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SUPPORTING PLANNING STATEMENT FOR LOCAL REVIEW BODY

Please note that the information in this statement is as per the originally submitted application for the temporary chalet 201480/DPP along with addendums related to the applications seeking to retain the temporary chalet 221571/DPP and then related to the Section 42 application 231289/S42 which is the subject of this appeal. A further section providing comments on the report of handling and the further justification for the retention of the chalet for a further temporary period is also provided at the end of the statement.

Information related to history of applications including approval of application 201480/DPP for temporary chalet

- 1.1 This is an application for full planning permission for the erection of a temporary mobile residential lodge on land at Baads Farm, Peterculter. The applicants are a Mr and Mrs G Stewart who, since purchasing the ground with permission for the stud business, stables and a dwellinghouse, have established Green Pasture Stud Farm. However, without the presence of any on-site accommodation, the introduction of stud animals to the stables is impossible due to the nature of the business and the care required on site. They seek permission to house the temporary mobile residential lodge at the site for a period of eighteen months while the house is being constructed, but most importantly, the business cannot be established without the applicant living on the site to allow the supervision and care required for stud horses, who quite simply could not be introduced safely to the stables without the 24 hour presence of the owners on site.
- 1.2 The site is located in the countryside some approximately 2 miles north west of Peterculter. It lies to the east of Baads and houses at Hillcrest Courtyard. The wider ground in the ownership of the applicant and which has planning permission for the business and house measures 2.3 hectares. The area where the temporary mobile home will be located measures 675 square metres and is part of the ground which has been granted planning permission for the business, stables and dwellinghouse. It does not impact on any of those areas as it is located within the garden ground of the granted dwellinghouse. An existing single track provides a means of access.

- 1.3 For clarity, in legal terms a mobile home is, broadly speaking, any structure designed or adapted for people to live in which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. It will therefore be as equally easy to remove the mobile lodge from the site as it will be to place it there.
- 1.4 The planning permission which granted approval for the stud business, stables and dwellinghouse was granted on 11 October 2011 and this development has lawfully commenced. Condition 2 required that *the stud farm hereby granted planning permission and all associated infrastructure shall be constructed, completed and brought into use prior to the commencement of the construction of the dwellinghouse and garage hereby approved - in order to ensure that the dwellinghouse and garage are constructed only in association with and for an operational business in accordance with the provisions of Policy 28 of the Aberdeen Local Plan.*
- 1.5 A previous application 200040/DPP for change of use of land for erection of chalet/mobile a home was refused on 30 April 2020. The reasons given in the refusal stated that:
- The proposed development comprises a change of use of land to caravan site for the erection of a residential chalet/mobile home for a period of up to 5 years. This is a stand-alone application, which if approved, would allow for the change of use to caravan site and subsequent residential occupancy of that site to occur without any obligation for the construction of the previously approved stud farm being progressed.*
- It is the considered opinion of the planning authority that provision of any form of residential accommodation on the application site in advance of the aforementioned stud farm being constructed and brought into use would undermine the policies which seek to protect the integrity of the Green Belt, and safeguard against unsustainable development and suburbanisation of the area. Such development would have an adverse effect on the character of the area and the landscape setting within which the site lies.*
- The proposed development would be clearly contrary to the expectations of Scottish Planning Policy (SPP) and to the requirements of Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan, and would only partially address the expectations of Policy D1 (Quality Placemaking by Design) and Policy T2 (Managing the Transport Impact of Development).*
- That the proposal, if approved, would set an undesirable precedent for applications of a similar nature which would result in the proliferation of sporadic, temporary residential accommodation in the Green Belt, and in turn lead to the erosion of the character of the Green Belt and adversely affecting the landscape setting of the City.*
- 1.6 It is put forward that the refusal of the previous application is unreasonable in the circumstances and does not allow the establishment of the business which has planning permission. Since purchasing the ground, the applicant has already invested

a significant amount of money in preparing the ground for all of the development, has erected the stables for the stud farm and created the access points for both the stables and stud farm and the dwellinghouse. The stud farm is ready to be brought into use but without on-site supervision and care the stud horses cannot be brought to the farm. Given this, the stud farm cannot be brought into use.

- 1.7 It is suggested that appropriate consideration was not given by officers to the fact that a stud business, due to the type of animals involved, simply cannot be established without some form of temporary accommodation on site to enable the successful establishment of the business. There is little point in going over the intention of the original condition, it is of more importance to consider what harm would be caused by the introduction of a temporary residential home on the site to achieve the very ends of the original permission which was granted.
- 1.8 It should be noted that a number of other Planning Authorities have specific policies to cover such temporary residential development. The circumstances where approval can be given usually relates to the temporary provision of accommodation on site while other development, usually dwellinghouses, are being constructed. Indeed, such accommodation is often also granted planning permission as part of approval for dwellinghouses to allow applicants to live on site while dwellinghouses are being built. It follows that it appears to be a very strict approach in this case, particularly where the temporary accommodation facilitates the safe and secure establishment of the stud farm business in the location where it already has planning permission, and that a temporary permission could be granted.
- 1.9 The applicant wishes to be clear that the proposal is not an attempt to circumvent any planning regulations as has been alluded to in the past by neighbouring residents. This is a simple application for temporary accommodation to support the establishment of the business that many have complained has not been established as granted. The accommodation will also allow the dwellinghouse to be completed. As a temporary permission, the development with permission will be completed and the mobile home will subsequently be removed. Contrary to previous comments, approval of this application would not set a precedent as there is very specific planning history in this case and the overarching Green Belt policy would not normally permit such development. Others comment that there is no viable stud business operating so the proposal should not be supported, but this is the very point, as it is too risky to introduce animals to the site without appropriate accommodation on site. Since Mr and Mrs Stewart have purchased the land, they have improved this significantly, carrying out varying site clearance, erecting the stable building and erecting good quality gate piers to both the entrance to the stable and to the proposed dwellinghouse. Signage for Green Pasture Stud Farm has also been erected on the gates beside the entrance to the stables. They cannot go any further with putting the business into action without temporary accommodation on site.
- 1.10 The view of the Planning Authority that the provision of any form of accommodation on the site in advance of the stud farm being constructed and brought into use would

undermine the policies which seek to protect the green belt is an unreasonable position in this particular case, and planning law is clear that every case must be treated on its own merits.

1.11 However, Policy NE2 of the Aberdeen City Local Development Plan is clear that proposals for development associated with existing activities in the green belt will be permitted but only if all of the following criteria are met:

a) The development is within the boundary of the existing activity;

b) The development is small-scale;

c) The intensity of activity is not significantly increased; and

d) Any proposed built construction is ancillary to what exists.

1.12 The granting of a time limited permission for temporary accommodation is compliant with Policy NE2 as the application site for the temporary residential accommodation is within the approved red line boundary, it is a small, two bedroom mobile home, the residential use of the temporary mobile home will cease once the dwellinghouse is completed so there will be no additional activity or intensity of activity and as a temporary residential building it is clearly ancillary to what exists and has permission and will be removed from the site once all other construction is complete and this can also be suitably controlled by condition.

1.13 Although the Planning Authority recognised in the previous application which sought permission for temporary accommodation that *a case could potentially be made following construction of the stud farm and business and it having become operational for allowing on site temporary accommodation whilst the permanent dwellinghouse is built*, this is still of no value to the applicant. This scenario could allow for a temporary home to be granted immediately after the business is established on site and horses introduced, but this seems nonsensical to a business owner and operator who cannot fully establish the business and introduce the horses with the risk this would bring to the animals without having a permanent residential base at the site.

1.14 The letters attached to this application seek to provide further justification for a temporary residential building at Green Pasture Stud. Another stud operator, Lambridden Stud in Ayrshire, is clear that having successfully operated a stud farm since 1984, horses and in particular, the stallions which would be core to the stud business, should not be living at any site where there is no on-site accommodation. Such horses, require 24 hour supervision as could be confirmed by the SSPCA. Insurance liability issues would also automatically come into play if horses were living on site with no supervision. A local vet, Donview Vets in Inverurie, has also stated that in their professional opinion a stud farm must have on-site accommodation for supervision for the animals. It is stated that stallions in particular, can be very fractious, especially during the covering season and the close proximity of mares in heat. Any injury must be identified immediately to being able to carry this out from living at the site is essential to the welfare of the horses.

1.15 In conclusion, there are very specific considerations in this case which would allow permission for temporary accommodation to be granted for a limited period of time. A clear and temporary need has been demonstrated in this case. It also cannot be underestimated that in these more challenging times, the commitment of the applicant to a business such as this should be commended and supported. The economic impact of development must also be taken into account as a material consideration in the determination of planning applications and in this case, and without a temporary approval for the residential accommodation proposed, there is no prospect for this business. There is not yet a viable stud business operating as it is too risky to introduce animals to the site without accommodation. The farm and stables are established but cannot be put into operation without accommodation on-site given the essential supervision and care needs of the stud horses. There is no doubt that the need for 24 hour on-site security is essential to address potential theft or damage and that on-site presence is critical to the health and wellbeing of the horses. The development respects the character and amenity of the surrounding area and it can be satisfactorily serviced. The wider site has been sympathetically upgraded by the applicant since taking over the ownership of it. The Planning Authority will be able to retain satisfactory control over any temporary approval with appropriate conditions and it is therefore respectfully requested that temporary planning permission is granted.

Addendum to supporting statement to illustrate the most up to date position and information as part of 221571/DPP

2.1 It should be noted that the original application for the chalet was granted temporary approval for 18 months and while this has expired, the principle of allowing a temporary approval has been established. The circumstances which allowed the temporary permission to be granted (see comment from Committee report below) have not changed and the need for the development for a further temporary period remains.

2.2 *With this in mind, the current status of the stud farm is therefore quite critical in terms of our assessment and determination of this application. The stable building has now been constructed including appropriate drainage infrastructure, thus permitting a temporary completion certificate to be issued which allows its use and occupation, and a full connection for the site to the mains water supply has also been confirmed by Scottish Water. So whilst the stud farm business is not yet in operation, it has been suitably demonstrated that the essential infrastructure is now in place and its operation could therefore be deemed imminent, thereby giving more weight to welfare and security requirements, if these are indeed deemed to be valid.*

2.3 The appellant has progressed the establishment and operation of the stud farm and the erection of the dwellinghouse originally approved which is tied to the stud farm. However, the house is not yet complete and a further period of time is required to

allow the house to be completed and this application seeks a period of time until 22 October 2023 (which is one year over and above the originally approved temporary 18 month permission). This is seen as reasonable in the circumstances as there was a period of time where there remained some uncertainty about the decision the Planning Authority would make on the Certificate of Lawfulness application and the applicant was concerned about proceeding with the house for a period of a few weeks/months as a result. However, work has since proceeded at pace.

- 2.4 The delegated report for the Certificate of Lawfulness application for the existing use of land as a stud farm as required by condition 2 of planning application reference 120873 stated that:
- 2.5 *In support of the application, the applicant has provided details of the stud farm, which has included journal entries, details of the purchase, stabling and upkeep of the stud horse, a business plan, signed affidavit from a customer, whose own horse was impregnated by the stud, various advertising revenues and other information, which would lead to the view that a business has begun operation on site under the terms of the original planning approval ref 110648 (and the subsequent variation which is in the process of being implemented Ref: 120873). It is also noted that an access, and stabling and other facilities for horses have been constructed on site in line with the approved drawings for the aforementioned planning application. Whilst further evidence could have been submitted in relation to the proposals, for example the registration of the business and a more detailed business plan, the Planning Authority are content, on the balance of probabilities, that the stud farm is now in operation and the construction of the associated dwellinghouse is therefore lawful. Based on these factors, it is therefore recommended that a Certificate of Lawfulness be issued in relation to the existing use.*

Further addendum to supporting statement to illustrate the most up to date position and information in support of Section 42 application 231289/S42 to vary condition 4 (time limits) of 221571/DPP Change of Use of Land For Erection of Temporary Chalet/Mobile Home

- 3.1 It should be noted that this application is made as a variation of the time condition on the most recent temporary approval 221571/DPP. The most recent application was made as a new application for planning permission for change of use rather than a Section 42 variation application on the basis that the original approval for the temporary mobile home 201480/DPP had expired and the conditions could therefore not be varied. As the existing temporary permission has not yet expired (23rd October 2023), this new application is made under Section 42 to vary the time limit condition.
- 3.2 Firstly, it should be highlighted that the policies which are now relevant to this case are contained in the Aberdeen City Local Development Plan 2023 and the National Planning Framework 4. The general policy principles of both documents align with those of the previous Local Development Plan and other national planning policy. At

the time the mobile home was granted the initial temporary approval (22nd April 2021), the Aberdeen Local Development Plan 2017 was the adopted development plan. At the time of the most recent approval (2nd March 2023) for a further period of time for the mobile home, the Proposed Aberdeen Local Development Plan had not yet been adopted but the National Planning Framework was adopted on 14th February 2023. For the purposes of clarity the documents and policies which are applicable are as follows:

National Planning Framework 4

- Policy 1: Tackling Climate Change and Nature Crises
- Policy 2: Climate mitigation and adaptation
- Policy 3: Biodiversity
- Policy 8: Green Belts
- Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings
- Policy 13: Sustainable Transport
- Policy 14: Design, Quality and Place
- Policy 22: Flood Risk and Water Management

Aberdeen City Local Development Plan 2023

- D1: Quality Placemaking by Design
- D2: Landscape
- T2: Managing the Transport Impact of Development
- NE2: Green Belt
- NE6: Flooding, Drainage and Water Quality
- R6: Waste Management Requirements for New Development

3.3 The reasons on which the Council based its decision to grant a further temporary period to retain the mobile home under application 221571/DPP is as follows:

3.4 *The provision of the principle of development on site for a temporary period has previously been established on site, with further evidence submitted to as to why the development was not completed within the initially consented 18-month period, and why a further period of 7 months is required.*

3.5 *The Planning Authority have previously accepted that an on-site presence is required, the stud farm is in operation, and the associated dwellinghouse appears close to completion. Taking the above into account, it is considered that there are material considerations, including current personal circumstances of the applicants, which*

would carry sufficient weight and provide clear justification for the planning authority to support the application in this instance, notwithstanding that the requirements of Policy 8: Green Belts of National Planning Framework 4 and Policy NE2 (Green Belt) of the Aberdeen Local Development Plan 2017 may not be fully addressed.

- 3.6 *The proposals would not be acceptable on a permanent basis due to the adverse impact on the surrounding landscape, but on a further temporary period it is considered that the proposals would not be contrary to the aims and aspirations of Policies 1: Tackling Climate Change and Nature Crises, 2: Climate mitigation and adaptation, 3: Biodiversity, 9: Brownfield, Vacant and Derelict Land and Empty Buildings, 13: Sustainable Transport, 14: Design, Quality and Place and 22: Flood Risk and Water Management of National Planning Framework 4 and Policies D1: Quality Placemaking by Design, D2: Landscape, T2: Managing the Transport Impact of Development, NE6: Flooding, Drainage and Water Quality and R6: Waste Management Requirements for New Development of the Aberdeen Local Development Plan, given the temporary nature of the proposal and the limited scale of development which would result.*
- 3.7 *A similar conclusion to the above would also be the outcome when assessed against Policies NE1: Green Belt, NE4: Our Water Environment, D1: Quality Placemaking, D2: Amenity, D4: Landscape, R5: Waste Management Requirements for New Development and T2: Sustainable Transport of the Proposed Aberdeen Local Development Plan 2020.*
- 3.8 The general policy principles of the newly adopted Aberdeen Local Development Plan do not fundamentally alter how a planning application for a further temporary approval would be considered and this application to vary the time limit can be made on the same basis. However, there is a requirement to provide further justification which would allow a further period of time to retain the temporary mobile home on the site to allow the continued support for the stud farm business and the completion of the dwellinghouse.

Photographs of the ongoing build of the dwellinghouse







- 3.9 As can be seen, the house build is continuing well but is not yet near completion and while it is appreciated that this is far from ideal, the applicant is doing everything they can, when they can, on this self-build project to ensure completion as soon as possible. The applicant is heavily involved in the build along with the builders Mr Stewart is employing. However, the stud farm and Mr Stewart's own business occupy most of their time and both businesses need to continue operating on a full-time basis to ensure the continuation and completion of the build.
- 3.10 It is appreciated that the house has not yet been completed within the timescales of the further extension granted until 23rd October 2023, however, there should be some recognition that the applicant had no confidence to proceed with the house build until such times as the associated Certificate of Lawfulness for the stud farm was granted on 23rd August 2022.
- 3.11 The estimate for completion of the build is currently summer 2024, which largely accords with either appealing a refusal or appealing an enforcement notice if this was to be pursued should a Section 42 application not be submitted. The application is therefore made seeking until the end of July 2024 for completion of the house and removal of the temporary mobile home.

Comments on the report of handling and the further justification for the retention of the chalet

- 4.1 As has been previously highlighted, the applicant was unable to start the house build properly until the Certificate of Lawfulness application for the stud farm was approved. Over the period of time that the most recent applications have been made, the applicant is pleased to report that neighbour relationships are improving, that the stud business is going well and providing the applicant with full-time employment (applicant's wife). While the planning history with the various developments at the site is somewhat complicated, the recent assistance of the Planning Service has been welcome. It is therefore disappointing that notwithstanding this, that the need for an extension to the time to complete the house build has been refused. While the Planning Service has alluded to some kind of 'policy' they operate with regard to temporary refusals, it is unclear what this is or what the basis for it is. The applicant is keen to complete the build, which although still not without challenges as effectively a self-build project, is not being moved on to completion as quickly as the Planning Service or the applicant would like. The applicant would therefore like to take this opportunity to reiterate that the refusal of a further temporary permission is not reasonable when they are required to live on site to run the business and for animal welfare reasons and to allow them to complete the house, move in and to support the stud farm and horses. The need to retain the temporary mobile home on site is greater than any impact on the character and appearance of the surrounding area.