



Strategic Place Planning

Report of Handling

Site Address:	Greenpasture, Anguston, Peterculter, Aberdeen
Application Description:	Variation of condition 4 (time limit for development) of Planning Permission 221571/DPP
Application Ref:	231289/S42
Application Type:	Section 42 (Variation to Conditions)
Application Date:	19 October 2023
Applicant:	Mr & Mrs G. Stewart
Ward:	Lower Deeside
Community Council:	Culter
Case Officer:	Gavin Clark

DECISION

Refuse

APPLICATION BACKGROUND

Site Description

The application site is located in the countryside some 3.5km to the northwest of Peterculter, to the east of Baads and a group of houses known as Hillcrest Courtyard. It forms part of a wider site of some 2.3 hectares which includes agricultural land, a stable block, and a temporary chalet. A detached dwellinghouse is currently under construction and close to completion in the eastern part of the site. The ground level across the wider site rises from south to north, with its northern boundary forming the crest of a hill. To the south of the application site are fields, whilst to the west and across an access track are a group of six houses. Access to the site is via a 350 metre long tarred, single track, private road which serves the neighbouring houses, and then serves Baads by an unsurfaced track for a further 80 metres.

Relevant Planning History

Planning permission (Ref: 221571/DPP) was approved in March 2023 for the change of use of land for the erection of a temporary chalet/mobile home on a time limited basis. This included a condition in which the permission expired on the 23rd October 2023 (discussed further below).

In addition to the above, Baads / Greenpasture has a complex planning history dating back to 2011. This is summarised as follows:

- Planning permission (Ref: P110648) was approved by the Planning Committee, against officer recommendation, on the 11th October 2011 for the erection of a residential dwelling, garage and associated stud farm. Conditions applied to the planning permission included a restriction

on the occupancy of the house to a person employed full time in the stud farm business and the dependants, widow or widower of such a person; requiring the stud farm and all associated infrastructure to be constructed, completed and brought into use prior to the commencement of the construction of the dwellinghouse and garage, in order to ensure that the dwellinghouse and garage were constructed only in association with and for an operational business; restricting the hours of construction; requiring the submission of schemes of all external lighting and drainage/sewage facilities, and of samples of all external finishing materials; and the provision of landscaping and tree planting on site.

- Planning permission (Ref: P120873) was approved under delegated powers on the 27th July 2012 for a variation to condition 7 to allow for the disposal of sewage effluent by means of a suitable primary and secondary treatment system as designed by a qualified engineer. This permission (effectively an updated version of P110648) has been implemented, with the stables constructed, stud farm business operating (Greenpasture Stud and Livery) and dwellinghouse under construction.
- Two applications for planning permission (Ref: P140187 & Ref: P141149) for the removal of Condition 1 (Control of Occupancy) from Planning Permission Ref: P120873 were refused under delegated powers in March and September 2014, the latter of these decisions being upheld by the Local Review Body on 15th December 2014. A subsequent application for planning permission (Ref: P150074), again seeking removal of Condition 1 (Control of Occupancy) was submitted in January 2015, however the Planning Authority declined to determine this application, as permitted under Section 39(1)(b) of the Town and Country Planning (Scotland) Act 1997, on the basis that within the previous two years, two similar applications had already been refused and there had been no significant change in the development plan or in any other material consideration since the third application was submitted in January 2015.
- A subsequent application for planning permission (Ref: 181084/S42), once again seeking removal of Condition 1 (Control of Occupancy) of Planning Permission Reference P120873 was submitted in June 2018 and refused under delegated powers on 30th August 2018.
- In January 2020 an application for detailed planning permission was submitted (Ref: 200040/DPP), seeking a change of use of land to a caravan site to allow for the erection of a residential chalet/mobile home on the site for a period of up to 5 years. The application was refused at Planning Development Management Committee on 30 April 2020, in line with Officer Recommendation. The decision was subsequently appealed to Scottish Ministers and dismissed in July 2020, and a separate claim for an award of expenses declined.
- An application was submitted in December 2020 for detailed planning permission (Ref: 201480/DPP), once again seeking a change of use of land to a caravan site to allow for the erection of a residential chalet/mobile home on the site for a period of up to 18 months. The application was approved conditionally at Planning Development Management Committee on 22nd April 2021. This permission was implemented in May 2021 and expired in November 2022.
- Following determination of the above application on 22nd April 2021 a repeat application (Ref: 210998/DPP) was submitted retrospectively in July 2021 for detailed planning permission seeking a change of use of land at Baads for the siting of a further two caravans for a temporary period) of up to 18 months. The application was withdrawn by the applicants on 27th September 2021. A further application (Ref: 211469) seeking a change of use of land for siting of two caravans for temporary period was refused by the Planning Development Management

Committee on the 9th December 2021. No appeal was submitted against the refusal of this permission.

- An application for a certificate of lawful use was submitted in June 2022 (Ref: 220738/CLE) seeking to demonstrate that the existing use of land as stud farm was the authorised use, as required by condition 2 of planning application Ref: 120873. The Planning Authority issued a certificate of lawfulness confirming the above on the 23rd August 2022.
- An application for planning permission (Ref: 221216/DPP) was refused under delegated powers in January 2023 for a change of use of land to form a one pitch gypsy/traveller site, including one principal caravan, two touring caravans, an amenity block and installation of drainage infrastructure and all associated works.

APPLICATION DESCRIPTION

Description of Proposal

The application is submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 and seeks to allow the development to be carried out without compliance with condition 4 of planning permission 221571/DPP which concerns the change of use of land for the erection of a temporary chalet/mobile home. Condition 4 relates to a restriction in regards to timescales, and states that following:

“The following time limits and related conditions on the planning permission hereby granted shall apply:

- a) *The development permitted by this planning permission shall expire on the 23rd October 2023 and for no longer period.*
- b) *By the 23rd October 2023 the land on which the development permitted by this planning permission shall be reverted to its previous use (as land for the curtilage of the dwellinghouse or otherwise land clear of any structure permitted by this planning permission and any caravan/mobile home/chalet removed), and without prejudice to the foregoing generality, shall include the following works or operations:*
 - i. *Removal of any caravan/mobile home/chalet and associated structures permitted by this planning permission from the land for which this permission relates.*
 - ii. *The completion of any works necessary to restore the land to its previous position before the use of the caravan site was begun.*
 - iii. *Restoration of the land's use as curtilage to the dwelling house on the development site.*

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan 2017, Policy NE1: Green Belt of the Proposed Aberdeen Local Development Plan 2020 2017 and Policy 8 Green Belts of National Planning Framework 4.”

The applicant is seeking to amend the condition to allow for the extension of the permission until 31st July 2024, to allow for completion of the house and the removal of the temporary mobile home by that later date.

Amendments

None.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at: <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S2H09PBZGNB00>

- Supporting Statement
- Letter from Lambridden Stud
- Letter from Donview Veterinary Centre
- Finish Material Photograph Record
- Approved Certificate of Lawful Use
- Details of planning permission 201480/DPP

CONSULTATIONS

ACC - Roads Development Management Team – no comments or observations.

ACC - Environmental Health – no comments or observations.

ACC - Waste and Recycling – have advised of the waste management requirements for the development (which would remain as existing).

Culter Community Council – no response received.

REPRESENTATIONS

Two neutral comments have been received neither objecting to, nor supporting the proposals. The matters raised can be summarised as follows –

1. Do not object on the provision that this variation is not permitted to extend any further than the additional 9 months requested and that the temporary chalet would be removed from the site in accordance with the granted permissions. Understand that the construction process can take time and understand the further need for an extension.
2. Welcome the improvement of the land and encourage further development of the business and the building of the dwellinghouse as per the original application approval.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where making any determination under the planning acts, regard is to be had to the provisions of the Development Plan; and, that any determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the planning authority in determining the application only to consider the question of the condition(s) subject to which the previous planning permission should be granted. The planning authority has the option to approve the permission subject to new or amended conditions or to approve planning

permission unconditionally. Alternatively the planning authority can refuse the application, which would result in the conditions on the original application remaining.

Development Plan

National Planning Framework 4

National Planning Framework 4 (NPF4) is the long-term spatial strategy for Scotland and contains a comprehensive set of national planning policies that form part of the statutory development plan.

- Policy 8 (Greenbelts)

Aberdeen Local Development Plan (2023)

- Policy NE1 (Green Belt)
- Policy D1 (Quality Placemaking)

EVALUATION

Principle of Development

The principle of the siting of the temporary accommodation was established via the granting of planning permission 221571/DPP which also set out a timescale for completion of the new dwellinghouse and removal of the temporary chalet. Through the current application it is necessary to determine whether the amended wording of condition 4, as requested by the applicant, would be acceptable. The only matter therefore being considered and assessed against the relevant planning policies is the proposed longer time period in which the applicant is seeking to complete the dwellinghouse and retain the temporary chalet.

The applicants have submitted a statement in support of the application and have provided photographic evidence in relation to the construction of the house, noting that it is near completion; and that as the stud farm and applicant's other businesses occupy most of their time, due to limited resources this has had a knock on effect in relation to this development. They have noted that the estimate for completion of the dwellinghouse is now the summer of 2024. They have therefore sought a further extension to allow the current mobile home to be occupied on site until 31st July 2024, which would allow for both the completion of the dwellinghouse and also for the security of the animals on site.

Whilst it is appreciated that all situations are different, a significant period of time (30 months – April 2021 to October 2023) has been allowed for the construction of the dwellinghouse through a combination of permissions (201480/DPP and 221575DPP). The typical period for the construction of a single dwellinghouse would typically range from 9-15 months and in light of the significant period of time, in this instance, it is considered that a further 9-month extension to the construction period and the retention of the temporary chalet/ mobile home cannot be supported in this instance.

In the previous reports for the site it was noted that *“the proposed change of use of the land which would allow for a further period of approximately 7 months on the site would have a visual impact on the green belt, and it is therefore a relevant consideration in the determination of the application. The open aspect of the site and its relative prominence within the surrounding area is such that a chalet/ mobile home within this location would be clearly visible from well beyond the curtilage of the site (as has been evidenced since the chalet has been constructed on site. The development would clearly not be acceptable on a permanent basis.”*

The mobile home/ chalet has now been on site for approximately 30 months, and does not have a positive impact on the character and appearance of the surrounding area. The period that the building has been on site has therefore been extended twice and any further extension would give the structure a more “permanent feel” and cannot be supported in this instance. The development is not considered to be of a high quality design, which is required for all development in the Green Belt and has not been designed with due consideration for its context. The retention of the mobile home/ chalet also does not fall within any of the exemption criteria as set out within both local and national planning policies.

The continued use of the land for the siting of the temporary structure (which has been on site since May 2021) would therefore be contrary to both Policy 8 of NPF4 and Policies NE1 and D1 of the ALDP 2023. Therefore, the wording of condition 4 of 221480/DPP should not be amended in this instance and that the structure should be removed from the site in line with the planning condition requirements.

DECISION

Refuse

REASON FOR DECISION

The continued use of the land for the siting and use of a temporary chalet / mobile home has not been designed with due consideration for its context and would have an adverse impact on the surrounding Green Belt. There have been two earlier permissions, which have allowed the retention of the building for a period of 30-months through planning permissions 201480/DPP and 221575/DPP and a further period cannot be justified in this instance. The proposals would therefore be contrary to Policy 8 (Green Belt) of National Planning Framework 4 and Policies NE1 (Green Belt) and D1 (Quality Placemaking) of the Aberdeen Local Development Plan.