



Planning Development Management Committee

Report by Development Management Manager

Committee Date: 26th April 2018

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| Site Address: | Zone A (site Between), Countesswells Road/Hazledene Road, Aberdeen, |
| Application Description: | Discharge of planning obligation associated with A7/2178 and A8/530 relating to the site of 170525 |
| Application Reference: | 180013/MPO |
| Application Type | Modification/Discharge of Planning Obligation |
| Application Date: | 8 January 2018 |
| Applicant: | Hazledene Developments (3) Ltd |
| Ward: | Hazlehead/Ashley/Queens Cross |
| Community Council | Craigiebuckler And Seafield |
| Case Officer: | Daniel Lewis |



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RECOMMENDATION

Approve Discharge

APPLICATION BACKGROUND

Site Description

The application site forms lies in the north-eastern corner of the wider Hazledene development site, which is located between Hazledene Road, to the north, and the adjacent Pinewood development site, to the south. The Pinewood site is itself bounded by Countesswells Road to the south. Those two development sites, allocated via previous Local Development Plans, combine to form a wider development area, L-shaped in plan view, which sits directly to the west of the established residential areas of Countesswells and Craigiebuckler. Their combined site area is some 27 hectares, of which roughly 10.5ha is contained within the Pinewood site and 16.5ha within Hazledene. This application concerns an area of 1.07ha at the north-eastern corner of the Hazledene site, which incorporates a frontage onto Hazledene Road.

Relevant Planning History

| Application Number | Proposal | Decision Date |
|--------------------|---|---------------|
| 072132 | Residential development and formation of access roundabout | 19.08.10 |
| 080831 | Planning Permission in Principle for circa 250 units within Hazledene site | 19.08.10 |
| 130994 | Application for the approval of Matters Specified in Conditions, relating to 50 homes within Hazledene Zone A, accessed from Hazledene Road | 28.11.13 |
| 170525 | Erection of care home and 4 dwellings within part of Hazledene Zone A | 10.7.17 |

APPLICATION DESCRIPTION

Description of Proposal

This application is made under section 75A of the Planning Act, which relates specifically to the modification or discharge of planning obligations. In this instance, the applicants seek to discharge a planning obligation which secures affordable housing in relation to residential development approved via the approval of Planning Permission in Principle (PPiP) at Pinewood and Hazledene. The discharge is sought only in relation to the site of the recent planning approval for the erection of a care home and 4 dwellings which forms a small part of the wider area covered by the planning obligation. The remainder of the Pinewood and Hazledene sites would still be covered by the planning obligation related to affordable housing.

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=P28GP2BZ02E00>.

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

- Cover letter
- Application form
- Location Plan
- S75 Minute of Agreement

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the planning obligation to which it relates involved a 'Major' development which was not determined by the appointed officer under a scheme of delegation. In this regard, the Council's Scheme of Delegation indicates that determination of this current application to discharge the planning obligation cannot be delegated to the appointed officer.

CONSULTATIONS

None

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS

Legislative Requirements

The Planning etc. (Scotland) Act 2006 (the 2006 Act) amended the provisions in the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) covering planning obligations (previously known as planning agreements). References to 'the Act' are to the amended legislation. Sections 75, 75A, 75B and 75C deal with planning obligations.

Section 75 sets out the framework for planning obligations including:

- The scope and purpose of a planning obligation;
- That a planning obligation may contain conditions and the extent to which it may require the payment of monies, or provision of infrastructure;
- That a planning obligation (to which the owner is a party) may be registered in the Land Register of Scotland or the General Register of Sasines, making a planning obligation enforceable against future owners or occupiers of the land;
- The provision of powers for planning authorities to enforce the terms of an obligation through direct action.

Section 75A creates a formal process whereby a person against whom a planning obligation is enforceable may apply to the planning authority to have the obligation either modified or discharged.

National Planning Policy and Guidance

Scottish Planning Policy, in its '*Core Values of the Planning Service*' states that the service should '*be proportionate, only imposing conditions and obligations where necessary*'.

Scottish Government Circular 3/2012: *Planning Obligations and Good Neighbour Agreements* provides advice on the use of planning obligations and sets out the series of tests that must be met in order for the use of a planning obligation to be appropriate.

Aberdeen Local Development Plan (2017)

I1 Infrastructure Delivery and Planning Obligations

H1 Residential Areas

H5 Affordable Housing

H4 Housing Mix

Local Planning Advice

Pinewood Hazledene Planning Brief

EVALUATION

Principle of Development

Planning obligations may be considered necessary by planning authorities in order to make a development acceptable in planning terms, and typically cover matters such as developer contributions and affordable housing provision. These obligations are registered against the title deeds in order that they will be enforceable against the owner of the land in the event that ownership changed hands after planning permission is obtained. In this case, a planning obligation was used to require that 10% of the residential development approved via applications 080831 and 072132 be delivered as affordable housing.

The background to the current application is that planning permission was granted for the construction of a care home and 4 dwellings on this part of the site in July 2017, via the approval of application 170525/DPP. Application 170525/DPP was approved subject to a separate planning obligation, which involved payment of developer contributions pursuant to that development.

The applicant has submitted confidential supporting information (including excerpts from legal contract documents) that is considered to demonstrate that Dandara now have a concluded contract with an established nursing home operator to implement planning consent 170525/DPP for the construction of a nursing home on the site to which this S75A application relates. A condition of the land deal is that the current owners seek to discharge obligations relating to the earlier residential consents, and in so doing offer a 'clean' title to the purchasers.

It is acknowledged that discharge of the obligation to provide affordable housing related to the site of planning application 170525/DPP means that there is still a hypothetical risk that that affordable housing obligation to provide the equivalent of a two or three affordable units may not be secured on this particular part of the site if the deal with the nursing home operator falls through or/and the site is progressed for a housing development. However there is no reason to believe that this will be the case - with the evidence pointing to an urgency to progress the construction of the nursing home in the very near future. Implementation of the nursing home consent would fulfil the desirable planning objective of adding diversity to the residential mix on the wider Pinewood/Hazledene site. Facilitating the delivery of this development is very much in the interests of creating a diverse residential environment and mix of house types in accordance with the objectives of the Pinewood Hazledene Planning Brief and Policy H4 - Housing Mix of the adopted Local Development Plan.

With the foregoing in mind it is recommended that the applicant's proposed discharge of the S75 Agreement which secures affordable housing associated with planning approvals A7/2178 and A8/530 is discharged in as far as it relates to the site of planning approval 170525/DPP.

RECOMMENDATION

Approve Discharge

REASON FOR RECOMMENDATION

Planning consent has been obtained for an alternative development on this site, and necessary developer obligations relating to that alternative development have been secured by separate means. There is little realistic prospect of the earlier residential consents now being delivered on this portion of the wider development site, and by agreeing to discharge the earlier planning obligation in relation to affordable housing – only insofar as it relates to this site – the planning authority can facilitate the sale of the site and the delivery of the more recent consent, which includes construction of a care home. Facilitating the delivery of this development is very much in the interests of creating a diverse residential environment and mix of house types in accordance with the objectives of the Pinewood Hazledene Planning Brief and Policy H4 - Housing Mix of the adopted Local Development Plan

CONDITIONS

None

ADVISORY NOTES FOR APPLICANT

None