case Officer: Matthew Watt

## Customer Details

Name: Mr David Aitken

Address: Westacre, Mossbelt Parkhill, Dyce Aberdeen

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have been asked by Mr. Charles Dawson to object on his behalf to the above planning application. In addition, after discussion with our other neighbours, I am writing this on their behalf as well.

For 40 years, this was a quiet residential area until, without warning or consultation, a large camp was set up by Mr Macfarlane to service the AWPR. Since then, for over 2 years, we have had to put up with noise, dust and disruption caused by the high volume of heavy vehicles using our entrance road to access the camp and the AWPR itself. Our access road has been largely destroyed by this traffic. We have been looking forward to the restoration of our peaceful neighbourhood but this application will, if approved, most assuredly have a negative impact. We object on the following grounds:

- 1) Our entrance is considered to be unsafe for use by heavy vehicles. This is the reason that the AWPR turned down the offer of the camp site in the first place.
- 2) There is no shortage of storage space available in the immediate area. e.g. R.B.Ross's yard. There is no requirement for more, particularly next to a residential area.
- 3) We believe that if this application is granted, it will be used as leverage to extend the site to cover the entire camp thus avoiding the Planning requirement to remove the septic tanks and restore the land to its previous state.