

**Garioch Area Committee Report - 23 April 2024**Reference No: [APP/2023/0872](#)

**Approval of Matters Specified in Conditions for Conditions 1 (a) Siting, Design, Layout, External Appearance, Finishing Materials; (b) Design Statement; (c) Landscaping; (d) Levels Survey and Site Sections; (e) Means of Access; (f) Car Parking and Turning Areas; (g) Footpaths to B994 and B987, including Bus Stops; (h) Flood Risk Assessment; (i) Details of Water Bodies, including Method Statements; (j) Foul and Surface Water Disposal; (k) Waste Management Plan of Planning Permission in Principle APP/2017/0288 at Land Beside Woodside Croft, Midmill, Kintore, Aberdeenshire**

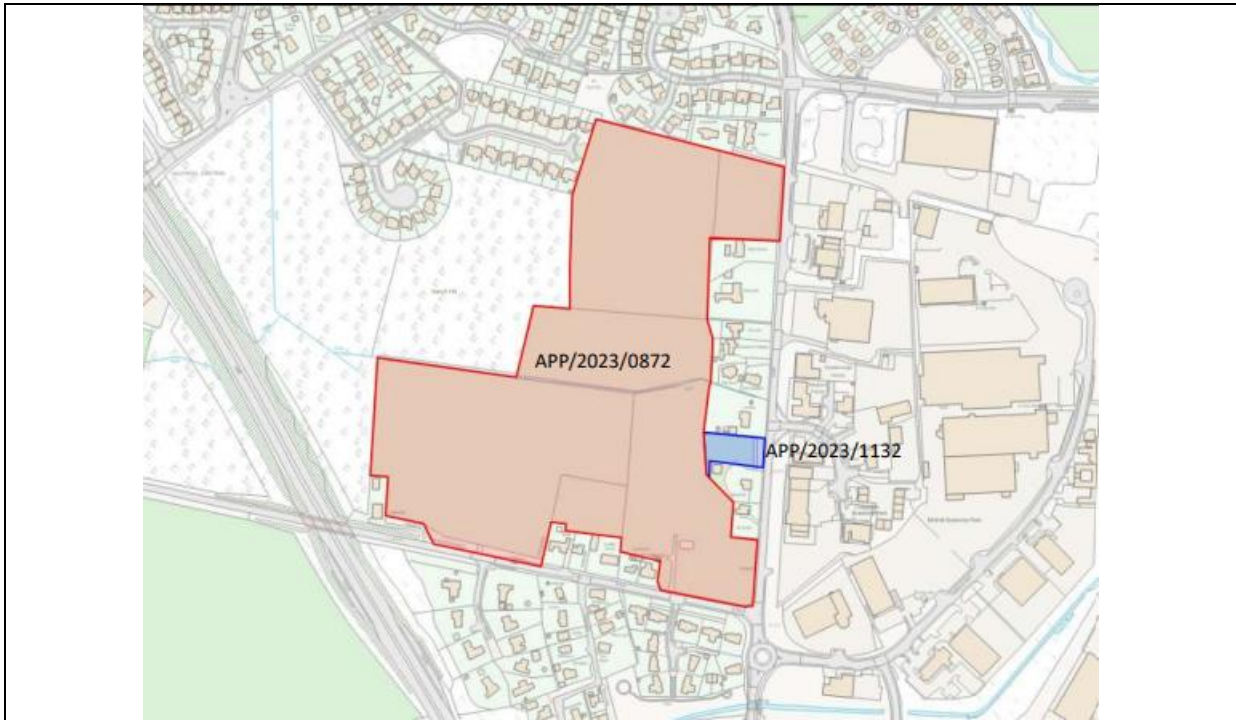
<b>Applicant:</b>	<b>Scotia Homes Ltd</b>
<b>Agent:</b>	<b>No Agent</b>
Grid Ref:	E:378965 N:815018
Ward No. and Name:	W12 - East Garioch
Application Type:	Approval of Matters Specified in Conditions
Representations	74
Consultations	13
Relevant Proposals Map Designations:	OP2 (Woodside Croft), OP6 (land adjacent to Woodside Croft) and R1 reserved land for a town park at Gauch Hill
Complies with Development Plans:	No
Main Recommendation	Grant

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Reference No: [APP/2023/1132](#)

**Full Planning Permission For Formation of Drainage Channel and Accompanying Landscaping in Association with Adjoining Development at Land At Midmill, Kintore, Aberdeenshire**

<b>Applicant:</b>	<b>Scotia Homes Ltd</b>
<b>Agent:</b>	<b>No Agent</b>
Grid Ref:	E:379129 N:814921
Ward No. and Name:	W12 - East Garioch
Application Type:	Full Planning Permission
Representations	0
Consultations	5
Relevant Proposals Map Designations:	None
Complies with Development Plans:	Yes
Main Recommendation	Grant



**NOT TO SCALE**

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## 1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1f of Part 2C Planning Delegations of the Scheme of Governance as there is an unresolved objection from a consultee relating to APP/2023/0872.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

## 2. Background and Proposal

- 2.1 It should be noted that this report seeks to determine two applications. The main body of the report relates to the determination of application APP/2023/0872 as detailed below. The second application is APP/2023/1132 and this relates to a small parcel of land to the immediate east of the main application site. APP/2023/1132 relates to drainage works that essentially enable a continuation of the works proposed under the matters specified in conditions (MSC) application. As the land subject to APP/2023/1132 was not within the boundary of the original planning permission in principle boundary it cannot be included in the MSC application. APP/2023/0872 seeks approval of a number of matters specified in the conditions of an earlier planning permission in principle (APP/2017/0288). The site has a substantial planning history dating back to 2004 and a number of relevant planning applications as detailed below. The southernmost and largest part of the site which abuts the B994 is allocated as OP2. The northeast part of the application site where it abuts the B987 and Priors (a residential property) is allocated as OP6. The remaining intervening land is allocated in LDP2023 as R1 which is reserved land for a town park at Gauch Hill. The OP2 allocation (Woodside Croft) is for 150 homes to enable the development of Gauch Hill Town Park and the OP6 (land adjacent to Woodside Croft) is for 24 affordable homes.

- 2.2 Specific conditions covered by this application are:

*Condition 1 ((a) Siting, Design, Layout, External Appearance, Finishing Materials; (b) Design Statement; (c) Landscaping; (d) Levels Survey and Site Sections; (e) Means of Access; (f) Car Parking and Turning Areas; (g) Footpaths to B994 and B987, including Bus Stops; (h) Flood Risk Assessment; (i) Details of Water Bodies, including Method Statements; (j) Foul and Surface Water Disposal; (k) Waste Management Plan).*

- 2.3 OP2 and R1 allocations within LDP2023 extend to approximately 11.1ha. The site is bisected roughly at its mid-point by a shallow ditch or watercourse that enters from Gauch Hill Woods in the west and exits through the garden of a domestic property on the eastern boundary. Site levels vary across such a large area with a high point of 65.4m in the north-west corner, 61.4m where the watercourse enters the site and 59.6m where it exits and otherwise undulates between approximately 60.0m - 61.6m across the remaining land.

To the north and north-west of the site are established residential areas, with two pedestrian access points from Sunnyside View and Melrose Place. The remaining western boundary is shared with Gauch Hill Woods. A single dwellinghouse is found in the south-west corner, beyond which is the A96 trunk road. The B994 Kemnay Road makes up part of the southern boundary along with five detached dwellinghouses with gardens backing on to the application site. Several dwellinghouses are also found along the eastern boundary, beyond which is the B987.

- 2.4 A key element of the proposed development and rationale for allocation of the site is to enable the delivery of a new town park for Kintore (as required by the R1 allocation). This is captured in the legal agreement that sits with the planning permission in principle. As part of this application, full details of the location, landscaping, recreational provision, pavilion, access, and parking has been submitted. The town park is centrally located within site with the edge of Gauch Hill Wood forming its western boundary. The rear garden boundaries of houses on the B987 that back on to the application site abut the eastern boundary of the proposed town park (The Nook, Woodend Cottage, Ryvoan, Hacienda and Pine Grove). Housing is proposed to the immediate north and south of the town park. The full extent of the town park is 3.51ha. Conveyance swales, pavilion and associated car parking are proposed at the southern end of the town park and playpark is included along the western boundary. SUDS infrastructure is also proposed to the north and south of the town park.
- 2.5 The residential element of the proposal has two component parts and comprises of 159 dwellings in total extending from the north of the application site to the B994 public road in the south. A total of 126 dwellings are proposed in the southern part of the site with the remaining 33 (plot nos. 127-169) dwellings being in the northern part of the site. The layout is a linear pattern of connecting streets. Vehicle access is taken from a new roundabout at the south-east corner, a new junction is proposed circa. 210m to the west of the roundabout on the B994 (near Harthills View) and another at the northeastern part of the site off the B987 to the north of Pine Grove. 10% of the dwellings (17 in total) will be affordable homes to reflect the requirements of the Section 75 Agreement.
- 2.6 The proposed dwellinghouses are a variety of house types that are contemporary in appearance and mix of mostly detached, with some semi-detached units. Proposed dwellings range from 1- 5 bedrooms and these includes cottage flats. All house types are a maximum of 1<sup>3</sup>/<sub>4</sub> storey in height and the palette of materials is distinctive with the use of white drydash mixed with black grey coloured horizontal timber cladding and anthracite windows and doors. Suitably orientated plots will have solar PV panels. Boundary treatments will be a mix of hedging to principal elevations and 1.8m fencing to enclose most private garden ground. Hedging and planting will also be used to define boundaries within the site.
- 2.7 Permeability through the site is provided by the creation of footpath links along the site's western boundary into Gauch Hill Woods which enable access from

the housing (to the north of plot no. 65 and to the south of plot nos. 53-54). Several links are also shown along the site's western boundary that provide pedestrian access to Gauch Hill Woods. The layout also includes pedestrian links along the northern boundary. In between plot nos. 156 and 159 a pedestrian pathway would link to Sunnyside View and to the west of plot no. 154 a route is provided to link to the land in Melrose Place. Pedestrian links are also provided along the western side of the town park creating an ease of movement within the site and connections to the pavilion building and playpark.

- 2.8 The town park comprises of a number of distinct elements. Firstly, a formal, flexible 120m x 120m sports square which can accommodate several configurations of sports pitches. Secondly, a new sports pavilion which now comprises of two multi-functional spaces, store area, accessible shower, WC's and parking for 20 vehicles (including an accessible space). A playpark to the north of the pavilion building is also proposed which will include more informal creative play opportunities. This area will feature the formation of mounds to help delineate this area, timber poles, stepping logs, balancing logs, slides, stepping stones and boulders are also included. Informal recreation spaces are also proposed.
- 2.9 Landscaping is a significant feature of the site with planting opportunities being taken within the residential areas in the form of hedging and new native tree planting where space allows. Denser tree planting is also a feature of the layout where the site interfaces with the existing road network, long grass and bulb planting is also included. Proposed wet meadow grass is proposed within the swales to the east of the pavilion building and within the route of the redirected drainage channel.
- 2.10 Parking to the required standard is provided within the curtilage of each dwellinghouse with some dwellings also being provided with detached garages. Visitor spaces are provided across the development.

#### Planning history

- 2.11 The relevant planning history for the site is detailed below:

APP/2004/3532 – planning permission in principle for a residential development as enabling development for a town park and associated facilities  
Granted 20 February 2015

APP/2015/1189 – matters specified in conditions, conditions: 1 (Specified Matters), 2 (Phasing Plan), 4 (Staggered Traffic Signals), 7 (Bridges), 8 (Hard and Soft Landscaping), 9 (CEMP: Biodiversity) and 10 (Energy Statement) of Planning Permission in Principle Application APP/2004/3532 for Residential Development as Enabling Development for a Town Park and Associated Facilities  
Withdrawn 16 February 2017

APP/2017/0288 – planning permission in principle for a residential development as enabling development for a Town Park and associated facilities: non-compliance with condition 4 of planning permission reference APP/2004/3532  
Granted 15 March 2019

APP/2019/2554 – full planning permission for formation of a roundabout to replace existing B987 / B994 road junction  
Granted 2 April 2020

APP/2020/2025 – full planning permission for formation of a SUDS basin in association with adjoining development  
Approved 8 June 2021

APP/2020/1999 – MSC relating Condition 1 ((a) Siting, Design, Layout, External Appearance, Finishing Materials; (b) Design Statement; (c) Landscaping; (d) Levels Survey and Site Sections; (e) Means of Access including Visibility Splays, Development Access Junction Design; (f) Car Parking and Turning Areas; (g) Footpaths to B994 and B987, including Bus Stops; (h) Flood Risk Assessment; (i) Details of Water Bodies, including Method Statements; (j) Foul and Surface Water Disposal; (k) Waste Management Plan) of Planning Permission in Principle Reference APP/2017/0288 Residential Development as Enabling Development for a Town Park and Associated Facilities: Non Compliance with Condition 4 of Planning Permission Reference APP/2004/3532  
Refused 22 June 2021

This decision was subsequently dismissed at appeal (DPEA reference PPA-110-2417) 7 April 2022

APP/2021/0422 – modification of planning obligation for APP/2004/3532  
Refused 22 June 2021

### Supporting information

- 2.12 A range of supporting information has been received which is summarised below:

#### Biodiversity Action Plan (April 2023) Echoes Ecology Ltd.

Has been produced to provide mitigation recommendations for the impacts caused by the proposed development and to enhance the biodiversity within the site.

#### Channel re-alignment: design vision (August 2023) Fairhurst

Provides supporting information on the engineering works for the re-alignment and restoration of approximately 0.3km of an unnamed channel which is planned as part of this wider residential development.

Construction Environmental Management Plan (October 2023) Fairhurst  
Sets out the general environmental principles to be followed, mitigation measures to be adopted and management arrangements to ensure the effective implementation of these measures. The CEMP covers issues such as good housekeeping, pest control, safety and site signage, noise and vibration, dust and air pollution, water pollution and waste management.

Design and Access Statement (July 2023) Halliday Fraser Munro  
Introduces the site's location, planning history, site and contextual analysis, concept, proposal. The statement summarises that the proposal has been designed with landscaping and pedestrian connectivity from the outset and provides a strong sense of place through the creation of welcoming surroundings, connections with nature and designed recreation spaces for all ages and abilities.

Drainage Assessment (May 2023) Fairhurst  
Provides an overview of the existing drainage, foul drainage and surface water drainage, hydraulic control, maintenance and construction phase sustainable urban drainage.

Flood Risk Assessment (May 2023) Fairhurst  
Gives an overview of planning policy, existing site conditions, proposed development, sources of flood risk information, potential sources of flood risk and flood risk analysis. The assessment concludes that with recommended mitigation measures in place the site is at low risk of flooding from all sources.

Landscape Planting and Maintenance Proposals (May 2023) Brindley Associates  
Gives an overview of planting notes and general management, landscape maintenance and management initiatives such as removal of litter, grass cutting, maintenance of trees as well as a maintenance schedule.

Outdoor Access Plan (November 2023) Scotia Homes  
Seeks to establish the outdoor access baseline affected by the development, identify predicted development impact and potential enhancements on the outdoor access baseline, identify new routes and enhanced access opportunities and identify diversions required during the construction phase.

Pedestrian Crossing Assessment (March 2021) Fairhurst  
This was undertaken in relation to the earlier MSC application following concerns by Roads Development with respect to the location of the proposed development access into the Midmill development site and its proximity to the existing pedestrian crossing island on the B994. The assessment includes details of traffic calming measures to be installed along the B994 to include a splitter island and a drop kerb crossing with tactile paving. The report also recommends a flashing speed warning sign.

Planning Statement re proposed pavilion (October 2023) Scotia Homes  
Provides a review of the planning history and the Section 75 requirements for the pavilion layout/function, public consultation responses and revisions to the

internal layout of the pavilion and the proposed amendments to the Section 75 trigger for the delivery of the pavilion.

Preliminary Ecological Appraisal (February 2023) Echoes Ecology Ltd.

The appraisal seeks to record any changes in the broad habitat types across the site and assess their importance, assess the likely presence of protected and notable species since the initial survey, provide an update on ecological constraints and to make recommendations with respect to further ecological surveys that may be required.

Street Engineering Review and Quality Audit (April 2023) Fairhurst

This document sets out the design considerations given with regard to the vehicle access to, from and through the site, including pedestrian accessibility, street design, parking provision, surface materials and buried services.

Transport Assessment (May 2023) Fairhurst

This document provides an overview of planning policy context, site accessibility, development proposals, trip generation and distribution, traffic impact assessment and residential travel plan framework. The assessment concludes that the site's location and characteristics meet with local, regional and national policies on sustainable development, and no specific traffic or transport impacts will arise from the development.

Tree Report (May 2023) Black Hill Ecology

This is an updated tree survey to that submitted in support of planning application APP/2020/1999. The report provides the results of tree survey work on trees on or adjacent to the site, detailing the root protection areas of the trees in relation to the proposed development.

Waste Management Plan (May 2023) Scotia

Identifies potential waste streams during the construction phase and identifies that waste streams will be managed through a combination of re-use, recycling or disposal. Site waste management is also considered in the plan to ensure resource efficiency. Storage of materials and waste will be segregated on site.

### **3. Representations**

3.1 A total of 74 valid representations (4 support/2 neutral/68 objection) have been received as defined in the Scheme of Governance. All issues raised have been considered. The letters raise the following material issues:

- *The layout does not deliver the town park requirements of 3.8ha*
- *What is proposed is insufficient and consideration should be given to a multi-use sports court, play park, skatepark, outdoor gym, picnic area and fit for purpose pavilion.*
- *There should be a buffer between Gauch Hill Woods and house plot nos. 53 – 65.*
- *There is insufficient variety in the dwelling type proposed as lack of option for the elderly or disabled.*



- *Lack of consultation undertaken with respect to the nature of the town park.*
- *Kintore lacks the basic amenities to support this level of housing.*
- *The development results in the loss of widely used greenspace.*
- *The design and layout is too dense.*
- *Impact on road safety.*
- *Traffic calming measures should be introduced.*
- *Lack of footpaths linking the parking area at the pavilion to the play park.*
- *Playpark equipment should be inclusive.*
- *Insufficient car parking to serve the pavilion building.*
- *Pavilion building has insufficient storage space.*
- *Noise impact.*
- *Flooding.*
- *Schools are already at capacity.*
- *Overlooking of existing neighbouring dwellings.*
- *Overshadowing of existing neighbouring dwellings.*

The representations in support of the proposal indicate that this is way overdue, and the developer is simply delivering the requirements of the LDP2023.

An objection was also received from the Woodland Trust Scotland. It advises of its objection due to the risk of deterioration of the ecological condition of Gauch Hill Wood. It comments that when land use is intensified such as in this situation, woodland plant and animal populations are exposed to environmental impacts outside of the woodland. The objection goes on to suggest that a buffer zone of at least 50m to prevent adverse impacts such as pollution and disturbance and ensure avoidance of root damage should be secured.

#### **4. Consultations**

- 4.1 **Education and Children's Services** advises that the 150 dwellings are factored into the school roll forecast and adding these additional 9 dwellings to the forecast with the new build out rates will increase the projected roll. Accordingly, due to the limited capacity at Kemnay Academy, mitigation will be required, and Developer contributions have been secured towards this.
- 4.2 **Environment and Infrastructure Services (Archaeology)** has no comment to make on the application.
- 4.3 **Environment and Infrastructure Services (Environmental Health)** has no comment to make on the application.
- 4.4 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** advises of no issue with the development on the grounds of flood risk or with the drainage layout proposals with the site. It does advise however of having seen evidence from a CCTV survey of the poor condition and capacity of receiving pipework to the east of the site. The comments

acknowledge that the proposals are to connect into a culverted watercourse which the Service accept is outwith the developer's direct control, but such issues need to be resolved, initially by engagement with stakeholders/landowners of the affected sites. The Service has since received further information on the condition of the culvert and notes that the development would be bypassing the collapsed rubble section and connecting beyond this section. On this basis no objections are raised.

- 4.5 **Environment and Infrastructure Services (Housing Strategy)** has no objection to the proposal. Its response notes that 17 units will be delivered for social rent and this fulfils the original Section 75 Agreement. It is anticipated that the affordable housing contribution will be delivered before the completion of the 136<sup>th</sup> open market unit. It is also noted that the ground floor flats and the properties with ground floor bedrooms/bathrooms may help to assist with in meeting the housing needs of households with particular needs.
- 4.6 **Environment and Infrastructure Services (Natural Environment)** has no objection to the proposal and is satisfied that the development secures an appropriate landscape scheme and biodiversity gain. The Service does raise concerns about proposed gardens backing onto woodland which is generally not considered a good long-term solution for management and maintenance.
- 4.7 **Environment and Infrastructure Services (Roads Development)** advises it has no objection subject to conditions. Observations have been made regarding the long-term viability of the southern SUDS basin as this is 1m below water table. It is noted that this is not infrastructure that would be adopted by Aberdeenshire Council and it is therefore recommended that an informative be placed on any approval to ensure that the drainage proposals are viable and will be vested in Scottish Water upon completion.
- 4.8 **Environment and Infrastructure Services (Waste Management)** advises of the Services waste strategy and that the developer needs to take this into account.
- 4.9 **Legal and People (Developer obligations)** advises that as this is a MSC application the development is covered by the original Section 75 Agreement and no further contribution is required.
- 4.10 **Kintore & District Community Council** objects to the proposal. The grounds of the objection are i) insufficient car parking spaces for the pavilion, ii) pavilion does not have sufficient associated storage space, iii) provision of playpark equipment is minimal and iv) lack of community involvement for the residents of Kintore.
- 4.11 **SEPA** has no objection having received additional information regarding the channel re-alignment design vision which illustrates that an acceptable watercourse alignment can be achieved.
- 4.12 **Scottish Water** advises of no objection.

- 4.13 **Transport Scotland** comments that it does not propose to advise against the grant of permission.

In relation to the smaller planning application (APP/2023/1132) the following consultation responses have also been received.

- 4.14 **Environment and Infrastructure Services (Archaeology)** notes no archaeological finds or features within the proposed development site, it is adjacent to a large area where recent archaeological investigation revealed evidence of prehistoric human activity. This is indicative of the potential for previously unrecorded archaeology to survive within the proposed development site. Accordingly a condition is requested to secure a programme of archaeological works.
- 4.15 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** advises of no objection.
- 4.16 **National Gas Transmission** advises that the proposed development has been found to not affect any of National Gas Transmission plc's apparatus.
- 4.17 **Neos Networks** advises that the developer will need to get in touch should the works proposed impact on its apparatus.
- 4.18 **Scotia Gas Networks** advises that the developer will need to get in touch should the works proposed impact on pipes owned by SGN noting medium pressure mains pipes running up the B987.

## 5. Relevant Planning Policies

### 5.1 National Planning Framework 4 (NPF4)

Scotland's fourth National Planning Framework (NPF4) is a long term plan looking to 2045 that guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities. It is part of the development plan, and so influences planning decisions across Scotland.

On 13 February 2023 (0900am) Scottish Ministers adopted and published National Planning Framework 4 (NPF4), meaning that it is in force and National Planning Framework 3 and Scottish Planning Policy are superseded from that date and time. This will also have the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on that date. As such the Aberdeen City and Shire Strategic Development Plan 2020 has now ceased to have effect. The NPF4 now forms part of the development plan along with the Aberdeenshire Local Development Plan 2023.

Policy 1 Tackling the climate and nature crises  
Policy 3 Biodiversity  
Policy 6 Forestry, woodland and trees

Policy 12 Zero waste  
Policy 13 Sustainable transport  
Policy 14 Design, quality and place  
Policy 15 Local living and 20 minute neighbourhood  
Policy 16 Quality homes  
Policy 18 Infrastructure first  
Policy 20 Blue and green infrastructure  
Policy 21 Play, recreation and sport  
Policy 22 Flood risk and water management  
Policy 23 Health and safety  
Policy 25 Community wealth building

## 5.2 Aberdeenshire Local Development Plan 2023

On 13 January 2023 the Aberdeenshire Local Development Plan 2023 was adopted.

Policy H1 Housing Land  
Policy H2 Affordable Housing  
Policy P1: Layout, siting and design  
Policy P2 Open Space and Access in New Development  
Policy P4 Hazardous and Potentially Polluting Developments and Contaminated Land  
Policy E1 Natural Heritage  
Policy E3 Forestry and Woodland  
Policy PR3 Reuse, Recycling and Waste  
Policy C4 Flooding  
Policy RD1 Providing Suitable Services  
Policy RD2 Developer Obligations

## 5.3 Other Material Considerations

Development Brief for Public Open Space and Enabling Development at Gauch Hill, Kintore agreed by Garioch Area Committee November 2006

Kintore Settlement Statement - OP2 Woodside Croft, Town Park

PA2023-08 Planning Advice - Landscaping Design  
PA2023-10 Planning Advice - Securing positive effects for biodiversity  
PA2023-12 Planning Advice - Outdoor Access and Development  
PA2023-20 Planning Advice - Trees and Development

The planning history and associated legal agreement signed under Section 75 must be a significant material consideration in the determination of this application. In particular, the requirements set out in planning permission in principle granted under APP/2017/0288 and the Reporters decision relative to APP/2020/1999.

## 6. Discussion

- 6.1 This report primarily focuses on the main application APP/2023/0872 which seeks approval of the matters specified in conditions that relate to planning permission in principle granted under APP/2017/0288. The tandem application (APP/2023/1132) for drainage works must also be granted before the entire development can proceed.
- 6.2 The key planning issues in the determination of the main application are compliance with the matters specified in section 2.2 above as these determine the scope of this application since planning permission in principle has already been granted.

### Background

- 6.3 The justification for the allocation of the sites around Gauch Hill in the Aberdeenshire Local Plan 2006 were to facilitate the development of a town sized park within the settlement boundary of Kintore that could only realistically be developed with associated residential development to enable its creation. The whole Gauch Hill land area was thus designated as P2, although no specific location or extent for the town park was identified. The Development Brief agreed in November 2006 fulfilled this role by identifying a preferred location to the north-east of the allocated site that was approximately 4.5ha in size and considered to be substantial enough to allow for the development of sports pitches, associated parking, a large play area, semi-formal areas and a pavilion.
- 6.4 As the Development Brief recognised, there were a number of different landowners involved at this time and as a consequence there were a number of separate planning applications lodged. Many of these were in the system for a number of years before an application (APP/2004/3532) eventually gained planning permission in principle in 2015; the rest of the applications were withdrawn. As an in-principle application, the 2004 approved drawings and decision did not provide certainty of the location of the town park. However, conditions and the legal agreement signed at this stage fixed a number of important land use requirements as detailed below. The plan appended to the legal agreement also identified a position for the town park located centrally within the site. The Section 75 requirements being;
- the town park must be a minimum of 3.8ha in size with 3.513ha from the developer and 0.287ha as a Council contribution;
  - 3 acres (1.214ha) to be for the provision of a cricket square;
  - A pavilion (specification provided), parking and access must be provided within a budget of £250,000 (this figure increased by an amount equal to the Retail Price index from 1 January 2009); and
  - Affordable housing is to be provided at 10%.
- 6.5 In 2015 an application was lodged for the matters specified in conditions based on the 2004 permission (APP/2015/1189). This broadly met all the necessary requirements with a centrally located town park, pavilion and

cricket square, 150 dwellinghouses and 10% affordable units. Ultimately, the developer in this instance was unable to provide a suitable access arrangement that complied with conditions and the application was withdrawn.

- 6.6 In 2017, an application (APP/2017/0288) was lodged to vary the condition that required a signalised junction at the B987 / B994 to allow flexibility in the access solution. It was known that the likely solution was to be a new roundabout and details of this were considered in recommending approval of the application, which was granted in March 2019. The application for a roundabout (APP/2019/2554) was subsequently granted in April 2020 following determination at Garioch Area Committee and this consent remains extant with a lawful start being noted.

#### Location of Town Park

- 6.7 The location of the town park has been consistently represented in the 2012 and 2017 LDP as being the entire area north of the existing watercourse and this is largely unchanged in the LDP2023. However, these settlement statements do not accurately reflect the position within the legal agreement that shows the town park in a more central location with housing to the north and south of the park area. This plan was the basis for the 2015 application (which, as explained above was subsequently withdrawn).
- 6.8 In the consideration of APP/2020/1999 (the last MSC application) the proposed town park was sited to the south west of the site. This application was refused by Garioch Area Committee 1 June 2021 and the reason for refusal was;

*The revised location of the town park is further from the town centre which is not desirable for a town park and the 3.8 ha is no longer proposed to be a single piece of land; and taking out the 0.287 ha of land contributed by the Council, which is now remote from the proposed Town Park, couldn't be considered to be part of the Town Park anymore, the remaining area of land would equate to 3.5 hectares, which results in further erosion of the previously agreed Town Park area in the Section 75 Agreement. The application is therefore not considered to comply with Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan 2017 and the vision in the Development Brief 2006.*

- 6.9 The developers subsequently appealed this decision and it was dismissed. In her consideration of the appeal the Reporter advises that (para. 99), '...I share the council's concerns that the open space may not be able to function as a town park in the form it is proposed and would be less than was anticipated when the planning permission in principle was approved and importantly when the legal agreement was secured.'

#### Appeal decision

- 6.10 In considering the appeal decision further (PPA-110-2417) the Reporter set out some key conclusions and these are that,

- The Town Park should be a single large area extending to a minimum of 3.5ha excluding SUDS, it must include a sports pitch, a changing area and a car park, and informal recreation space.
- The Council's land within Gauchhill Woods cannot be included in the open space calculation for the site.
- The proposed alternative site to the south would have an overall negative effect on accessibility of the town park to pedestrians or wheeled access users.

6.11 The Reporter's decision is a material planning consideration and sets out the parameters as to what any future planning application should seek to deliver, i.e. a Town Park of 3.5ha to include a sports pitch, changing area and informal recreation space and this should not include SUDS.

#### Extent of town park

- 6.12 The size of the town park is a matter that must be clarified as it is another contentious issue. As highlighted above, the designations in the Local Development Plan are significant, but the stipulations in the legal agreement are the minimum requirements a developer must abide by and maximum requirement Aberdeenshire Council can demand. This is with the caveat that these figures (as indeed any aspect of the legal agreement) can be amended through a formal variation. An application to vary the legal agreement was considered under APP/2021/0422. The Section 75A application (APP/2021/0422) sought to make a number of amendments to the legal agreement which amongst other things included a proposal to amend the extent and location of the park from 3.513ha to 2.591ha. This application was also refused for the same reasons as those given for APP/2020/1999 (see para. 6.8).
- 6.13 It is noted that historic figures of 4.5ha are quoted by Kintore and District Community Council, but the figure of 3.8ha, with 3.513ha contribution from the developer are the extents agreed within the existing legal agreement. In her consideration of the appeal at para. 27 the Reporter states that, 'I consider the town park would be the 3.513 ha of land in the centre of the appeal site as shown on the plan attached to the legal agreement which incorporates a sports pitch, changing facilities and a car park.' Referring again to the appeal decision (para. 41), the Reporter concluded that the town park should be "...a minimum size of at least 3.5ha excluding any dual function SUDS facilities."
- 6.14 Detailed examination of the individual components of the town park now proposed show the overall area to be 3.51ha. This is comprised of:
- a (120m x 120m (1.44ha) formal multi-use sports area,
  - pavilion and parking spaces, and
  - 15, 541 sqm of land to be conveyed to Aberdeenshire Council.
- 6.15 The proposed layout now sees the multi-use sports areas located centrally at the narrowest part of the overall site. There is a conveyance swale to the immediate north of the multi-use sports area. Informal recreation space and a

children's playpark are also provided along the site's western boundary. To the immediate south of the multi-use sports area would be the redirected watercourse which crosses the site in an east-west direction. The redirected watercourse would be channelled in between properties known as Lindale and Mayfield on the site's eastern boundary. The layout includes two conveyance swales to the immediate south of the redirected watercourse. Finally, to the south-west of the multi-use sports area is the pavilion and associated car parking. The proposed arrangement does meet the requirements of the Section 75 and the appeal decision in terms of size with the developer providing a space equal to 3.51ha. The space does provide the multi-use sports area, and pavilion and in this respect is acceptable in delivering the recreational aspect envisaged as part of the development. Due again to historic agreement, Aberdeenshire Council will be taking on maintenance of the sports area, pavilion and peripheral land in line with its contractual obligations. Agreement has been reached with the developer on the extent of the land to be conveyed and will be covered in the varied legal agreement.

- 6.16 Along the western side of the multi-use sports area are walkways that run in a north-south direction and some landscaping which is adjacent to Gauch Hill Woods. There will be number of pedestrian links to continue to provide access to Gauch Hill Woods from the site and the pavilion is also connected to these pedestrian routes. The layout also includes SUDS infrastructure in the form of conveyance swales and detention basin to the immediate south of the redirected watercourse and to the immediate north of the multi-use sports area. Both features will be shallow basins and will not have the standard, more engineered appearance of some SUDS infrastructure which are often enclosed and inaccessible. The design of the SUDS measures that are incorporated into this proposal will be gently sided and landscaped depressions in the ground which are designed to be inviting to users and provide attractive areas of open space within the development. Their siting also means that they will be overlooked by properties. As the basin must also operate as part of the drainage infrastructure for the site, there will be periods where it will hold water after heavy rainfall. For the avoidance of doubt the SUDS infrastructure is not included in the overall town park calculations (Figure 21. Design & Access Statement) and this reflects the view that the Reporter provided that the SUDS should be excluded from the overall calculations of the town park. Overall, the development provides 48, 241sqm. of open space which includes the town park, shared space and landscaped areas across the site, including the SUDS, which is in excess of the required 40% required of a major development. The use of an area of Council land within Gauch Hill Woods to make up some of the open space is not a feature of the application this time, being discounted by the Reporter as part of the planning appeal.
- 6.17 The watercourse is currently a linear ditch feature that cuts across the centre of the site before disappearing into the garden of 'Lindale' in the east. The site and property have a history of flooding and works proposed as part of the development of the site aim to rectify this. The form of the new watercourse is more natural and a sinuous channel that will be enhanced with appropriate planting along the buffer to each side. The new watercourse will have one



bridge installed which will link with the pedestrian routes proposed along the western side of the site. A section of the watercourse to the east is still proposed to be culverted south of 'Lindale'. As detailed at para. 6.1 a small section of this watercourse is outwith the main application site and is considered under application APP/2023/1132. Overall, this arrangement is considered to be a significant improvement on the current situation, will minimise flood risk and increase biodiversity in accordance with LDP2023 policy C4 Flooding and E1 Natural Heritage as well NPF4 policy 3 Biodiversity, policy 20 Blue and green infrastructure, policy 22 Flood risk and water management.

- 6.18 Overall, the Planning Service is satisfied that the layout satisfies the requirements of the Section 75 Agreement in terms of the area of space and functions. The inclusion of the SUDS and redirected watercourse as part of the overall layout is seen as an opportunity for an exemplar green / blue piece of infrastructure that will be a valuable asset and an integral part of the open space on the site.
- 6.19 It is also the view of the Planning Service the approach that this application has taken to the creation of the town park, being a more central and complete space, closer to the town centre also successfully deals with the reasons for refusal given on APP/2020/1999 and the subsequent appeal decision PPA-110-2417.

#### Matters specified in conditions

- 6.20 The scope of this application is restricted to the matters which the developer has submitted details for, and these are outlined in section 2.2 above. The layout essentially creates two areas of housing to the north and south of the multi-sports area. The northern part of the site proposes 33 dwellings with the remaining 126 sited to the south of the SUDS and pavilion. As detailed at paras. 2.1 and 2.3 the whole site is subject to three allocations in the Kintore Settlement Statement. The dwellings proposed within the northern part of the site are subject to the OP6 (land adjacent to Woodside Croft) and R1 allocations. OP6 is allocated for 24 affordable homes and the Settlement Statement states that development should follow completion of a Town Park (R1). Within the part of application site which is allocated as OP6 proposes 13 dwellings are proposed (plot nos.127-130 and 163- 169). This a shortfall of 9 dwellings when considering the new OP6 allocation. It is also noted that the proposal seeks to position the affordable housing at plot nos. 53 – 65 which are outwith the OP6 allocation. The land to the west of the OP6 allocation which is bound by Sunnyside View to the north and Birch Wood to the west forms part of the larger R1 allocation. The R1 allocation being land reserved for a town park at Gauch Hill. The whole of the R1 allocation is circa. 41, 529sqm. The area of the R1 allocation which this proposal seeks to develop for dwellings is circa. 12, 023sqm. which is equal to 29% of the R1 allocation. This needs to be assessed as a departure from LDP2023 as is the development of private homes across the OP6 site. The departures are considered in more detail at para. 6.45.

- 6.21 The requirements for the Town Park in terms of its size and facilities is set out at para. 6.13. As detailed at paras. 6.12-19 the Planning Service is satisfied that the requirements of the Town Park have been satisfied. In meeting these requirements not all of the R2 allocation is utilised meaning that some of this space (12,023sqm.) is utilised for housing with access being taken through the OP6 allocation. In addition to the town park the OP2 part of the site is allocated for 150 homes. Within the OP2 part of the application site 126 dwellings are proposed falling below the OP2 allocation of 150, but in any event it is only an indicative number for the site subject to a suitable layout and design. Across the OP2 and OP6 LDP2023 allocations it is anticipated that a total of 174 homes could be delivered. This application proposes 159 dwellings across these two allocations (including part of the R2 allocation).
- 6.22 Having provided an overview of what is proposed each of the matters specified in conditions, which this application seeks to discharge are now considered in turn.

Condition 1 (a) Siting, design, layout, external appearance, finishing materials and 1 (b) Design Statement

- 6.23 The layout respects existing properties around the site edge with all separation distances approximately 9m from shared boundaries. Existing housing facing the B987 and B994 have a variety of boundary treatments and new plots will require to provide fencing for privacy for established and new residents alike. The developer was advised to avoid new housing backing on to Gauch Hill Woods. Plot nos. 53 to 65 (along part of the site's western boundary) do face Gauch Hill Woods with a intervening strip being incorporated into the layout which increases from 3m in width at its southern end (behind plot no. 53) to 10m in width at the northern end (to the rear of plot no. 65). This is an issue that was raised by the Natural Environment team in its consultation response. Such layouts are not considered to be a good long term solution for management and maintenance. In response to this concern the applicant has advised that there is limited scope to move the houses in this location or to remove them. The landscape plan shows this strip is to be structure tree planting. The width of the strip is considered to be sufficiently wide to allow future maintenance. Equally, the length of the gardens to the rear of plot nos. 53-65 are at least 9m which is sufficient to ensure that they would not become dominated by structure tree planting as proposed. The Planning Service acknowledges that this is perhaps a weaker element of the overall layout. To rearrange the dwellings so that gables were to face Gauch Hill Woods would also be problematic resulting in more hard landscaping and gables facing the street which isn't a satisfactory design solution either. On balance the Planning Service is of view that the arrangement of dwellings adjacent to Gauch Hill Woods is an acceptable design solution. Structure tree planting can be accommodated, and the area is of sufficient width to enable the necessary maintenance so as to avoid an issue with the dwellings and the landscaping.
- 6.24 The proposed dwellinghouses themselves are a contemporary mix of mostly 1¾ storey houses with a modern interpretation of the vernacular. House types

have strong gable features and steeply pitched roofs, often leading to rear extensions that appear as lean-tos. Semi-detached properties have a symmetry in terms of doors and pattern of glazing. The mix of materials across the site, and especially the use of dark coloured horizontal timber linings when matched with the white render, will result in a striking and distinctive development. The developer has adopted similar approaches to a site at Foveran, Aberdeenshire and Croy in the Highlands. The Planning Service welcomes innovative design and the 'whole site' approach to the development of the site which respects its unique context and requirements. The Design and Access Statement outlines the design led approach to the site and the Planning Service concludes that the proposed development demonstrates the six qualities of successful places, namely:

- Distinctive with a sense of local identity
- Safe and pleasant
- Welcoming through visual appeal
- Adaptable to future needs
- Resource efficient in terms of resources; and
- Well connected.

- 6.25 The proposed development is therefore considered to comply with the requirements of NPF4 Policy 16 Quality Homes, Policy 14 Design, quality and place and LDP2023 Policy P1: Layout, siting and design of new development, and adequately satisfies the condition requirements of Condition 1 (a) and (b).

#### Condition 1c – landscaping

- 6.26 Landscaping is evident throughout the development with substantial use of hedging as a boundary feature to the front of properties, grass verges and shrub and tree planting in appropriate locations. Root protection for existing trees has been considered through a tree survey and tree protection plan. Around the town park there are areas of planting and open space with associated footpath links. As detailed at para. 6.16 there are SUDS basins included in the layout. Within these areas and the drainage channel that runs to the north of the larger SUDS basin wet meadow grasslands are proposed as well as native shrub planting that is tolerant of wet conditions. There are also trees proposed within some of the front gardens of dwellings as well as low formal hedgerows to define private garden ground. The southern part of the site is denser in terms of the site layout but open space is to include tree planting. Bulb planting is also proposed across the site. The quality and variety of landscaping proposed satisfies the requirements of condition 1 (c) and demonstrates compliance with LDP2023 Policy P1 Layout, siting and design and NPF4 Policy 14 Design, quality and place alongside Planning Advice PA2023-08 Landscaping Design.
- 6.27 The application site for the continuation of the watercourse to the east of the main application site (APP/2023/1132) lies outside of the allocated OP2 site within a piece of infill land with no designation. As such Policy P3: Infill and householder developments within settlements (including home and work proposals) is relevant. This supports development as long as it respects the

scale, density and character of its surroundings and will not erode the character or amenity of the surrounding area. In this case, the application for the proposed watercourse continuation and ancillary equipment along with the service access and landscaping will be part of the wider new residential development and indistinguishable from it. As such it is considered that the proposal will not impact negatively on the character or amenity of the area and therefore complies with LDP2033 Policy P3, RD1 Providing Suitable Services and NPF4 Policy 22 Flood risk and water management, and adequately satisfies the condition requirements of Condition 1 (c).

(d) Levels Survey and site section

- 6.28 The application has been submitted with detailed levels plans which shows that post development the site would remain relatively flat with no significant change to levels aside from the SUDS infrastructure. The required sections have also been submitted to meet the requirements of condition 1(d) of APP/2017/0288.

(e) Means of access including visibility splays; development access junction design, (f) Car parking and turning areas, (g) Footpaths to B994 and B987, including bus stops

- 6.29 Detailed commentary is provided below on the requirements of conditions 1(e), (f) and (g) but an overview of what is proposed more generally is necessary.
- 6.30 Firstly, it is noted in the planning history that approval had been granted under APP/2019/2554 for the construction of the roundabout (2 April 2020). The proposed roundabout within the southeastern part of the site provides a principal route into southern part the development at the junction of the B994 and B987 and is included within this planning application.
- 6.31 Two other vehicular access points are proposed. A vehicle access is proposed off the B994, to the site's southern boundary and located to the immediate west of a property known as Windyedge. This provides a second point of access to the southern part of the development, aside from the roundabout access. The other access is off the B987 and is midpoint between properties known as Pine Grove and Priors, both of which face the B987. The proposed layout demonstrates footpath connections to the B994 near plot no. 5 and in front of plot nos. 36-40. At the northern part of the site a footpath connection is proposed to the B987 which runs parallel to the southern curtilage boundary of plot nos. 129 -130. Further footpath connections are included to link through with the established residential development to the north in Sunnyside View. Footpaths are included in the open space and links are also provided to continue access into Gauch Hill Woods.
- 6.32 Details of the proposed bus stops are provided on drawing no. 115035/1001 Rev G (Roads layout). This demonstrates that bus stops are to be relocated to take account of the proposed roundabout. The bus stop to serve buses travelling in an easterly direction along the B994 is to be relocated in front of

Wayside and on the opposite side of the B994 (westerly direction traffic) the bus stop is to be located 25m from the corner of the junction of the B994 and Shandwick. It is also proposed to relocate bus stops on the B987 with the shelter serving northbound traffic being relocated circa. 70m north in front of Rockville. On the opposite side, the shelter serving southbound traffic is also to be moved a similar distance north.

- 6.33 Internal roads swept path analysis and a Street Engineering Review and Quality Audit have all been considered by Roads Development, along with detailed examination of other technical documents. Individual houses are provided with sufficient parking to serve the property based on the number of bedrooms. Visitor spaces are also provided throughout the development that reflect Council standards. Twenty spaces (including one accessible space) are provided to serve the proposed pavilion. A Waste Management Plan has been submitted.

(e) Means of access including visibility splays; development access junction design

- 6.34 The application has been submitted with detailed layout plans which include the required visibility splays and junction designs. Roads Development has not raised any objection to this detail. In this respect the information submitted is sufficiently detailed to satisfy the requirements of condition 1 (e) of APP/2017/0288.

(f) Car parking and turning areas

- 6.35 As detailed at para. 6.33 the plans include details of car parking throughout the site as well as a parking schedule. Roads Development do not raise any objection to the level of car parking provided throughout the development as it will adequately serve both the residential development and the pavilion. The Planning Service is of the view that sufficient information has been provided to meet the requirements of condition 1 (f) of APP/2017/0288.

(g) Footpaths to B994 and B987, including bus stops

- 6.36 Further commentary is provided at para. 6.31 on the footpath connections that are included in the overall site layout. Details of the proposed bus stops are also provided at para. 6.32. Roads Development has not raised any objection to this arrangement or the bus stop relocations and again the Planning Service is satisfied that sufficient information has been provided to meet the requirements of condition 1 (g) of APP/2017/0288.

(h) Flood Risk Assessment

- 6.37 There is a history of localised flooding within the site and 'Lindale' from the existing ditch. The extensive drainage proposals and solutions proposed by the developer aim to deal with such issues to prevent reoccurrence and a Flood Risk Assessment (FRA) has been submitted in support of the application. As previously indicated, Flood Risk and Coast Protection had

requested that evidence be submitted to demonstrate that efforts are being made to improve the condition of the receiving pipework east of the site. Further information has now been submitted that demonstrates that this development would be connecting into the existing drainage system beyond a collapsed rubble section that CCTV investigations have discovered. Flood Risk and Coast Protection has confirmed that this is acceptable.

- 6.38 Following the submission of additional information in the form of a channel re-alignment design vision SEPA has no objection to the proposal. Furthermore, with the submission of additional information the Planning Service is satisfied that the requirements of condition 1 (h) of APP/2017/0288 has been met.

(i) Details of water bodies, including Method Statements

- 6.39 The FRA includes details of water bodies. The submitted Drainage Assessment provides further information and an operation and maintenance schedule of the surface water system. The Planning Service is satisfied that the requirements of condition 1 (i) of APP/2017/0288 has been met.

Technical matters

- 6.40 The developer will be connecting to the public main water network and public foul drainage network. Taking all of the above technical matters into consideration and information submitted to deal with the MSC submissions, the Planning Service is satisfied that the proposed development complies with Policy RD1: Providing suitable services and NPF4 Policy 18 Infrastructure First.

Other matters

Ecology and biodiversity

- 6.41 The site has been subject to an Ecological Appraisal which included the completion of a Phase 1 habitat survey. The habitat survey notes the majority of the site is semi-improved neutral grassland with areas of scattered scrub and mixed scattered trees. The appraisal and habitat survey found limited habitat for reptiles and nesting birds. A Biodiversity Action Plan has been submitted detailing mitigation for the impacts caused by the development and to enhance the biodiversity value within the site. The habitat creation includes a variety of habitats such as woodlands, wildflower grasslands and wetlands as well as linear features including native species-rich hedgerows. A biodiversity metric calculation has also been completed along with plans that indicate the provision of a 'hedgehog highway' within the domestic gardens and all of these measures are welcome.
- 6.42 It is noted that the Woodland Trust Scotland has objected to the proposal and its comments are summarised at para. 3.1. Whilst the Woodland Trust Scotland comments are welcomed it is not a statutory consultee on an application of this nature. In its comments it seeks a buffer zone of at least 50m to prevent adverse impacts such as pollution and disturbance and ensure

avoidance of root damage to the site's western boundary. There is no requirement within the OP2 allocation text to secure such a buffer zone. To create a buffer zone of 50m in width at the point where houses are sitting parallel to the boundary with Gauch Hill Woods would remove an area of circa. 6000 sqm. from the development site which is significant given the other requirements of the site development. A Tree Survey and Tree Protection Plan has been submitted showing that tree protection fencing is to be installed along the site's western boundary, with the exception of the part of the western boundary that abuts houses in Birch Wood.

- 6.43 It is noted that Natural Environment has concerns about the siting of plot nos. 53 -65 along the western boundary with Gauch Hill. Its consultation response notes that gardens backing onto woodland are not generally a good long-term solution for management and maintenance which echoes some of the comments that Woodland Trust Scotland raises. This issue is considered further at para. 6.23 and the Planning Service acknowledge that this is perhaps a weaker part of the layout. However, when this is considered in the context of the wider site and the site allocation requirements on balance this aspect of the proposal is acceptable. More generally, Natural Environment has considered the additional information submitted and is supportive of the findings and recommendations of the appraisals undertaken and the Biodiversity Action Plan. Notwithstanding a specific comment in terms of the inter-relationship of plot nos. 53-65 the Planning Service is satisfied that the proposal generally accords with LDP2023 Policy P1 Layout, siting and design, PR1 Protecting Important Resources and NPF4 Policy 3 Biodiversity.

#### Legal agreement

- 6.44 The package of developer obligations and affordable housing was agreed during determination of the planning permission in principle application and covered in the registered legal agreement. Informal discussions have been held between the Council's Principal Developer Obligations Officer and Solicitor and the developer during the assessment of this application. The current Section 75 Agreement secures the delivery of the pavilion upon completion of the 50<sup>th</sup> unit. Through discussions with Scotia Homes it has been agreed that the delivery of the pavilion will be by the 89<sup>th</sup> unit, which would be at the end of Phase 2 which ties in with completion of phase 2 of the development and the construction programme for the development. It has also been agreed that additional provision shall be built into revisions to the Section 75 Agreement. These revisions would be in the form of a contribution to be payable in security for the delivery of the pavilion at an agreed rate payable from the 50<sup>th</sup> dwelling to 89<sup>th</sup> agreement to cover the contributions for the pavilion. This would result in the Council being in receipt of funds that could be used if for some reason the pavilion weren't to be delivered by Scotia Homes albeit it is their intention to deliver it.
- 6.45 It should be noted that changes to Section 75A (1) of the Town and Country Planning (Scotland) Act 1997, as brought in by the Planning (Scotland) Act 2019 in November 2020, provides that a planning obligation may be modified either by agreement between parties and the Planning Authority or by

application and this is reflected in the Council's Scheme of Governance. Given the terms of the Act there is no need for formal application to modify or change a Section 75 Agreement albeit any agreement would need to reflect the decision of the committee. This would not have been the case when the earlier application (APP/2020/1999) was determined hence the submission of the other application (APP/2021/0422) for modifications to the Section 75 Agreement.

#### Response to representations

- 6.46 The majority of points raised in the representations have been considered in the main body of this assessment. For clarity, the requirements of the development have been set out at para. 6.13 and the Planning Service is satisfied that these requirements have been met. There has been some criticism of the pavilion building, and the developer has responded to this with amended plans. The amended plans show revisions to the internal space to show two areas of multi-function space that offer a more flexible space but can still be used for changing areas. A store area has also been included in the layout. These amendments show a commitment on the developer's part to respond to the comments received. The Community Council has also expressed the view that the pavilion is not served by sufficient car parking. As detailed throughout this report 20 spaces are provided for the pavilion and Roads Development is of the view that this is an appropriate number of spaces. It is noted that there are banks of visitor spaces provided throughout the development with 7 visitor spaces to the immediate south of the pavilion. A further 8 visitor spaces are also provided within 100m of the pavilion. The Planning Service is content with the parking provision. To seek to provide more than standards require would not be supporting measures to reduce the need to travel and promote walking, cycling and public transport which goes against principles embedded in our LDP and NPF4.
- 6.47 Since the submission of this application Scotia Homes has undertaken a further consultation event with the community (7<sup>th</sup> September 2023). Scotia Homes also acknowledge the aspirations of some of the community for a skate park. There is no requirement in the legal agreement for the delivery of such infrastructure. Scotia Homes has advised that they are willing to work with the community to help facilitate this. Scotia Homes has also suggested the establishment of a Community Liaison Group should this application be approved, which they would be part of along with the Community Council and could be used as a vehicle to establish and deliver future community projects within the town park. The formation of such a group is outwith the scope of this planning application but is welcomed by the Planning Service and it is noted this has been used successfully at other Scotia Homes developments.

#### Departure from LDP2023

- 6.48 As noted throughout this assessment the proposal does result in a number of departures and these are summarised below for clarity;
- I) Use of part of R1 for housing,



- II) Use of OP2 for town park,
- III) Lack of affordable housing within the OP6 allocation, and
- IV) Requirements of the Development Brief.

- 6.49 The Planning Service acknowledges that the proposal does not wholly accord with LDP2023 and this would not be unusual given that the site does have three distinct LDP allocations.
- 6.50 The proposed layout means that a proportion of the R1 allocation, for the delivery of the town park is to be developed for housing. The land to be used for housing at this part of the site is equal to 29% of the R1 allocation and 12, 023 sqm. The proposed layout results in the northernmost part of the R1 allocation, where it bounds existing properties in Sunnyside View (to the north) and Birch Wood (to the west) being housing. This siting of housing in this area is clearly compatible with the established housing along the northern and western boundaries and in this respect is acceptable.
- 6.51 At the northernmost part of the OP2 (Woodside Croft, Town Park) allocation where it adjoins the R1 allocation some of the proposed town park encroaches into the OP2 allocation. This part is circa. 8100 sqm. in total with the whole of the OP2 allocation being 65, 400 sqm. This is the equivalent of 12% of the OP2 allocation. It can be seen that the proposal utilises the northernmost part of the R1 allocation to deliver housing as a continuation of the OP6 allocation (land adjacent to Woodside Croft) and on the flip side uses the northernmost part of the OP2 allocation (Woodside Croft, Town Park) for the delivery of some of the town park.
- 6.52 Overall, this arrangement is not considered to be harmful to wider area or significantly deviate from the spirit of these allocations which collectively seek to deliver a high quality housing development with the enabling town park being central to this.
- 6.53 In considering point iii) as set out at para. 6.48 the OP6 allocation is for 24 affordable units and this is a new LDP2023 allocation. The overall planning permission in principle, encompassing the OP6 allocation only requires that the developer deliver 10% of affordable units across the site which is clearly lower than the level that the new OP6 allocation is seeking to deliver. Given that this application is only for the approval of matters specified in conditions any determination is bound by the terms of the accompanying Section 75 Agreement thus requiring 10% across the original planning permission in principle. There is no scope through the determination of this MSC application to secure more affordable housing over and above the Section 75 Agreement requirements.
- 6.54 The development does secure the provision of 17 affordable units that are located at plot nos. 53 - 65. Housing Strategy has not raised any objection to this aspect of the proposal. The proposal does provide a range of property sizes in its fulfilment of the affordable housing requirement (8No. x1 bedroom flats, 2No. x2 bedroom houses, 5No. 3 bedroom houses and x2No. 4 bedroom houses). Given the planning history, terms set out in the historical

Section 75 Agreement and the nature of this application i.e. MSC there is no scope for the Planning Service to secure any further affordable housing units. It is accepted that there is an inconsistency between the LDP2023 aspirations for the OP6 element of the wider site and the planning permission in principle. Having regard to the planning history the Planning Service is of the view that this too is a suitable departure.

- 6.55 Finally, consideration should be given to the Development Brief which was approved in November 2006. The Development Brief for Public Open Space and Enabling Development at Gauch Hill offers guidance on the form of development in the Gauch Hill area and refers specifically to the concept of the 'town park'. The document provides some general site requirements and zonings/diagrams were included to illustrate how the site could come forward. In her decision notice the Reporter makes it clear that, 'Despite its age the development brief remains a relevant consideration...'. She does however make a point of stating that the terms of the Section 75 Agreement entered in 2015 do not fully reflect the Development Brief but were clearly considered to be acceptable to the Council at the time. In her summation the Reporter also states that, '.... there are differences between the development plan allocation, the development brief aspirations and the actual open space provision agreed within the 2015 legal agreement.' She also goes on to say that, 'It is not disputed that the Council relaxed some of the requirements of the brief, and the development plan, when concluding the legal agreement in 2015.'
- 6.56 It is the view of the Planning Service that the Development Brief is a material consideration, and it is for the decision maker to determine how much weight to give to the document. It remains a valid document and has not been updated or superseded by a Master Plan. The legal agreement entered into in 2015 does deviate from the Development Brief and as the Reporter recognises these differences were clearly acceptable to the Council at the point the Section 75 Agreement was secured. Having regard to the planning history since the approval of the 2006 brief it is the view of the Planning Service that again, this is a suitable departure. The proposal clearly delivers the requirements as set out in the 2015 Section 75 Agreement secured well after the approval of the 2006 brief and does respond to the appeal decision. Overall, the proposal is considered to be acceptable and a suitable departure from the aspirations of the Development Brief.

### Conclusion

- 6.57 A town park for Kintore has been a long-held aspiration to meet the demands of a population that has grown considerably in the last 20 years and is planned to grow further. The planning history for the Gauch Hill area is almost as old with numerous attempts to get planning permission for development over the years. Even once planning permission in principle was secured, its implementation through the detailed stages of the process has been challenging. Having worked through these challenges, a proposal that delivers on the need for a community recreation space and pavilion along with an attractive residential development is ready to be determined as it is

considered to be appropriately sited and designed. All technical information required to demonstrate compliance with the approval of matters specified has also been satisfied.

- 6.58 The Planning Service has worked with the developer to ensure that the unique site requirements have been considered and historic commitments honoured as far as possible. The proposed development is considered to draw together the various elements and components that will be an asset to the community and desirable place to live. Following the refusal of APP/2020/1999 and subsequent dismissal at appeal the developer has sought to address the reasons for refusal which primarily related to the town park siting and form.
- 6.59 The Planning Service acknowledge that the arrangement is a departure from LDP2023 and consideration is given in paras. 6.45-53 as to why the identified departures are suitable. Overall, the proposal delivers a successful layout that takes onboard key placemaking principles to create good quality places. The layout also delivers the town park albeit not wholly within the R2 allocation. What is proposed meets the terms of the Section 75 Agreement and will result in an attractive, multi-functional town park that will be an attractive space that promotes people's health, happiness and wellbeing.
- 6.60 The Planning Service is satisfied that the appeal decision has been appropriately responded to. The Planning Service is satisfied that within the scope of the matters specified, the development meets the relevant policies of both LDP2023 and NPF4 and can be supported.

## **7. Area Implications**

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

## **8. Implications and Risk**

- 8.1 An integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.
- 8.4 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

## 9. Departures, Notifications and Referrals

### 9.1 Development Plan Departures

Development Brief for Public Open Space and Enabling Development at Gauch Hill

LDP2023 Appendix 7D – Settlement Statement - Garioch

Allocation OP2 - Woodside Croft, Town Park  
Allocation OP6 – Land adjacent to Woodside Croft  
Allocation R1 – for a town park at Gauch Hill

- 9.2 The main application (APP/2023/0872) is a Departure from the valid Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 9.3 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.
- 9.4 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

## 10. Recommendations

### **APP/2023/0872**

#### 10.1 **GRANT Full Planning Permission subject to the following conditions:-**

01. Prior to the commencement of the development hereby approved, details of the pedestrian bridge shown on approved drawing no 11394-HFM-ZZ-ZZ-DR-A-P00 001 (P14) and its phasing shall be submitted to and approved in writing by the Planning Authority. Thereafter the bridge shall be installed in accordance with the approved details and shall be retained in perpetuity.

Reason: In order to facilitate pedestrian access around and between the different areas comprising Kintore Town Park.

02. That prior to the construction of any dwellinghouse, the following details must be submitted to and approved in writing by the Planning Authority:
- (a) details of all the children's play equipment and materials of the play areas;
  - (b) a detailed scheme for the phased implementation of the said equipment and surfacing; and

- (c) details of the long term management of the play equipment and surfacing.

The equipment and play areas shall be implemented on site and maintained thereafter in complete accordance with the approved details. In any event play all play equipment shall be fully implemented prior to completion of the 150th dwellinghouse on the site.

Reason: In the interests of the ensuring the timeous provision of suitable play equipment in the areas of open space in the interests of the amenity of the area.

03. Prior to the removal of the existing traffic calming island on the B994, the works as generally shown on drawing no. 115035/1112 dated 12/03/2021 and contained within the Fairhurst B994 Pedestrian Crossing Assessment shall be completed in their entirety to the satisfaction of the Planning Authority.

Reason: To retain appropriate traffic calming of the B994 in the interests of public safety.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order amending, revoking or re-enacting that Order the garages shown on the approved plans shall be permanently retained as such and shall not be altered in any way under the terms of Schedule 1 to that Order without an express grant of planning permission from the planning authority.

Reason: To ensure the retention of adequate off-street parking facilities within the site in the interests of road safety.

05. The works hereby approved shall be carried out in accordance with Fairhurst Drainage Assessment (dated September 2020) and the Maintenance Schedule (Appendix D).

Reason: To ensure that adequate drainage infrastructure is installed and maintenance requirements are fulfilled thereafter.

06. The works hereby approved shall be carried out in accordance the Biodiversity Action Plan (Echoes Ecology Ltd - dated 1 December 2023) and the Management Schedule contained therein.

Reason: To ensure that appropriate biodiversity measures are delivered and maintained throughout the lifetime of the development.

07. The works hereby approved shall be carried out in accordance the updated Black Hill Ecology Tree Report and the recommendations contained therein. For the avoidance of doubt prior to works commencing on site the tree protection fencing as detailed on drawing no. BHE\_TPP\_160719\_1 Rev 4 and BHE\_TPP\_160719\_2 Rev 4 shall be fully installed and retained for the

duration of the construction phases closest to the site's western boundary with Gauch Hill Woods. The position and construction of protective fencing around the retained trees is to be in accordance with BS 5837: 2012 Trees in relation to design, demolition and construction. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the planning authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: In order to ensure adequate protection for the trees and hedges on the site during the construction of development, and in the interests of the visual amenity of the area.

08. All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

09. The development hereby approved shall be carried out in strict accordance with the approved Brindley Associates Landscape Planting and Maintenance Proposals (May 2023).

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

10. No individual dwellinghouse hereby approved shall be erected unless an Energy Statement applicable to that dwellinghouse has been submitted to and approved in writing by the Planning Authority. The Energy Statement shall include the following items:
- a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development;
  - b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2023.

The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required in National Planning Framework 4 Policy 2 and Policy C1 of the Aberdeenshire Local Development Plan 2023.

**10.2 That the Committee agree the reason for departing from the Development Plan.**

The proposed development does not accord with the LDP2023 Appendix 7d - Kintore Settlement Statement by reason of the siting of housing and the town park relative to the OP2, OP6 and R1 allocations and the affordable housing provision required of OP6 allocation. The proposed development does provide the key community facilities and would result in a successful layout that takes onboard key placemaking principles to create good quality places. In all other regards, the development is considered to accord with relevant policies of the Aberdeenshire Local Development Plan 2023, NPF4 and the matters specified in conditions relating to planning permission in principle under APP/2017/0288.

**APP/2023/1172**

**10.3 GRANT Full Planning Permission subject to the following conditions:-**

01. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

03. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the

programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

#### **10.4 Reason for Decision**

The Planning Authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Development Plan 2023 and NPF4. The proposed development of a SUDS pond and landscaping will have no adverse impact on the character or amenity of the area in accordance with LDP2023 Policy P3: Infill and householder developments within settlements (including home and work proposals), Policy C4 Flooding and Policy RD1 Providing Suitable Services and will help facilitate delivery of an allocated site. The development is also in accordance with NPF4 Policy 18 Infrastructure First, Policy 20 Blue and green infrastructure, Policy 22 Flood risk and water management.

**Alan Wood**

**Director of Environment and Infrastructure Services**

**Author of Report: Helen Atkinson**

**Report Date: 10 April 2024**