

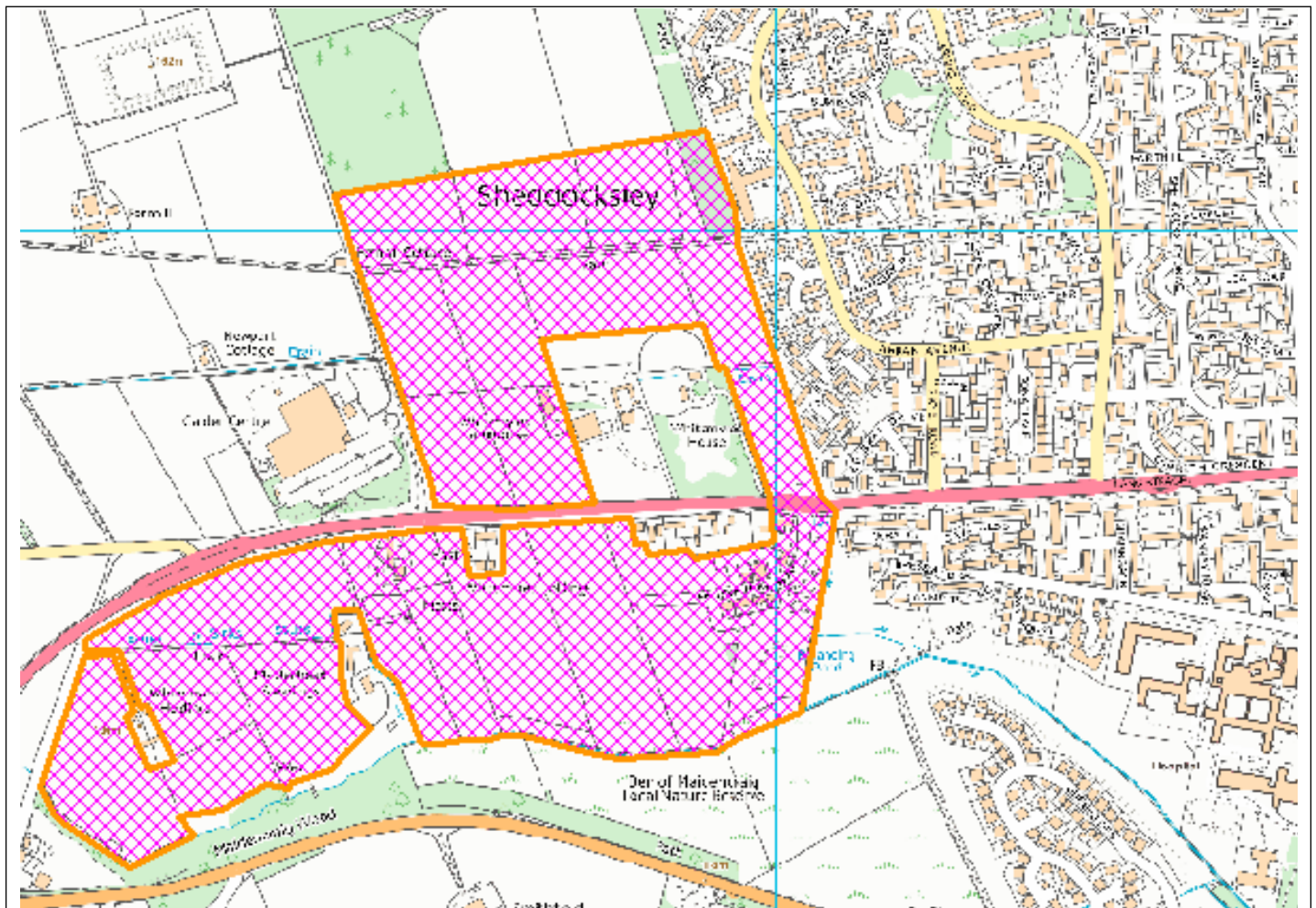


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 20th September 2018

Site Address:	Site at Maidencraig, North and South of the A944, Aberdeen, AB15 6AX.
Application Description:	Modification of Planning Obligation (to allow additional applications/ variations) of Planning Permission in Principle Ref: 130265 for a mixed use development incorporating residential, commercial uses, community facilities, open space, landscaping and associated infrastructure
Application Ref:	181453/MPO
Application Type	Modification/Discharge of Planning Obligation
Application Date:	13 August 2018
Applicant:	Bancon Homes Ltd
Ward:	Kingswells/Sheddocksley/Summerhill
Community Council	Kingswells
Case Officer:	Gavin Clark



RECOMMENDATION

Approve Modification

APPLICATION BACKGROUND

Site Description

The application site refers to two specific areas of land located to the west of the city centre. Identified as Maidencraig North East (OP 32) and Maidencraig South East (OP 31) under the Aberdeen Local Development Plan, they lie to the north and south of the Lang Stracht (A944). The sites provide a combined opportunity for 750 homes. The whole of the site has a southern aspect, sloping from north to south, and in terms of landscaping is generally undefined, with a typically rural identity running through both areas.

Situated adjacent to Sheddocksley on the western edge of the City, OP32 has a gradual slope from the north of the site down to the A944. The area extends to 22.8 hectares and comprises the fields which surround Whitemyres House and Old Whitemyres Farmhouse, and Fernhill Farm. The northern section of the boundary with Sheddocksley is defined by a thick tree belt, and the southern section by areas of hedgerow and sporadic trees. Further tree planting forms the northern boundary of the site, which in combination with general topography, screens the site from the north.

OP31, located west of the Summerhill residential area, is much more undulating in nature, extending to 29.8 hectares and encompassing the land from the A944 in the north, dropping steeply to the southern boundary with Den of Maidencraig. Beyond the Den Burn Valley to the south of the site is the Den of Maidencraig Local Nature Reserve, with Queens Road beyond. There is a Tree Preservation Order to the south of the Maidencraig Steadings, which contains 1 Grade C(s) listed building, with a further Order covering part of Maidencraig Wood.

Relevant Planning History

Maidencraig North-East and South-East: The Maidencraig Masterplan fed into the formulation and submission of P130265, which encompasses the whole of Maidencraig North-East (OP 32) and South-East (OP31) sites. Planning permission in principle (Ref: 130265) was approved following the conclusion of a legal agreement in October 2017 for a mixed-use development incorporating residential, commercial uses, community facilities, open space, landscaping and associated infrastructure. The proposal seeks to amend conditions associated with this planning consent.

An application for the variation of Conditions 6 (Eastern Access Details), 7 (Central and Western Access Details) and 8 (A944 Junction Improvement Works) (Ref: 180383/S42) of Planning Permission in Principle (Ref: P130265) is pending consideration. It should be noted that this application cannot be granted without the variation of the legal agreement required by the proposal currently under consideration.

APPLICATION DESCRIPTION

Description of Proposal

The application relates to a consent for a mixed-use development 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. 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 to allow further planning applications (including 180383/S42) to be determined in accordance with the terms of the original legal agreement.

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=PDFX9TBZ01700>.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because it seeks to vary a legal agreement required by a case previously determined by the Planning Development Management Committee (minute of meeting of 29th October 2013, item 1 refers).

CONSULTATIONS

None

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 each 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 Policy and Guidance

Circular 3/2012 – Planning Obligations and Good Neighbour Agreements

EVALUATION

The original legal agreement associated with Planning Application Ref: 130265 did not include a clause allowing any variations to be granted in line with the terms of the original legal agreement. By granting consent for this modification any future applications for variations of conditions/ changes of house types and other associated alterations could be determined under the terms of the original legal agreement. Approval does not alter the level of developer obligations required by the original agreement. The proposal would therefore meet the aims of Circular 3/2012, and there are no reasons as to why a modification should not be granted in this instance.

RECOMMENDATION

Approve Modification

REASON

There is a requirement to allow any future applications/ variations (including that mentioned below) to be determined under the provision of the original legal agreement, associated with planning permission in principle P13/2065, to application 180383/S42. The variation to the agreement would allow that to take place.