

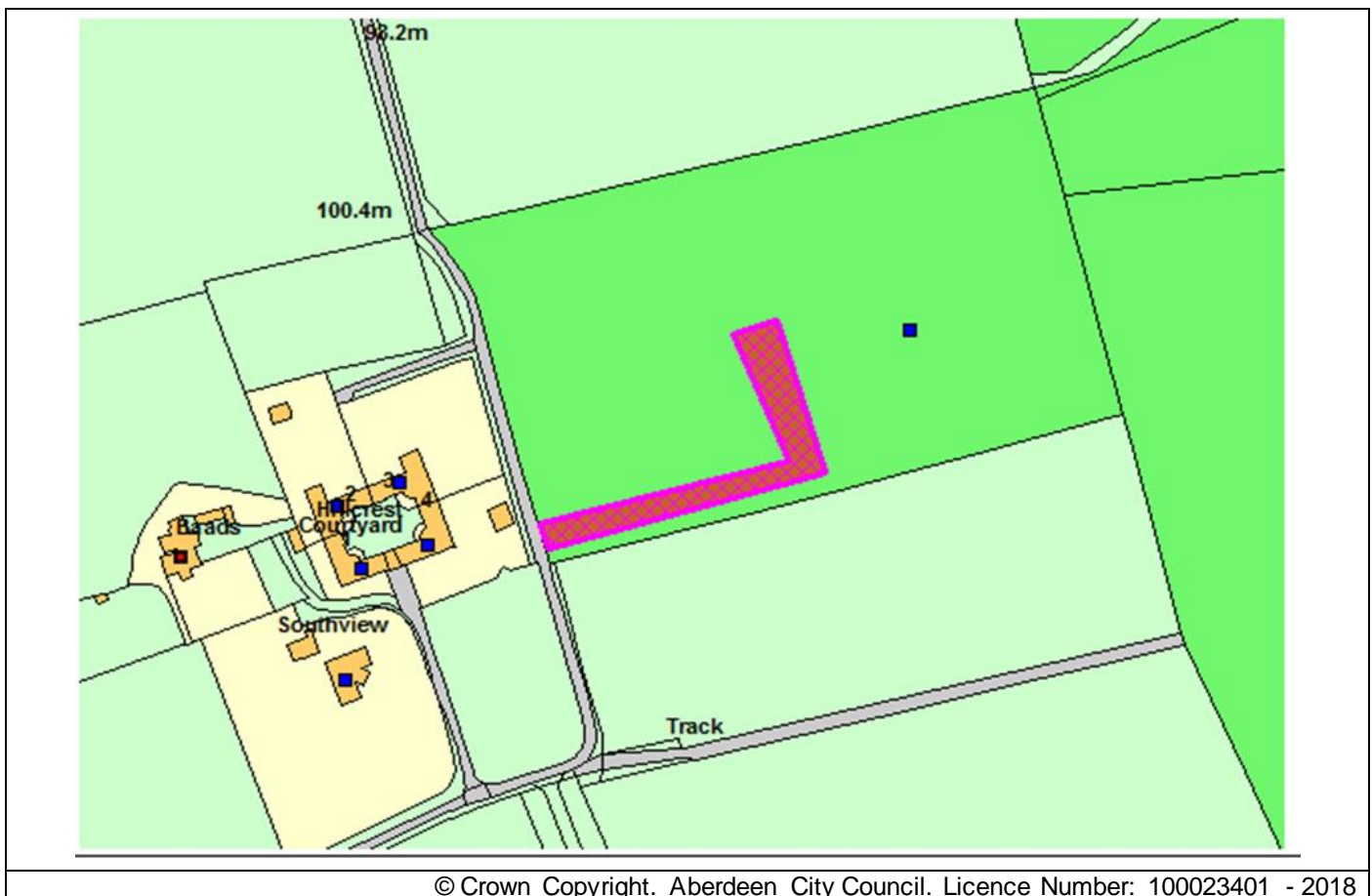


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 9 December 2021

Site Address:	Baads Farm, Anguston Road, Aberdeen, AB14 0PP
Application Description:	Change of use of land for siting of 2 caravans for temporary period (retrospective)
Application Ref:	211469/DPP
Application Type	Detailed Planning Permission
Application Date:	11 October 2021
Applicant:	Mr & Mrs G Stewart
Ward:	Lower Deeside
Community Council:	Culter
Case Officer:	Jane Forbes



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RECOMMENDATION

Refuse and Enforce

APPLICATION BACKGROUND

Site Description

The site is located in the countryside some 3.5km to the north west of Peterculter, to the east of Baads and a group of houses known as Hillcrest Courtyard. It extends to an area of some 712.3m² and forms part of a wider site of some 2.3 hectares which includes agricultural land, a stable block and a temporary mobile home. The application site lies within the southern half of the wider site, and to the east of an area of land accommodating the aforementioned mobile home. 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 six houses. Access to the site is via a 350 metre long tarred, single track, private road which serves the neighbouring houses, followed by an unsurfaced track for a further 80 metres.

Relevant Planning History

Planning permission (Ref: P110648) was approved by 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 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.

Two applications for planning permission (Ref: P140187 & Ref: P141149) were refused under delegated powers in March and September 2014 for the removal of Condition 1 (Control of Occupancy) from Planning Permission Ref: P120873, 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 further 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.

An application was submitted in January 2020 for detailed planning permission (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. The decision was subsequently appealed through the Scottish Government's Planning & Environmental Appeal's Division, and the appeal dismissed by Scottish Ministers in July 2020, with planning permission refused and a separate claim for an award of expenses declined.

A further 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.

Conditions applied to the planning permission granted under Application Ref 201480/DPP included a restriction on the occupancy of the residential chalet/mobile home to a person employed full-time in the stud farm (approved under application Ref P110648 & P120873) and the dependants, widow or widower of such a person; limiting the use of the caravan site to one caravan/mobile home/chalet on site at any one time; time limiting the implementation of the change of use to caravan site to no later than 6 months from the date of the decision notice (ie that the change of use be implemented no later than 6 months from 22nd April 2021, thus implemented by 21st October 2021); and for the change of use to caravan site to be permitted for a period of no longer than 18 months from the date that the change of use is implemented.

Formal notification was received from the applicants confirming that the change of use of the land to caravan site had been implemented on 20th May 2021, with the introduction and occupation of a chalet/mobile home since that date. It is of particular relevance to note the condition applied to the planning permission granted under Application Ref 201480/DPP stipulating a 6 month time limit for implementing the approved development (ie the change of use to caravan site). Such development also needed to be in accordance with a number of other conditions, as outlined above, including the mobile home/chalet being occupied by someone employed full time in the stud farm. As a direct consequence, this would therefore require the stud farm to have been brought into use and be a fully operational business from the date the chalet/mobile home was occupied by the applicant. In the event that within six months from the date of the decision (ie 22nd April 2021) such development had been implemented but not in accordance with all relevant conditions and thereby not fully compliant with the permission granted, then the planning permission would have expired on 21st October 2021.

Following determination of the above application on 22nd April 2021 an application was submitted in July 2021 for detailed planning permission (Ref: 210998/DPP) seeking a change of use of land at Baads for the siting of a further 2 caravans for a temporary period (retrospective) of up to 18 months. The application was referred to Planning Development Management Committee of 30th September 2021 but withdrawn by the applicants on 27th September 2021.

In relation to that application a site visit was undertaken by officers on 13th September 2021 and it was noted at that time that there was one pony on site with no evidence to demonstrate that a stud farm business was operating. The planning authority were advised by the Applicants on 14th September 2021 that the stud farm 'Stewart Greenpasture' was a registered business and that there was one stallion on site that travels to mares elsewhere. No evidence of such registration has been provided.

To date it has not been demonstrated to the satisfaction of the Planning Service that a stud farm business has been established at the Baads site, and therefore as a direct result that the caravan site was occupied by someone employed full time in a stud farm business prior to the 21st October 2021 when, as detailed above, the 6 month period for implementation of the consent for a change of use to caravan site and for the erection of a single chalet/mobile home would have expired.

APPLICATION DESCRIPTION

Description of Proposal

Detailed planning permission is sought for the change of use of land to a caravan site for the siting of 2 caravans for a temporary period of 18 months. The application is retrospective, with the 2

touring caravans having been on site since 4th June 2021.

Amendments

None.

Supporting Documents

All drawings and the supporting document listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R0NTG5BZGTN00>

- Correspondence from the Agent, on behalf of the Applicants, dated 8th October 2021.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because the proposal has attracted eight objections from the public and an objection from Culter Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

ACC - Roads Development Management Team – No concerns raised.

ACC - Environmental Health – No objection on the basis that sufficient evidence has been provided demonstrating that a mains water connection has been made to Baads Farm thereby ensuring a mains water supply is available for the proposed caravans.

Culter Community Council – The Community Council state that, reflecting extensive representation from the community, they object to the application for the following reasons:

The applicant has not provided evidence of special or exceptional personal circumstances

1. The Committee Report on the previous application 210998/DPP (now withdrawn) provides a robust assessment of why no breach of Condition 2 of 201480/DPP should be entertained. In addition, it proposed enforcement action which we understand the Council approved.
2. The current application is seeking an identical outcome, breaching that Condition, and the sole change we can detect in the current application is the applicant's admission that compliance would be too expensive for them.
3. The applicant makes the point that it takes time to build a business; this would have been known to them when they submitted application 201480/DPP, as well as when 210998/DPP was evaluated by the Planning Service. We do not see any reason to accept that the time it takes to grow a business in any way amounts to "special or exceptional personal circumstances".
4. We also see no evidence that the business would be certain to grow sufficiently in the 18 month period for which the applicant seeks permission in the current application. What if the business is still too small in 18 months' time? Should permission be granted for the current application, this would make it difficult, if not impossible, then to refuse an extension based on the same ground of insufficient cash being generated.

No justification for further breaches of Policies

5. The current application comes with no justification whatsoever to support putting aside the requirements of the very clear Condition 2 on their existing planning permission 201480/DPP.
6. We believe the current application fails not only under Policy NE2 (given that a very specific exemption has already been provided for a single mobile home under 201480/DPP), but also under Policy D1.

7. The Reporter who heard the appeal on the earlier application 200040/DPP noted that a single mobile home for a limited period would be allowable under Policy D1; the Reporter was therefore of the view that more than a single mobile home would not be allowable under Policy D1.
8. All the reasons for refusal in the Committee Report for 210998/DPP remain relevant for the current application as well.

Precedent

9. If the Planning Authority is serious about maintaining the integrity of the Green Belt, and avoiding suburbanisation of the local countryside, then this application has to be refused.
10. The application effectively pleads a lack of money – arising from the (predictable) time it takes to grow a business - as a reason for deliberately breaking Condition 2 of 201480/DPP.
11. We consider that allowing the current application would set a devastating precedent: how would the Planning Authority be able to rebut any future case in which any applicant wanted not to comply with any Condition, if they could quote this case and declare that they did not want to pay the costs of compliance?
12. To grant permission in this case will make it nigh-on impossible for the Planning Authority to resist other similar applications in the future.

Conclusion

13. This application fails to comply with Policies NE2 and D1 and needs to be refused, both for protection of the Green Belt in this specific case, and in addition to send a clear signal to developers, landowners and to civil society that the planning policies are upheld and enforced.
14. The applicants have permission to establish and run a stud farm on this site; to install a single mobile home to provide 24-hour overseeing of the animals; and to construct a substantial house on the site. There is support in the neighbouring community for the applicants to concentrate on this already permitted scope of activities and make a success of life at Baads.

REPRESENTATIONS

8 letters of objection have been received. The matters raised can be summarised as follows:

1. The proposal represents a change of use of the land and it is not consistent with policies NE2 (Green Belt), D1 (Quality Placemaking by Design), D2 (Landscape) and T2 (Managing the Transport Impact of Development) of the Aberdeen Local Development Plan (2017).
2. To grant permission for a caravan site on this green belt location would surely contradict the aim of Green Belt policy and set a worrying precedent.
3. The caravans and containers are on a prominent site and very visible from the main Deeside Road to the south and from the general Culter vicinity.
4. Permission was granted to allow for the building of a single temporary Chalet to be sited for a period of 18 months to commence operation of a stud farm.
5. It is simply not credible that the applicants did not foresee the need for accommodation for their teenage children when they made the original application for a temporary chalet in January 2020 (this after 3 unsuccessful attempts had been made to remove Condition 1 (Control of Occupancy) from Planning Permission Ref P120873 between 2014 and 2018).
6. A very generous temporary chalet and two separate multi-person caravans to accommodate two adults and three children on a temporary basis is not reasonable nor is it justifiable.
7. The conditions of the approved Planning Permission states the following:- The caravan site hereby granted planning permission shall be limited to one caravan/mobile home/chalet on site at any one time. Reason: that the justification provided and deemed necessary to allow the stud farm to become fully operational would not support multiple homes on site, and 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.

8. Although the applicants state they were unaware that planning permission was required for the caravans the planning consent for the temporary accommodation clearly states that only one chalet/mobile home/caravan was permitted on site so they were in fact informed of what was allowable by the wording of this condition.
9. The Temporary Chalet/Mobile Home was granted for a person employed full time in the Stud Farm business.
10. A proposal which sees the introduction of a further two caravans to the site is to the detriment of the landscape character and contrary to green belt policy.
11. The LT/DS/5707 Planning Matters Letter confirms that the "Business" is a new venture and hence its economic viability is untested as to whether it can support full-time employment, which is an essential condition of Planning for both the Chalet and House. The stud horse on site appears a very hardy breed that requires minimal maintenance compared to the high value Equine stock at Lambridden Stud. It does not seem credible that sufficient income can be generated to support paid full-time employment from this breed of horse.
12. Request that Aberdeen Council planners ensure that the conditions of related existing planning approvals are complied with, and that green belt and local development planning policies are applied appropriately with consideration to all local residents and neighbours.
13. Note multiple previous applications to change the remit of the original conditional approval (7 in addition to a Scottish Government appeal), most notably that dated 14/07/21 210998/DPP, Change of use of land for siting of 2 caravans for temporary period (retrospective). Also, the Planning Development Management Committee Report of 30/09/21 and its clear and reasoned recommendation to 'Refuse and Enforce'. That application was notably withdrawn by the applicants on release of the Committee Report. Why this was withdrawn and almost immediately resubmitted with no material change must be called into question.
14. We note the following stipulation in the previously conditionally approved application Ref. P110648 in 2011 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". We understand that, without demonstration of a viable equestrian business, permission for the first chalet was due to lapse on October 22nd 2021. The submission of application 210998/DPP, its withdrawal at the end of September 2021 and the submission of an identical application 211469/DPP with no material change appear to be attempts to stall and to change the terms of reference of the original, conditionally approved application.
15. Clarity required on how many applications can be submitted and withdrawn prior to enforcement occurring, otherwise this process could repeat for years or decades.
16. Similar applications that have been made for housing/business proposals and rejected within the Baads area.
17. If this were approved similar opportunities where local residents with fields and multiple horses could see planning being approved for 5 bedroom and triple garage homes supported by a single stud horse business with owners looking for the same opportunity to change agriculture land into development land.
18. The requirements contained within Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006 do not appear to be met where the regulations require adequate access to fire fighting equipment, appropriate water supply and minimum separation distance between caravans for caravan and mobile home sites.
19. The new application offers no material changes from the previous submission and acknowledges it is non-compliant.
20. No justification has been provided to demonstrate that there are special or exceptional circumstances which would support the need for additional residential accommodation on the Baads Farm site.

MATERIAL CONSIDERATIONS

Legislative Requirements

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

National Planning Policy and Guidance

Scottish Planning Policy was approved in 2014. An updated version published in December 2020 is currently subject to challenge, therefore SPP 2014 remains in place.

Aberdeen Local Development Plan (2017)

Policy NE2 (Green Belt)

Policy D1 (Quality Placemaking by Design)

Policy T2 (Managing the Transport Impact of Development)

Policy NE6 (Flooding, Drainage & Water Quality)

Proposed Aberdeen Local Development Plan (2020)

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case by case basis. The following policies of the Proposed ALDP are relevant to this application:

Policy NE1 (Green Belt)

Policy D1 (Quality Placemaking)

Policy T2 (Sustainable Transport)

Policy NE4 (Water Infrastructure)

EVALUATION

Background

Planning permission was granted on the 11th October 2011 for the erection of a dwellinghouse, garage and associated stud farm at Baads Farm. Whilst the site was located within the Green Belt, where policies are generally restrictive, it was judged at that time that a house was required to support the proposed stud farm business, which was relocating from another site outwith the city boundary.

The application was approved against officer recommendation on the basis *“that the application was not contrary to Policy 28 of the Local Plan as the proposed buildings would not be higher than the others in the landscape and the proposed business was an agricultural activity within Policy 28”*.

Conditions were applied to the planning permission which included restricting the occupancy of the dwellinghouse to a person employed full time in the stud farm business and the dependants, widow or widower of such a person; and for the phasing of development whereby the stud farm and all associated infrastructure would have to be constructed, completed and brought into use prior to the commencement of the construction of the dwellinghouse and garage, thus ensuring that the dwellinghouse and garage are constructed only in association with and for an operational business in accordance with Green Belt policy.

Four separate applications to remove Condition 1 (control of occupancy) were submitted and subsequently refused between March 2014 and June 2018. These applications were refused on the basis that deletion of the condition would mean that the proposal would be contrary to Policy NE2 (Green Belt) of the ALDP as well as Scottish Planning Policy. The reasoning for the most recent decision relating to planning application 181084/S42, refused under delegated powers in August 2018 was as follows:

“The proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, is contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan, which seek to protect the integrity of Green Belts and, in particular, seek to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business, the dwellinghouse would not have complied with planning policy and would ultimately have been refused. The removal of Condition 1 would undermine the policies which seek to protect the integrity of the Green Belt, and safeguard against unsustainable development and suburbanisation of the area. It was deemed necessary to apply Condition 1 in order to ensure that the development complied with planning policies. It is judged that Condition 1 meets the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (dated 4 November 2011) has been considered. The proposal to delete Condition 1 remains unacceptable in planning policy terms and there has been no additional supporting information submitted from either of the previous refusals (Ref: P140187 & P141149) which would justify its removal.”

Excavation work was carried out on site in September 2014 in order to secure ‘initiation of development’, and as such, planning permission for the stud farm, dwelling house and garage is now retained in perpetuity.

In support of the original application, which was granted consent in October 2011, it had been stated that there was an urgent need for the applicant to relocate the stud farm business, which was already in operation, because at that time the lease for land from where the business was operating was not being renewed. The statement submitted in support of the 2018 application outlined above (Ref 181084/S42) advised that the site had been on the market since April 2014.

From information provided in support of Planning Application Ref 200040/DPP, submitted in January 2020 and seeking detailed planning permission for 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 temporary period of up to 5 years, it was confirmed that the site had changed hands since the 2018 application had been determined. Notably, the Planning Policy & Design Statement which was dated 13th January 2019 and submitted in support of the application specifically referred to the applicants having purchased the site with the intention of developing the equestrian business (stud farm) and building the dwellinghouse as approved under the terms of the original planning permission granted in 2011.

A subsequent planning 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, but for a significantly reduced temporary period of up to 18 months. The application was approved subject to a number of

conditions at Planning Development Management Committee on 22nd April 2021. The conditions applied included restricting the occupancy of the chalet/mobile home to a person employed full-time in the stud farm (approved under application Ref P110648 & P120873) and the dependants, widow or widower of such a person and, quite pertinently in terms of this current application, a condition was applied which limited the use of the caravan site to one caravan/mobile home/chalet being on site at any one time. The Planning Service has been very clear and outlined in some detail the level of evidence that would demonstrate that a stud farm is operating from the Baads site and despite such requests, at the time of writing, such evidence has not been provided. As a result, it has not been demonstrated to the satisfaction of the Planning Service that the stud farm business has been established and is operating from the site, nor that the aforementioned chalet/mobile home which is on site under the terms of planning permission Ref: 201480/DPP is occupied by a person employed full-time in the stud farm business. Based on that, it would appear that Conditions 1 and 5 of the planning permission have not been complied with, whereby the chalet/mobile home would thus be unauthorised.

It is of particular relevance to note that planning permission was required under application Ref 201480/DPP solely for the change of use of the land to a caravan site, and although a separate caravan site licence was required to allow for the chalet/mobile home to be located on the site, the erection of the chalet/mobile home in itself did not require planning permission. Whilst information in the form of elevational drawings and a floor plan was submitted by the applicants clearly relating to the type and style of chalet/mobile home which they were seeking for the site, and a 2 bedroom mobile home was identified for this application as opposed to the 3 bedroom model shown under the previous application (Ref 200040/DPP), this level of detail was outwith the control of the planning authority. Therefore on granting consent for the change of use of the land, whilst a condition was applied which limited the caravan site to one caravan/mobile home/chalet at any one time, the applicant was under no obligation to install the specific chalet/mobile home which had been included as part of the proposal, and was indeed at liberty to install any style or scale of caravan/mobile home/chalet provided it fell within the definition of a caravan (under Section 29(1) of the Caravan Sites and Control of Development Act 1960; modified by Section 13(1) of the Caravan Sites Acts 1968 and by the Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019). It should be noted that there are 3 bedroom and 4 bedroom chalet/mobile homes available on the market which fall within the remit of a caravan as defined above.

Supporting Document

The agent has submitted a letter on behalf of the applicants, and in support of this current retrospective application. This letter states that "It is appreciated that the permission is for a change of use and that a larger mobile home could have been erected on the site all in line with the caravan licence granted by Aberdeen City Council. However, it is not considered that due to the very temporary nature of the accommodation in terms of construction and timescale, that adding bedroom space to the chalet is the most efficient or sustainable way of securing further accommodation on the site for Mr and Mrs Stewart's two older teenage children".

Considerable reference is made within this same letter of support on the general requirements and basic operations of a stud farm. The letter has also sought to clarify the current status of the stud farm at Baads including providing an outline on progress being made with regards its establishment and on works relating to the associated dwellinghouse.

Principle of Development

The site lies within an area which is designated as green belt, as supported by Scottish Planning Policy, and is therefore zoned under Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan (ALDP). Policy NE2 states: 'No development will be permitted in the Green Belt for purposes other than those essential for agriculture; woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction/quarry restoration; or landscape renewal'.

The following exceptions apply to this policy:

1 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.

2 Essential infrastructure (such as electronic communications infrastructure, electricity grid connections, transport proposals identified in the LDP or roads planned through the masterplanning of opportunity sites) will only be permitted if it cannot be accommodated anywhere other than the Green Belt.

3 Buildings in the Green Belt which have a historic or architectural interest, or a valuable traditional character, will be permitted to undergo an appropriate change of use which makes a worthwhile contribution to the visual character of the Green Belt.

4 Proposals for extensions of existing buildings, as part of a conversion or rehabilitation scheme, will be permitted in the Green Belt provided:

- a) The original building remains visually dominant;
- b) The design of the extension is sympathetic to the original building in terms of massing, detailing and materials, and
- c) The siting of the extension relates well to the setting of the original building.

5 Replacement on a one-for-one basis of existing permanent houses currently in occupation will normally be permitted provided:

- a) It can be demonstrated to the Council that they have been in continuous occupation for at least 5 of the seven years immediately prior to the date of the application;
- b) The replacement house, except in exceptional circumstances (e.g. to improve a dangerous access), occupies the same site as the building it would replace, does not permit development for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration, or landscape renewal.

It is acknowledged that the Planning Development Management Committee granted consent on 22nd April 2021 for a change of use of land to caravan site for the erection of one caravan/mobile home/chalet for a period of up to 18 months on land immediately adjacent to the current application site and which forms part of the wider site at Baads Farm. Whilst the proposal was deemed contrary to both Policy NE2 (Green Belt) & Scottish Planning Policy, clear justification was provided in support of the application at that time, ie in December 2020, indicating that residential accommodation on site was required by the applicants for a period of 18 months in order to provide the appropriate levels of safety and welfare provision necessary for the previously approved stud farm to become fully operational as a business. Conditional consent was therefore granted on that basis with conditions clearly limiting the change of use to caravan site to one caravan/mobile home/chalet on site at any one time, and for that single caravan/mobile home/chalet to be occupied by no-one other than a person employed full-time in the stud farm and the dependants, widow or widower of such a person.

It was considered that suitably robust evidence had been provided in 2020 in support of the aforementioned proposal which demonstrated that the business operation of the previously approved stud farm was imminent, and that the status of the stud farm at that time was such that a 24 hour on-site presence would be required to facilitate the setting up of the stud farm business and

to provide the appropriate welfare and security arrangements for horses associated with the stud farm to be kept on the site. With this in mind it was considered that there were material considerations which carried sufficient weight and provided clear justification for the planning authority to support the application in that instance, notwithstanding that the proposal was contrary to the requirements of Policy NE2 (Green Belt) of the ALDP.

In terms of this current application, consent is being sought for a further change of use of land to a caravan site, to allow for an additional two caravans currently sited on the land to remain, with the proposal indicating that this would be for a period of up to 18 months. Taking into account the specific requirements of Green Belt policy, it is apparent that the proposed use is neither essential for an agricultural purpose, and notwithstanding that it would be for a temporary period, nor does such a use fall within the remit of any of the exceptions listed above. As a result the principle of a change of use to caravan site for the temporary siting of two caravans is deemed contrary to Policy NE2 (Green Belt) of the ALDP.

Material considerations

Correspondence was submitted in support of the previous application Ref 210998/DPP seeking consent for a change of use to caravan site and withdrawn in September 2021 prior to determination. It stated that the two additional caravans which have now been located on site since early June 2021 were required due to the limited capacity of the existing temporary chalet erected on site under planning application Ref 201480/DPP in May 2021, with the applicants wishing to provide separate sleeping accommodation for two older teenage children. Full details of the 2 double bedroom chalet currently located on the Baads site were provided by the applicants as part of the previous application (Ref 201480/DPP) as recently as December 2020 when the application was submitted. Whilst such detail was neither requested nor deemed necessary as part of the consideration and determination of that application which sought a change of use to caravan site for the erection of 1 temporary chalet/mobile home, the level of sleeping accommodation which the chalet/mobile home would provide was clearly identified and it would appear therefore, was deemed sufficient at that time.

Under the current application the correspondence submitted in support of the proposal states that "It is appreciated that the permission is for a change of use and that a larger mobile home could have been erected on the site all in line with the caravan licence granted by Aberdeen City Council. However it is not considered that due to the very temporary nature of the accommodation in terms of construction and timescales, that adding bedroom space to the chalet is the most efficient or sustainable way of securing further accommodation on the site for Mrs and Mrs Stewart's two older teenage children. Given the above information in relation to the business, it is hoped that notwithstanding the conflict with green belt policy in this case, that a similar temporary approval can be given for the caravans in support of Mr and Mrs Stewart, their family and the continued operation of the business and to allow completion of the dwellinghouse"

The previously approved temporary chalet which currently provides residential accommodation on site was deemed necessary by the applicants to allow for the approved stud farm to become fully operational as a business. The separate consent which was granted for the erection of a residential dwelling, garage and associated stud farm on the site was subject to the stud farm and all associated infrastructure being constructed, completed and becoming operational prior to the commencement of the construction of the dwellinghouse and garage. Such a condition was applied with a view to ensuring that the dwellinghouse and garage would only be constructed in association with and for an operational business, thereby according with Green Belt policy.

In considering the personal circumstances which are outlined within the supporting information submitted by the agent on behalf of the applicants it is particularly relevant to consider the Scottish Ministers Appeal Decision of 20th July 2020 (Planning Appeal Ref: PPA-100-2111) which relates to the appeal against the decision by Aberdeen City Council to refuse planning application Ref

200040/DPP for a change of use of land at Baads Farm for the erection of a chalet/mobile home for a period of up to 5 years, where the appeal was dismissed and planning permission refused. It is noted from the appeal decision that the Reporter has stated that if personal circumstances are to be considered in the determination of the application, the onus is on the appellant to demonstrate the reasons why such circumstances are either special or exceptional and should therefore be taken into account.

With this in mind, it is considered that whilst the supporting information submitted by the agent on behalf of the applicants states that their personal circumstances are such that the introduction of two further caravans to the site in addition to the existing chalet allows them to “provide private changing and sleeping accommodation which cannot be provided within the temporary chalet/mobile home”, the applicants desire to now provide additional temporary accommodation within separate caravans is not considered to be a material consideration in the determination of this application. Further, it would be reasonable to expect the applicants to have known their accommodation needs for the whole family at the time the existing chalet/mobile home was placed on the site. Finally, and irrespective of whether a stud farm business has been established at Baads, no justification or evidence has been provided of special or exceptional circumstances which would demonstrate a clear and over-riding need for additional residential accommodation on the site and which would be deemed sufficient to outweigh the requirement to address the terms of Policy NE2 (Green Belt) of the ALDP.

If such a proposal were to be supported, an undesirable precedent would be established for applications of a similar nature which could result in the proliferation of sporadic, temporary residential accommodation within the Green Belt, resulting in the erosion of the character of the Green Belt and adversely affecting the landscape setting of the City.

Design, Scale & Siting

Policy D1 (Quality Placemaking by Design) of the ALDP highlights the need for development to respond to the site context and be designed with due consideration to siting, scale and massing; for it to reinforce established patterns of development; and to be well planned, with high quality design, materials and craftsmanship.

In considering the previous proposal for the siting of a caravan/chalet/mobile home on the wider site it was acknowledged that such a proposal would not have a positive impact on the character and appearance of the area, given the open aspect of the site, and its relative prominence within the surrounding area. It was however recognised that the change of use being sought was for a temporary period of up to 18 months, and with a condition limiting the change of use to a single caravan/chalet/mobile home on site at any one time for the duration of the consent, it was considered that the resulting visual impact would be suitably limited and would not be of such significance that it would merit refusal of the application.

Taking the above into account, and in terms of this current proposal, it is considered that there is a clear cumulative effect from the introduction of two further caravans to the wider site in addition to the existing chalet/mobile home for which consent has been granted, and this does result in an unacceptable and negative visual impact on the character and appearance of the area. As such the proposal fails to address the requirements of Policy D1 (Quality Placemaking by Design), and on the basis that it has a negative impact on the attractiveness of the green belt, raises further concerns in terms of Policy NE2 (Green Belt) which states that ‘all proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials.’

Access/Parking

The site is currently served by a private access road and the Council’s Roads Development Management team has raised no objection to the proposal, noting that there are no roads concerns concerning the retrospective application for a change of use of land for the siting of 2 caravans for

a temporary period.

Whilst the proposal may not fully address the specific requirements of Policy T2 (Managing the Transport Impact of Development), this is largely as a result of the site being somewhat isolated which in turn limits the measures which can feasibly put in place to minimise traffic and maximise opportunities for sustainable and active travel. With this in mind and taking into account the scale and nature of the proposed use it is considered that any additional traffic generated is likely to be minimal and it is therefore accepted that the proposal would raise no significant concerns in terms of the expectations of Policy T2 (Managing the Transport Impact of Development).

Drainage/Water Supply

ACC Environmental Health officers raised no objection to the proposal and are satisfied with the evidence provided which demonstrates that a mains water connection has been made to Baads Farm thereby ensuring a mains water supply is available for the caravans. The expectations of Policy NE6 (Flooding, Drainage & Water Quality) are suitably addressed.

Proposed Aberdeen Local Development Plan

In relation to this particular application, the policies in the Proposed Aberdeen Local Development Plan 2020 (ALDP) substantively reiterate those in the adopted Local Development Plan and the proposal is therefore deemed unacceptable in terms of both Plans for the reasons previously given.

Matters raised by the Community Council

The concerns raised by the local Community Council have been addressed in the foregoing evaluation.

Matters raised in representations

The majority of the material concerns raised by objectors in representations have been addressed in the foregoing evaluation with the exception of the following:

11. The LT/DS/5707 Planning Matters Letter confirms that the "Business" is a new venture and hence its economic viability is untested as to whether it can support full-time employment, which is an essential condition of Planning for both the Chalet and House. The stud horse on site appears a very hardy breed that requires minimal maintenance compared to the high value Equine stock at Lambridden Stud. It does not seem credible that sufficient income can be generated to support paid full-time employment from this breed of horse. *This is a standalone application for the proposed change of use to caravan site for the siting of 2 caravans for a temporary period (retrospective), and whilst the existence of an operational stud farm business on site may have a degree of relevance, the specific detail of such a business operation would not be relevant in the consideration of this application.*
13. Note multiple previous applications to change the remit of the original conditional approval (7 in addition to a Scottish Government appeal), most notably that dated 14/07/21 210998/DPP, Change of use of land for siting of 2 caravans for temporary period (retrospective). Also the Planning Development Management Committee Report of 30/09/21 and its clear and reasoned recommendation to 'Refuse and Enforce'. That application was notably withdrawn by the applicants on release of the Committee Report. Why this was withdrawn and almost immediately resubmitted with no material change must be called into question. *Planning legislation allows for an applicant to withdraw an application prior to determination and resubmit an application for the same proposal.*
14. We note the following stipulation in the previously conditionally approved application Ref. P110648 in 2011 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". We understand that, without demonstration of a viable equestrian business, permission for the first chalet was due to lapse on October 22nd 2021. The submission of application 210998/DPP, its withdrawal at the

end of September 2021 and the submission of an identical application 211469/DPP with no material change appear to be attempts to stall and to change the terms of reference of the original, conditionally approved application. *This has been addressed above.*

15. Clarity required on how many applications can be submitted and withdrawn prior to enforcement occurring, otherwise this process could repeat for years or decades. *The Planning Authority cannot prevent an applicant from submitting and thereafter withdrawing a planning application. Notwithstanding, the Planning Authority would consider whether and when it would be expedient to take enforcement action.*
16. Similar applications that have been made for housing/business proposals and rejected within the Baads area. *The Planning Service has to consider the proposal in front of them, with all proposals assessed on their own merits.*
17. If this were approved similar opportunities where local residents with fields and multiple horses could see planning being approved for 5 bedroom and triple garage homes supported by a single stud horse business with owners looking for the same opportunity to change agriculture land into development land. *This has been addressed above.*
18. The requirements contained within Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006 do not appear to be met where the regulations require adequate access to fire fighting equipment, appropriate water supply and minimum separation distance between caravans for caravan and mobile home sites. *This is a matter outwith the control of the Planning Service.*

Conclusion

Both national and local planning policies seek to protect the integrity of the green belt and the granting of individual planning permissions which lead to the cumulative erosion of the green belt are therefore deemed contrary to such policy. If it had not been for the specific individual requirements of an existing stud farm business which was granted consent at Baads Farm in 2011, the associated dwellinghouse would not have complied with planning policy and consent would not have been granted at that time.

The same condition which was applied in 2011 and subsequently under planning application Ref P120873 continues to be valid and relevant today, under current green belt policy, namely that the stud farm that was granted planning permission and all associated infrastructure had to be constructed, completed and brought into use prior to construction starting on the dwellinghouse and garage. The condition was applied to ensure that the dwellinghouse and garage were only constructed in association with an operational business, in accordance with green belt policy.

This current application, which is retrospective in nature, seeks permission for a change of use of the land to caravan site for two caravans for residential purposes for a period of up to 18 months. With existing consent having been granted in April 2021 for a change of use to caravan site for the erection of a single caravan/chalet/mobile home on part of the wider Baads site for a period of up to 18 months, and a condition specifically applied to that consent limiting the permission to no more than one caravan/chalet/mobile home at any one time in order to suitably protect the landscape character and setting of the green belt, then it is apparent that a proposal which would allow the introduction of a further two residential caravans to the Baads site is to the detriment of the landscape character and clearly contrary to green belt policy. Irrespective of whether a stud farm business has been established at Baads no justification has been provided to demonstrate that there are special or exceptional circumstances which would support the need for additional residential accommodation on the site. The proposal is not considered acceptable and there are no material considerations which would warrant support of the application in this instance.

In the event that the unauthorised caravans relative to this application are not removed voluntarily by the applicant, then under powers delegated to officers it would be the intention to serve an enforcement notice with appropriate enforcement action taken to have the caravans removed.

In the event that members are minded to grant the change of use, conditions limiting the number of caravans/chalets/mobile homes on site (in order to minimise the impact on the landscape character and setting of the green belt) and the duration of permission are recommended.

RECOMMENDATION

Refuse and Enforce

REASON FOR RECOMMENDATION

1. The proposed development, which is retrospective in nature, comprises a change of use of land to caravan site for two residential caravans for a period of up to 18 months. No justification has been provided to demonstrate that there are special or exceptional circumstances which would support the need for additional residential accommodation on the Baads Farm site. 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.

It is the considered opinion of the planning authority that provision of additional residential accommodation on the site 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 proposal would be clearly contrary to the expectations of Scottish Planning Policy (SPP) and to the requirements of Policy NE2 (Green Belt) and Policy D1 (Quality Placemaking by Design) of the Aberdeen City Local Development Plan. The proposal would address the expectations of Policy NE6 (Flooding, Drainage & Water Quality), and largely comply with those of Policy T2 (Managing the Transport Impact of Development).

2. 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 further adversely affect the landscape setting of the City.