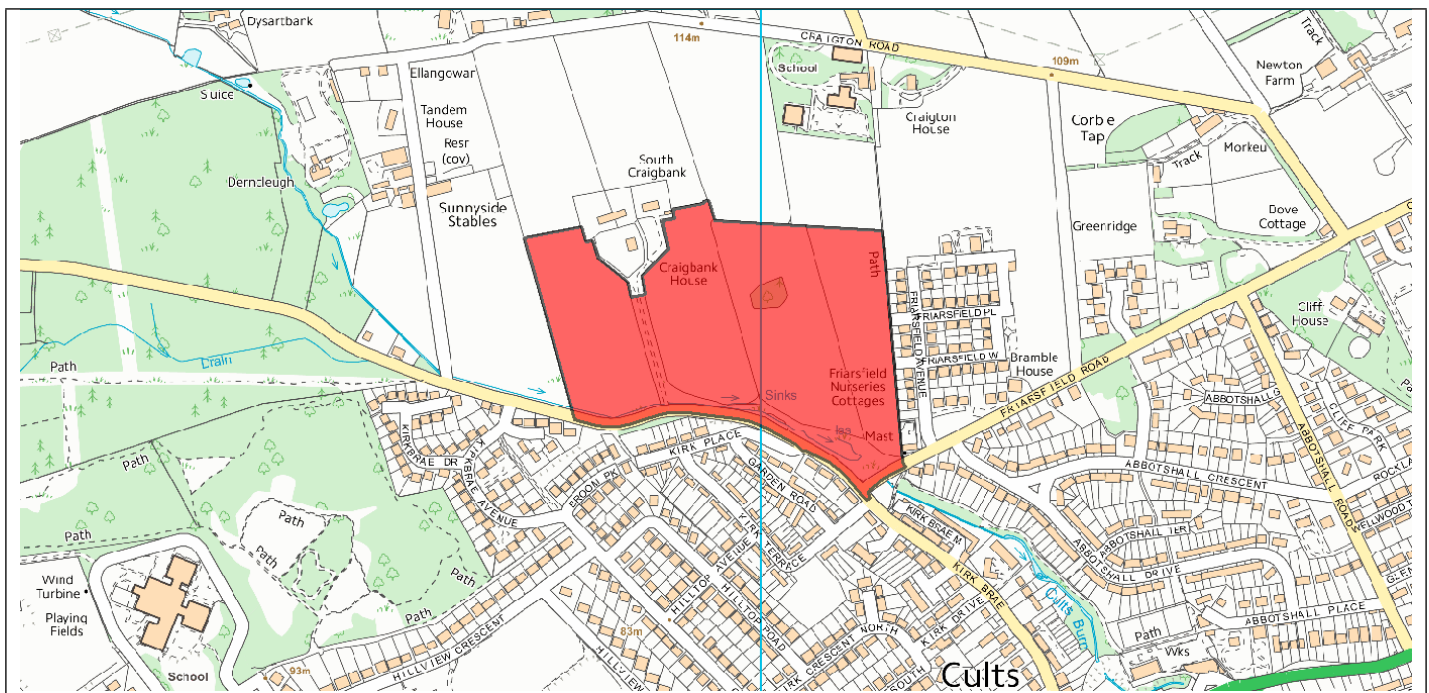


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 2 November 2017

Site Address:	Land Adjacent To Kirkbrae/Friarsfield Road, Cults, Aberdeen, AB15
Application Description:	Modification of planning obligation associated with application 140272 (Cults Park) to allow an alternative offsite affordable housing provision at 132 - 134 and 142 King Street
Application Reference:	170882/MPO
Application Type	Modification/Discharge of Planning Oblig
Application Date:	24 July 2017
Applicant:	Cala Homes Aberdeen (North) Ltd
Ward:	Lower Deeside
Community Council	Cults, Bieldside And Milltimber
Case Officer:	Andrew Miller



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RECOMMENDATION

Approve Modification

APPLICATION BACKGROUND

Site Description

The site relates to a housing development of 119 units to the north of Friarsfield Road/Kirk Brae, Cults, granted under application 140272 and forming part of a wider opportunity site (OP41) for housing identified in the Aberdeen Local Development Plan 2017.

Relevant Planning History

140272 – Erection of 119 residential units (including 12 affordable) on land to the north of Friarsfield Road/Kirk Brae, Cults. The Planning Development Management Committee at their meeting of 19 March 2015 gave a willingness to grant consent subject to developer obligations being secured. A legal agreement was subsequently entered into with the planning authority and consent was issued on 10 October 2016.

170081/DPP – Application for a four storey block of 20 flats, conversion of public house to commercial unit at ground floor, and conversion and extension of former Boiler Maker's Club to form 6 flats at 132 – 134 and 142 King Street. Application

Also related to this application is another request for modification another of the applicant's developments within OP41:

120340 – Erection of 81 residential units at land to north of Friarsfield Road, Cults. The Planning Development Management Committee at their meeting of 8 November 2012 gave a willingness to grant consent subject to developer obligations being secured. A legal agreement was subsequently entered into with the planning authority and consent was issued on 26 November 2013.

170881/MPO – Modification of planning obligation associated with application 120340 to allow for an alternative offsite affordable housing provision at 132 – 134 and 142 King Street being determined alongside this application.

APPLICATION DESCRIPTION

Description of Proposal

The application relates to a consent for a housing scheme that was granted subject to a legal agreement under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) to secure a number of developer obligations, including affordable housing. Clause 14 of the section 75 agreement requires the developer to provide 8 on site units for the provision of Low Cost Home Ownership (LCHO).

Section 75A of the Act allows for a person against whom a planning obligation is enforceable to apply to the planning authority to have the obligation either modified or discharged.

This application seeks the modification of the obligation to insert a clause that would allow for the provision of 8 affordable social rented units offsite at 132 – 134 and 142 King Street in lieu of the onsite provision of LCHO.

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=OTLFJCBZ02E00>.

The following documents have been submitted in support of the application –

- Supporting Statement
- Viability Statement (not publicly available due to sensitive commercial information).

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it seeks to vary a developer obligation required by a case previously determined by the Planning Development Management Committee (minute of meeting of 19 March 2015, item 5 refers).

CONSULTATIONS

Cults, Bielside and Milltimber Community Council – Object to this application as Cults needs the current affordable housing as agreed in the legal agreement. Affordable homes are needed by many people who work in the area and cannot afford private homes on the open market.

Should Aberdeen City Council be minded to allow this variation and provide housing offsite on King Street, the Community Council would like to receive further information on how the City Council will deliver affordable housing the Cults, Bielside and Milltimber area and how various developer obligations from developments in the area will be used.

REPRESENTATIONS

Applications to vary or discharge planning obligations under section 75A of the Act are not open for public comment.

MATERIAL CONSIDERATIONS

Legislative Requirements

Section 75A of the Town and Country Planning (Scotland) Act 1997 allows for a person against whom a planning obligation is enforceable to apply to the planning authority to have the obligation either modified or discharged. In determining such requests, the planning authority must consider the application on its own merits and reach a decision in accordance with the terms of the development plan, unless material considerations indicate otherwise. Any modification should be considered against the policy tests set out in [Circular 3/2012 \(Planning Obligations and Good Neighbour Agreements\)](#).

The planning authority may determine that the obligation be modified as per the proposed modification or continue in its current form. It cannot determine that the obligation should be subject to any modification other than the modification(s) set out in the application – i.e. the proposed modification is either approved or refused.

National Planning Policy and Guidance

Circular 3/2012 – Planning Obligations and Good Neighbour Agreements
Scottish Planning Policy

Aberdeen Local Development Plan (2017)

H5 – Affordable Housing

Supplementary Guidance and Technical Advice Notes

Affordable Housing

EVALUATION

As outlined above, planning permission was granted subject to a number of developer obligations including onsite affordable housing provision in the form of 12 LCHO units. This application proposes the addition of a clause which would allow for an alternative contribution for offsite delivery of 12 social rent flats at King Street (former East Neuk Public House).

In assessing the suitability of the proposed change, consideration will be given to the Aberdeen Local Development Plan 2017 (ALDP) and the Affordable Housing Supplementary Guidance (SG).

ALDP policy H5 states that housing developments of five or more units will be required to contribute no less than 25% of the total number of units as affordable housing. The agreement in place relative to application 140272 requires the delivery 12 LCHO units as onsite delivery (equalling 10% of the contribution), whilst the remainder (15%) would be made of a commuted sum.

The SG contains a sequential approach that states the Council's preferences for delivery of affordable housing as required under policy H5:

1. Onsite – Social Rent: either by a Registered Social Landlord (RSL) or the Council;
2. Onsite – Intermediate Housing: LCHO, Mid-Market Rent etc.;
3. Offsite; then
4. Commuted Sum.

As the agreement currently stands, the contributions for affordable housing would be made up of obligations described under points 2 and 4 outlined above. The proposed modification of the affordable housing contribution would see this fall to points 3 and 4. The SG also states that if offsite is to be considered acceptable, then it should be located within the same submarket area. In this case, Friarsfield is located in the Prime area whilst King Street is within the Urban Core.

Within the supporting statement provided with the application, it is stated that without the applicant's involvement in the proposed scheme at King Street, the development would not be viable. A viability statement also provided in support of the application details that profit from the sale of flats (presently identified as LCHO) on the open market would cover the shortfall in the funding necessary to bring the King Street development forward. The City Council's Housing Strategy Manager considers that the information in the supporting statement is correct and the social rent flats at, King Street would only be viable with the proposed cross subsidy from CALA.

Whilst not fully compliant with the SG, in that the provision of affordable housing would fail to accord with the sequential approach and be located within the same market area, the housing provision would enable the delivery of 12 social rent units (which is seen as the Council's preferred form of affordable housing delivery). When considered as a whole (26 units), the King Street development would result in the delivery of a greater number of units than would be delivered on site at Friarsfield (20 overall). In addition, the provision of affordable housing offsite would result in the redevelopment of a prominent listed building close to the City Centre that would otherwise be unviable without this intervention (as detailed in the viability statement provided with the application).

The timing of the delivery for King Street is estimated to be within the next 18 months, whereas the onsite LCHO is estimated for delivery post 2020 at the earliest (dependant on build out rate for the wider Friarsfield development).

The proposed modification retains the obligation of the provision of the 12 onsite LCHO units at Friarsfield, which would provide the developer with the option to implement the LCHO should the King Street development fail to come forward. The requirement for commuted sum towards affordable housing would also remain.

Cults, Bielside and Milltimber Community Council's comments are noted, however in this instance there are considered to be sufficient material considerations (outlined above) that would benefit outweigh the SG and enable the delivery of additional social rent units in the city.

RECOMMENDATION

Approve Modification

REASON FOR RECOMMENDATION

Whilst not fully compliant with policy H5 – Affordable Housing of the Aberdeen Local Development Plan 2017 (ALDP) and the related Affordable Housing Supplementary Guidance, the proposed modification to the existing section 75 agreement would enable the overall delivery of a greater number of affordable housing units within Aberdeen within a tenure that is under greater demand.