



Appeal Decision Notice

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Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2370
- Site address: Land to south of Duthie Road, OP1 site, Tarves, Ellon, AB
- Appeal by Scotia Homes Limited against the decision by Aberdeenshire Council
- Application for planning permission APP/2018/1262 dated 29 May 2018 refused by notice dated 16 November 2018
- The development proposed: Erection of 113 dwellinghouses, formation of public open space and associated infrastructure
- Application drawings: listed in schedule at the end of this notice
- Date of site visit by Reporter: 20 February 2019

Date of appeal decision: 27 August 2019

Decision

I allow the appeal and grant planning permission subject to the 17 conditions listed at the end of the decision notice. Attention is drawn to the advisory notes at the end of the notice.

I have addressed the appellant's claim for expenses against the council in a separate decision notice.

Reasoning

1. By notice of intention dated 29 March 2019 (attached as Annex A to this notice) I indicated that I was minded to grant planning permission subject to the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement.
2. The matters to be covered by the planning obligation (or other suitable arrangement) were specified in paragraph 53 of the notice of intention, and related to affordable housing provision and a commuted sum; a contribution towards providing additional secondary education capacity; and a contribution towards increasing healthcare capacity.
3. Subsequent to the issuing of the notice of intention, correspondence was received from the appellant and council in regard to whether a contribution towards healthcare capacity at Haddo medical practice would be justified. In light of this, I issued a procedure notice to seek further written submissions on this matter from the appellant, council and NHS Grampian.



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4. I have reviewed the responses received and the evidence presented to me by parties, and particularly the details of existing accommodation and patient numbers submitted by the appellant. I find that there to be insufficient evidence to support NHS Grampian's assertion that physical works would be required at Haddo medical practice in Pitmedden, in order to accommodate the additional patients generated by the proposed development. The submissions strongly suggest that existing and future capacity constraints relate principally to the number of doctors operating at the practice, and therefore I conclude that a contribution could not reasonably sought to address capacity issues in this instance.

5. In paragraph 44 of the notice of intention, I had already indicated that if it became apparent that physical works would not be required to accommodate additional patients at Haddo medical practice, a contribution would not be required. Therefore, it has not been necessary for me to issue a second notice of intention, ahead of an obligation being finalised that omits provision for a healthcare contribution.

6. On 14 August 2019, the appellant submitted a copy of the signed section 75 agreement, which addresses all matters referred to in the notice of intention, except for the healthcare contribution discussed above. On 20 August 2019, the appellant also provided copies of the keeper's acknowledgements received from Registers of Scotland, which confirm that the section 75 agreement has been presented for registration against all relevant titles.

7. On this basis, I am satisfied that planning permission can now be granted subject to the conditions originally specified in the notice of intention.

Christopher Warren

Reporter

Conditions

1. 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 2017.

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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 Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

2. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

3. Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

4. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority.

Details of the scheme shall include:

- a) Existing landscape features and vegetation to be retained;
- b) Protection measures for the landscape features to be retained;
- c) Existing and proposed finished levels;
- d) The location of new trees, shrubs, hedges and grassed areas
- e) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- f) The location, design and materials of all hard landscaping works including walls, fences, gates, paths, street furniture and play equipment;
- g) A programme for the implementation, completion and subsequent management of the proposed landscaping.

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

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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. In addition, to ensuring that overland flow route are maintained.

5. The development shall be served in accordance with the approved drawings and the following details:

- (a) The maximum gradient of the first 5m of each plot access must not exceed 1 in 20.
- (b) Prior to occupancy of each dwellinghouse, off-street car parking suitable for that dwellinghouse, surfaced in hard standing materials must be provided within the site.
- (c) Within 6 months of the occupancy of the last house all visitor parking shall be completed in accordance with Aberdeenshire Council's standards.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

6. Prior to occupancy of the 20th dwellinghouse within this site, footpath connectivity shall be provided along the site frontage along the B999 Duthie Road on the south side, with similar footpath linking in up from the eastern side of the C31c, linking in with internal footpath networks. The layout is to be agreed with Aberdeenshire Council's Roads Development team prior to construction. Once completed the footpath shall be retained in perpetuity.

Reason: To ensure safe access for pedestrians to the existing footpath network.

7. No dwellinghouse hereby approved shall be brought into use unless a Residential Travel Plan for that dwellinghouse has been submitted to and approved in writing by the Planning Authority. The Travel Plan shall encourage more sustainable means of travel and shall include mode share targets. It shall identify measures to be implemented, the system of management monitoring review, reporting and duration of the incorporated measures designed to encourage modes other than the private car. No building shall be brought into use unless the measures set out in its (respective) approved Travel Plan have been implemented in full.

Reason: In the interests of encouraging a more sustainable means of travel to and from the proposed development.

8. An emergency services access via Presly Avenue is to be provided and shall include a physical barrier to prevent any vehicles other than emergency services from using this route. The precise details of the physical barrier shall be submitted to and agreed in writing by the Planning Authority and the emergency access shall thereafter be completed in accordance with the approved details prior to the completion of the 51st Planning and Environmental Appeals Division4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR



house. This access is for emergency services and once complete shall not be used at any time by construction traffic.

Reason: To allow sufficient access for emergency services to the eastern part of this site, as required, and to maintain adherence to Aberdeenshire Council Standards for Roads Construction Consent and Adoption.

9. Prior to occupation of the 80th house within the development hereby approved, the proposed pedestrian link from the east of the site to Braiklay Avenue, which will link in with a path from Presly Gardens shall be provided. The footpath shall be a 3 metres lit link onto Braiklay Avenue, with upgrades to existing links to be undertaken as appropriate. Once completed the footpath will be retained in perpetuity.

Reason: To allow pedestrian permeability in the direction of Tarves amenities.

10. Prior to the completion of the development hereby approved, the road link stubs, linking to the employment land roads are to be constructed to facilitate linkages to this area at a future date.

Reason: To facilitate future development of the OP1 site to its intended potential.

11. No development shall commence until a design to upgrade Braiklay crossroads junction (at B999 and C31c), including a timescale of works, has been submitted to and approved in writing by Aberdeenshire Council. The proposed design should meet current Aberdeenshire Council standards, unless otherwise agreed by Aberdeenshire Council Roads Development Team. Once approved the junction improvement will be carried out in accordance with the approved details and within the agreed timescale.

Reason: To ensure that the improvements to the Braiklay Crossroads have been carried out in accordance with the requirements of the Local Development Plan and in the interests of road safety.

12. No dwellinghouse hereby approved shall be occupied unless the proposed surface water drainage systems have been provided in accordance with the approved plans and the Drainage Assessment Issue 3 dated May 2018 by Fairhurst. The surface water drainage systems shall be permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

13. 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 Planning and Environmental Appeals Division4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR



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.

14. No dwellinghouse hereby approved shall be occupied unless all of its associated means of enclosure have been provided in accordance with the approved scheme. Once erected, the approved means of enclosure shall thereafter be permanently retained in accordance with the approved details.

Reason: In the interests of the residential amenities of the occupiers of the dwellinghouse and the visual amenities of the area.

15. All landscaped areas outwith the curtilages of the dwellinghouses and shown outlined on the landscape drawing to be submitted and approved reference Condition 4 shall be permanently retained as such and shall at no time be used as private garden ground nor incorporated within the curtilage of any of the dwellinghouses hereby approved without the express grant of planning permission by the Planning Authority. 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 no means of enclosure under Class 7 of schedule 1, other than that shown on the approved plans, shall be erected within the landscaped areas without an express grant of planning permission by the Planning Authority.

Reason: In the interests of the character and appearance of the development.

16. Prior to the commencement of development a drawing of the finished ground levels of the roads and car parking areas shall be submitted and approved in writing by the Planning Authority. Once approved the development will be carried out in accordance with these details and permanently retained.

Reason: To ensure that overland flow route are maintained.

17. Prior to the commencement of development a construction method statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority. The construction method statement shall specify mitigation measures to minimise disturbance and shall include controls for hours of construction work and associated activity. Once approved the development will be carried out in accordance with these details.

Reason: In the interests of safeguarding the residential amenity at nearby properties during construction.

Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 4. Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).

Schedule of drawings:

TV_P_01 Site Location Plan
 TV_P_15B Masterplan
 TV_P_140 AT50 1 x Bedroom Apartment Plans and Elevations
 TV_P_135A Garage Plans & Elevations
 TV_P_141A HT75 – 1 x Bedroom House
 TV_P_104A House Type HT_85 Elevations
 TV_P_103 House Type HT_85 Roof Plan and Section
 TV_P_102 House Type HT_85 Floor Plans
 TV_P_101A House Type HT_85 Typical Plot Plan
 TV_P_142 HT85 – 3 x Bedroom House Plans and Elevations
 TV_P_143 AT50, HT75 and HT85 Side (Gable) Elevations
 TV_P_108A House Type HT_95 Elevations
 TV_P_106 House Type HT_95 Floor Plans
 TV_P_105 House Type HT_95 Typical Plot Plan
 TV_P_113 House Type HT_110 Elevations
 TV_P_112A House Type HT_110 Floor Plans
 TV_P_114 House Type HT_110 Sections
 TV_P_145 Mirrored House Type HT_110 Floor Plan
 TV_P_146 Mirrored House Type HT_110 Elevations
 TV_P_111 House Type HT_110 Typical Plot Plan
 TV_P_117 HT_115_G [With Gable Windows] Elevations
 TV_P_148 Mirror HT_115_G [With Gable Windows] Elevations
 TV_P_116A House Type HT_115_G [With Gable Windows] Plans
 TV_P_147 Mirrored HT_115_G [With Gable Windows] Plans
 CY_P_119 House Type HT_115_5 [Street] Elevations
 CY_P_150 Mirrored HT_115_5 [Street] Elevations
 TV_P_118A House Type HT_115_5 [Street] Floor Plans
 TV_P_149 Mirrored HT_115_5 [Street] Floor Plans
 TV_P_115 House Type HT_115 Typical Plot Plan
 TV_P_124 House Type HT_125 Elevations
 TV_P_122A House Type HT_125 Floor Plans
 TV_P_152 Mirror House Type HT_125 Elevations
 TV_P_151 Mirror House Type HT_125 Floor Plans
 TV_P_123 House Type HT_125 Roof Plan & Sections
 TV_P_121A House Type HT_125 Typical Plot
 TV_P_129 House Type HT_135 Elevations
 TV_P_154 Mirror House Type HT_135 Elevations
 TV_P_127 House Type HT_135 Floor Plans
 TV_P_153 Mirror House Type HT_135 Floor Plans
 TV_P_128 House Type HT_135 Roof Plan & Section
 TV_P_126 House Type HT-135 Typical Plot Plan
 TV_P_134A House Type HT_150 Elevations
 TV_P_156 Mirror House Type HT_150 Elevations

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TV_P_132A House Type HT_150 Floor Plans
TV_P_155 Mirror House Type HT_150 Floor Plans
TV_P_133 House type HT_150 Roof Plan & Section
TV_P_131 House type HT_150 Typical Plot Plan
110198/2200F Conceptual Drainage Layout
110198/2202 Drainage Adoption Plan
110198/9200 Excavations, Buffer Zones and Private Water Supplies
110198/1501A Levels Layout (Sheet 1 of 2)
110198/1502A Levels Layout (Sheet 2 of 2)
110198/1001D Roads Layout
110198/2201A SUDS Construction Details
110198/1008A Vehicle Swept Path Analysis (Sheet 1 of 2)
110198/1009A Vehicle Swept Path Analysis (Sheet 2 of 2)
TV_P_14 Masterplan – Parking Diagram
TV_P_16 Proposed Streetscape Elevations

**Annex A: Planning and Environmental Appeals Division****Appeal: Notice of Intention**

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Notice of Intention by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2370
- Site address: Land to south of Duthie Road, OP1 site, Tarves, Ellon, AB
- Appeal by Scotia Homes Limited against the decision by Aberdeenshire Council
- Application APP/2018/1262 for planning permission dated 29 May 2018 refused by notice dated 16 November 2018
- The development proposed: Erection of 113 dwellinghouses, formation of public open space and associated infrastructure
- Date of site visit by Reporter: 20 February 2019

Date of notice: 29 March 2019

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters listed in paragraph 53.

The appellant has made a claim for expenses against the council. This will be addressed separately once the decision notice on this appeal is issued.

Preliminary matter

The council has not carried out screening of the proposal, to establish whether an environmental impact assessment (EIA) is required. Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 identifies urban development projects of an area exceeding 0.5 hectares as potentially being EIA development. Regulation 7(1) states that the selection criteria set out in schedule 3 of the regulations, together with the results of any available assessments, must be taken into account when determining whether an EIA is required.

I have had regard to the characteristics of the proposed development, in particular its size, design, location including its current land use, its allocation for development in the local

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development plan, and its position adjacent to existing development. There are no watercourses within the site, and there are no environmental designations. I have also reviewed the submitted phase 1 habitat and protected species survey, which concludes that there are no habitats of conservation interest or notable rarity within the site. The survey did not identify any need for specific mitigation in relation to any protected species.

With all of the above considerations in mind, I am satisfied that an EIA is not required for this proposed development.

Reasoning

1. I am required to determine the appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are: (a) the principle of development, including whether the partial uptake of the allocated site is acceptable; (b) whether an appropriate mix of housing is proposed; (c) layout, siting and design considerations; (d) access arrangements and the adequacy of Braiklay crossroads; and (e) the adequacy of local services and facilities.

The principle of development

2. The Aberdeenshire Local Development Plan (LDP) was adopted in 2017. The appeal site forms part of the wider OP1 ('The Grange') site allocation in Tarves, which the LDP allocates for 100 homes, community facilities and 3 hectares of employment land. The site had also been allocated in the previous and now superseded 2012 LDP.

3. The Tarves settlement statement, incorporated within the LDP, identifies a wide range of considerations and issues to be taken into account, in respect of this allocated site specifically, together with matters relevant to all development in the village more widely. I return to these wider considerations below, insofar as they are pertinent to my assessment. However, I find the provisions of the LDP clearly establish the basic principle of development of this site, where this would be in line with the terms of the allocation.

4. The LDP settlement statement makes clear that a masterplan would be required for the site. A masterplan had in fact been submitted to and agreed by the council in February 2016, ahead of the 2017 LDP's adoption. LDP policy P1 ('Layout, siting and design') states that development of allocated sites will be supported where it keeps to a previously agreed statement on the proposed design of the site.

5. The council's reason for refusal refers to the proposal's failure to comply with policy P1, (in part) by virtue of its failure to incorporate the whole of the site allocation, and by not including any employment land. Having carefully reviewed policy P1, I find it unequivocal that the policy itself does not stipulate that the development proposal must necessarily incorporate the entirety of the land and/or all of the uses for which the site has been allocated. I consider that compliance or otherwise with aspects of policy P1 that relate to

the principle of development, is largely reliant upon the extent to which the proposal complies with the agreed masterplan.

6. Turning to the agreed masterplan next therefore, this essentially represents a more detailed articulation of how the site could be appropriately developed in accordance with its allocation in the LDP. It must be noted that the masterplan is not itself part of the development plan, but its relevance to the practical application of policy P1, and its complementary role alongside the LDP settlement statement and the OP1 site description signifies it as an important material consideration.

7. The council has not contended that the delivery of the full extent of residential development on the site, as a single phase of development rather than in two phases as stated in the masterplan, would be problematic in regard to compliance with the masterplan. The council's concerns in regard to the appeal proposal cannot therefore be logically based on an expectation that there must be strict adherence with the masterplan. It seems to me that the objection is reflective of a broader concern over securing the uptake of the employment component of the allocated site.

8. Despite this, the agreed masterplan identifies the 'employment phase' as being implemented concurrently with residential phase 2 but, crucially, as a separate, standalone phase. With this in mind, I do not find the appeal proposal deviates meaningfully from the agreed masterplan as a consequence of not including the whole site, or by not including employment uses. The masterplan envisaged distinct phases of development, and so I consider it fair to expect that more than one detailed application would be likely to subsequently follow.

9. There is no requirement or expectation expressed in the LDP or masterplan that the residential component would, for example, cross-subsidise delivery of the employment land, and there is no evidence before me that would indicate that by bringing forward only the site's residential component, this would be detrimental to the prospects of uptake of the employment land, which would remain available.

10. Conversely, I consider that the appeal proposal would materially increase the likelihood of uptake of the employment land, as the appeal proposal would incorporate servicing for the remainder of the site, including access and foul and surface water infrastructure, thereby addressing constraints to development alluded to in the 2016/17 employment land audit.

11. All told, I am satisfied that the proposal would not adversely affect the prospects of the remainder of the OP1 site's uptake for employment and/or community uses. I find no policy conflict or other matters of principle which would indicate to me that, by bringing forward only part of the total development envisaged for the site, this would be inappropriate or inconsistent with the site's allocation in the LDP.

The proposed mix of housing

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12. The second part of the council's reason for refusal states that the proposed development does not provide for a sustainable mix of house types, and so is contrary to policy P1 and the agreed masterplan.

13. Policy P1 does not stipulate a particular mix of house types, in order for a proposal to be considered 'sustainable'. The policy does establish six qualities of successful places, which all development proposals must accord with. The council has not referred me to any of these qualities specifically, but I consider the fourth quality to have the greatest relevance to the question of the proposed mix of housing, noting its intention to ensure development is adaptable to future needs, having regard to the balance of building types, densities, sizes and tenures, amongst other factors.

14. The proposal deviates from the masterplan in terms of the number of dwellings for which consent is sought. The masterplan made provision for 100 dwellings, whilst the application increased this to 113 dwellings. The Tarves settlement statement in the LDP also identifies the site for 100 homes (together with community facilities and 3 hectares of employment land). Policy H1 makes clear that the capacity of sites stated in the LDP are indicative, but also goes on to state that higher densities would be considered only where justified through an approved masterplan (which should have been subject to public consultation), where any constraints to developing at a higher density could be addressed.

15. Whilst the proposal does not exactly align with the agreed masterplan in regard to the total number of dwellings, I note that the overall layout and spatial relationship between different uses on the site, and between the site and other established residential development, is broadly comparable to that shown in the masterplan. The relatively modest increase in numbers would not, in my opinion, render the proposal to be in conflict with the masterplan on this basis, despite deviating from it to some extent.

16. Notwithstanding the increase in the number of dwellings proposed, it does not logically follow that the mix of house types envisaged by the masterplan has necessarily been altered. I also find it significant that the masterplan did not give an indication of the required house types, beyond any assumptions and interpretation that can be derived from the masterplan layout. As types and tenures were not specified, I do not accept that the proposed mix of housing can be held to be contrary to the masterplan.

17. I note that ten different house types are proposed, ranging from 1 bedroom flats to 3-4 bedroom detached houses. 28 units would be affordable, and I attach weight to the advice of the council's housing strategy team, which found that (together with a commuted sum) this would meet identified housing needs. I am also satisfied that the policy requirement for affordable housing provision outlined in LDP policy H2 would be fully met by the proposal.

18. In representations, the absence of any bungalows in the proposal has been criticised. Whilst I recognise that bungalows may be better suited to some households' needs, there is no policy requirement for an individual development to provide every house type for which there may conceivably be a demand. I do not consider the lack of

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bungalows has any significant bearing upon my overall finding that the development as a whole would meet a broad range of differing needs and demands. During my unaccompanied site inspection, I also observed that across Tarves more widely, there appears to already be a relatively high proportion of bungalows within the existing housing stock.

19. In the absence of any further elaboration on this reason for refusal by the council, I find no basis to conclude that the mix of house types would be unsustainable. I find there is no evidence before me which would lead me to a finding that the range of house types, sizes and tenures proposed would be contrary to policy P1. Nor do I find the relatively modest increase in dwelling numbers, over that stated in the agreed masterplan, to be capable of adequately justifying the council's finding in regard to the mix of housing, for the reasons outlined above.

Layout, siting and design

20. Numerous representations have been received which raise concerns over the layout, siting and design of the proposed development. These objections can be broadly categorised as matters relating to (i) the effect upon the character of the village; (ii) residential amenity effects and the relationship between existing and proposed development; and (iii) open space and landscaping.

21. The historic village centre is a designated conservation area. The settlement statement in the LDP refers to its distinctive character being derived in particular from the village square, arterial street pattern and Victorian architecture. The appeal site is located on the southwest side of the village, beyond its current built extent. Noting the intervening distance and lack of inter-visibility between the site and conservation area, I am satisfied that the conservation area would be unaffected by the development.

22. There is a range of intervening and, on the whole, later development between the appeal site and the conservation area. The character and appearance of the village in the immediate vicinity of the site is notably less distinctive than its historic core. During my site inspection, I paid attention to the architectural styles and materials used in nearby (some very recent) development. I did not find there to be a dominant or consistent design vernacular, and I consider this provides some degree of flexibility over what may be considered to be an appropriate design for development on the appeal site, whilst noting the site's prominent position on the edge of the village, seen in the wider landscape.

23. I am satisfied that the proposed design approach is appropriate for the site's context, with simple architecture and materials providing a relatively contemporary character but which would still be appropriate to its rural setting. The scheme would not directly replicate the design of other residential development in its vicinity, but I find no basis to conclude that that this would be detrimental to the character or appearance of the village. It has been argued in some representations that proposed dwellings closest to bungalows on Pringle Avenue should also be single storey, to provide a satisfactory visual transition. I am not persuaded that there is a need for such an approach; there are many examples in the
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village (and elsewhere) where bungalows and houses are positioned adjacent to one another without any ill effects, and I consider the visual difference between 1 and 2 (or 1 $\frac{3}{4}$) storey properties to be insufficient to justify the need for the design to incorporate such a 'transition'.

24. In regard to residential amenity effects, those properties on Pringle Avenue and Presly Avenue which back directly onto the appeal site, would be the most affected by the development. I have paid careful attention to the separation distances, levels and the position of windows in the proposed dwellings. I am satisfied that, without exception, no unacceptable loss of residential amenity would occur at any existing property by virtue of a loss of privacy, daylight, or as a consequence of any overbearing effects. This is not to suggest that there would be no impact upon these properties, as their outlook would quite clearly be altered by the proposed development, but this would not lead to an unacceptable loss of residential visual amenity.

25. The proposal incorporates relatively extensive landscaping and planting proposals along a large extent of its boundaries, as well as within the site. I consider this would make a positive contribution to the character and appearance of Tarves, when seen on the approach, or in views from, the south and west. Currently, the rear curtilage boundaries of the Presly Avenue development provide a rather stark and abrupt entrance to the village, which would be remedied. The implementation of the proposed landscaping and planting could effectively be secured by condition.

26. LDP policy P2 establishes a general expectation that 40% of the site should be used for open space, aligning with the standards set by the Aberdeenshire parks and open spaces strategy. I am satisfied that with 39.65% of the appeal site proposed as open space, the deficiency is sufficiently negligible for the proposal to be accepted as being in compliance with the overall open space standard set by policy P2.

27. I sought further written submissions from the appellant and council, to enable me to consider the proposed open space provision in the context of both the open space standards applicable to the site, and opportunities elsewhere in the village. Tarves is well served with sports facilities, but as the council noted in its response (and which I also observed during my site inspection), the amount of green space in the village is low. I therefore consider the informal nature of much of the open space proposed would provide some additional improved recreational opportunity for the community, whilst also positively responding to the development's position on the edge of the village. I am satisfied that the open spaces would meet the policy P2 requirement for open spaces to be safe, welcoming, distinctive and well connected, noting in particular the high degree of natural surveillance of proposed areas of open space, and pedestrian link to Braiklay Avenue. In order to ensure the open space is sufficiently accessible to all users including wheelchair users and pushchairs (a matter raised in a representation), the surfacing of routes could be appropriately dealt with by condition.

Access arrangements and the adequacy of Braiklay crossroads

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28. In order to comply with the council's guidance 'Standards for roads construction, consent and adoption', an emergency vehicular access point via Presly Avenue is proposed. This would ensure that access to the whole of the development would remain possible in an emergency, in the event that the only access road to the eastern part of the site became impassable (i.e. in the vicinity of the 'square'). Whilst the plans indicate that an additional access to the eastern part of the site is anticipated if/ when the employment site is developed, this cannot be assumed or relied upon, and so I acknowledge the need for the proposed emergency access point unless and until a second access point is permanently in place.

29. Concerns have been raised in representations that the emergency access may be used more regularly than intended, and I consider it appropriate to ensure that its improper use would be safeguarded against. Whilst pedestrian access via Presly Avenue is advantageous, it would not be a desirable route for vehicular access in anything other than an emergency. The council and appellant have confirmed that bollards or a barrier would be used to prevent non-emergency use of the access. Whilst the appellant has asserted that the final specification would be addressed as part of a roads construction consent, I consider a planning condition to also be justified in order to guarantee that physical controls would be required.

30. In regard to the Braiklay crossroads, the appellant has objected to the council's proposed inclusion of a condition (number 11), which would require the upgrade of the junction. In its further written submissions, the council has asserted that there would not be a need to improve the junction, were it not for the intensification of its use by traffic generated by the development. The appellant has drawn attention to the settlement statement, which outlines that "all development must contribute towards road and junction improvements to the crossroads...". On this basis, the appellant has argued that proportionate contributions ought to also be required from the remainder of site OP1, and from sites OP2 and OP3.

31. Whilst the settlement statement makes clear that all development is expected to contribute to the improvement of the junction, this does not necessarily rule out a situation where junction upgrades could still be a requisite requirement of a single development, if the effects of the traffic generated by the development would be sufficient to justify the need for its improvement. This possibility is not reduced by the fact that other recent proposals, referred to by the appellant, have not been required by the council to contribute to, or deliver, improvements to the junction.

32. The transport assessment submitted by the appellant identifies the junction's deficiencies, and in particular the substandard visibility on certain approaches. Whilst there are no capacity issues at the junction, the extent to which the use of the junction would be intensified by the development is material to the question of whether upgrades would be justified, given the substandard visibility.

33. According to the transport assessment, daily traffic flow through the junction is estimated to be in the region of 2,200 vehicles currently. This would increase by around 600 vehicles as a direct consequence of the proposed development (a 27% increase, approximately). The transport assessment goes on to state in paragraph 4.5.11 that improvements to the junction would be made (comprising the realignment of the carriageway to enhance visibility, and extending the 30mph zone) specifically to "...negate the impacts of additional development traffic that would pass through this junction". This aspect of the proposal is reiterated in paragraph 7.3.1, which describes the proposed junction improvements as commensurate with the proposed level of development, and that "these improvements will enable development and will suitably mitigate against the increased traffic levels".

34. The appellant's own evidence therefore provides a justification for improvements to the junction. The appellant has subsequently contended that the council's transportation and roads team did not, in its consultation response, make any reference to the need for improvements at the junction. However, I note that the response confirms that the transport assessment had been reviewed. I do not consider it fair to assume that by not referring to the need for junction improvements, the transportation and roads team do not consider improvements to be necessary; its response was informed by a transport assessment which clearly states that junction improvements would be made.

35. It appears to me that the appellant's intention to undertake these works has been relinquished, principally on the basis of the wording within the settlement statement. All told, I find the evidence within the transport assessment demonstrates that the Braiklay crossroads should be subject to some improvements, specifically in order to satisfactorily accommodate the resultant intensification of its use arising from this development. I note that the proposed works set out in the transport assessment are less extensive than the revised junction layout prepared subsequently by the appellant in September 2018. The appellant has also subsequently contended that the council could require vegetation, which is restricting visibility, to be removed from the verge using powers within the Roads (Scotland) Act 1984. As the precise boundary alignment has not been surveyed, I am unable to conclude whether this would sufficiently address current issues. It would however be for the appellant and council to identify the precise nature and extent of works, as per the terms of the condition.

The adequacy of local services and facilities

36. It has been argued in objections that Tarves does not have adequate local services and facilities to support a development of the size proposed. The proposal does however align with the LDP's spatial strategy, being consistent with the allocation of the site. There is no basis for me to call into question the appropriateness of the allocation, or the suitability of Tarves as a location for accommodating the quantum of development envisaged in the LDP. As I have already concluded above, the overarching principle of the proposed development on this site is established by the LDP.

37. LDP policy RD2 identifies that developer obligations may be sought to address any individual or cumulative impacts upon local services and infrastructure, in line with the policy tests contained in Circular 3/2012.

38. Despite the many representations to the contrary, Tarves primary school has been confirmed by the council as having adequate capacity to accommodate the additional pupils generated by this development. A contribution is being sought to increase secondary education capacity at Meldrum Academy, to which the appellant has not indicated any objection. There is no evidence before me which would lead me to question the position of the council in regard to education contributions.

39. NHS Grampian has stated that there are capacity issues at the nearest doctors' surgery, Haddo medical group in Pitmedden, and has requested a developer contribution on this basis. The council's position is that as the premises are in private ownership, a contribution would not satisfy the requirements of Circular 3/2012. This is despite the LDP settlement statement explicitly stating that contributions towards the extension or reconfiguration of Haddo medical group would be required to provide additional capacity.

40. I sought further written submissions from the council and appellant, to further explore whether a contribution towards health facilities would be appropriate in this instance, notwithstanding their agreed position that a contribution is not required. I am not persuaded by the council's view that the private ownership of the Haddo medical group premises is itself a barrier to seeking a contribution. It is common for doctors' surgeries to be privately owned, but with their function funded by the NHS. I have not been directed to any specific text within Circular 3/2012 which would prevent contributions being sought in these circumstances, and I have not been able to identify any such provisions myself.

41. I can see no reason in principle why a contribution could not legitimately be sought to enable the NHS to address any physical capacity issues (arising as a consequence of the development) at Haddo medical group, regardless of the building's ownership. If deemed necessary, a clawback clause could be added to any agreement, to mitigate any risk of the building subsequently being sold or otherwise ceasing to operate as intended.

42. In its further written submissions, the appellant has directed me to a number of other decisions, taken both by the council and other reporters. I acknowledge that in the two cases determined by the council, there was no request for a contribution towards healthcare capacity, but I am unaware of the reasons for this. In the appeal decisions referred to, the circumstances and issues are materially different to this case.

43. The appellant's main point is that the reporter in one of those cases concluded that a contribution towards a health project could not be considered necessary when there are no proposals for any such project. I would agree that if, in this case, a contribution was sought to provide new health facilities in Tarves, for example, for which there is currently no plan for and arguably no reasonable likelihood, it would be difficult to argue the necessity for the contribution. That would be an entirely different prospect to increasing the capacity of the (already established) nearest doctors' practice to the development. Regardless of whether

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or not there is a detailed proposal for the works needed at Haddo medical group at this time, there is no evidence before me to suggest this would not be deliverable. The LDP settlement statement, and the NHS consultation response, both however indicate that works to increase capacity would be necessary. This had been foreseen and explicitly identified in the LDP.

44. In light of above, I consider that a proportionate contribution to enable the NHS to increase the healthcare capacity at Haddo medical group should be sought, and I do not find that this would lead to any conflict with the six Circular 3/2012 tests. If however in the course of preparing a suitable agreement, evidence comes to light that no physical works are required at Haddo medical group, I would agree that a contribution would not be necessary in those circumstances.

45. The LDP settlement statement identifies that community plans and associated action plans will be given due regard, and that contributions may be required towards services and infrastructure identified by them. Having reviewed the scope of the Formantine local community plan 2016 – 2019, and the draft Tarves community action plan, I agree with the council and appellant that no further contributions could reasonably be required based on their provisions.

Other matters

46. In representations, it is stated that there is inadequate capacity at the local nursery to accommodate further demand. As there is no statutory requirement for provision of nursery places, unlike for education and healthcare, it would not be for the developer to address any shortfall in nursery capacity.

47. Related to the above, the allocation of site OP1 is for community facilities, in addition to residential and employment uses. I agree with the appellant's assertion that there may not currently be sufficient demand for additional development of this type, without potentially jeopardising other ventures in the village. The scope to provide some community uses on the remainder of the allocated site would endure however, should there be a demand.

48. The adequate provision of private and visitor car parking within the site could be appropriately secured by condition, as suggested by the council. Scottish Water has been unable to confirm whether the waste water treatment works would have adequate capacity, but that is a matter which can be resolved between the developer and Scottish Water outwith the planning process.

49. In representations it has been stated that the development would not make appropriate use of solar gain, due to the position and size of windows in properties. I do not find this to be the case, and I agree with the appellant that there is evidence that the orientation and positioning of windows has been given due consideration. I am satisfied that subject to compliance with condition 1 as proposed by the council, the development would accord with LDP policy C1.

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50. Concerns regarding noise, dust and disturbance during the construction phase have been raised in representations. Some disturbance is inevitable from a development of this nature, and this effect would be temporary. Given the proximity of numerous residential properties to the site however, I find a condition to agree hours of construction and associated works would be appropriate in this instance, in order to adequately safeguard residential amenity during the construction phase.

Conclusions

51. I am satisfied that the principle of developing only part of the allocated site is acceptable, in the absence of any policy stipulation to the contrary. I do not consider that this represents a deviation from the masterplan, but simply a component of its delivery. The proposal is not identical, but is sufficiently similar, to the agreed masterplan for it to be accepted as in accordance with that document. I also consider that there is an increased likelihood of the uptake of the remaining employment land on site OP1, as a consequence of the servicing made available to it by this development.

52. I have considered matters relating to siting, layout and design, access and roads issues, and service provision, but subject to conditions and a planning obligation, I consider the development would accord with the relevant provisions of the development plan, with particular reference to policies H2, P1, P2, RD2 and the Tarves settlement statement, given their direct relevance to the main matters in this appeal. I have considered all other matters raised, and none of these would lead me to a different conclusion.

53. I conclude that a planning obligation restricting or regulating the development or use of the land should be completed in order to secure the proposed affordable housing and a commuted sum; and to ensure appropriate contributions are made towards providing additional secondary education capacity and to enable the NHS to provide additional healthcare capacity at Haddo medical group.

54. I will accordingly defer determination of this appeal for a period of 12 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 12 week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

55. In the event that planning permission is granted, I am also minded to use the conditions listed below, which largely reflect those suggested by the council. I have amended conditions 4 and 8, to require details of path surfaces within open spaces to be agreed, and to ensure the use of the emergency access is restricted, respectively. I have also added one additional condition relating to construction hours, as referred to above.

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Christopher Warren

Reporter

List of conditions

1. 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 2017.

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 Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

2. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

3. Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

4. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority.

Details of the scheme shall include:

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- a) Existing landscape features and vegetation to be retained;
- b) Protection measures for the landscape features to be retained;
- c) Existing and proposed finished levels;
- d) The location of new trees, shrubs, hedges and grassed areas
- e) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- f) The location, design and materials of all hard landscaping works including walls, fences, gates, paths, street furniture and play equipment;
- g) A programme for the implementation, completion and subsequent management of the proposed landscaping.

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. In addition, to ensuring that overland flow route are maintained.

5. The development shall be served in accordance with the approved drawings and the following details:

- (a) The maximum gradient of the first 5m of each plot access must not exceed 1 in 20.
- (b) Prior to occupancy of each dwellinghouse, off-street car parking suitable for that dwellinghouse, surfaced in hard standing materials must be provided within the site.
- (c) Within 6 months of the occupancy of the last house all visitor parking shall be completed in accordance with Aberdeenshire Council's standards.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

6. Prior to occupancy of the 20th dwellinghouse within this site, footpath connectivity shall be provided along the site frontage along the B999 Duthie Road on the south side, with similar footpath linking in up from the eastern side of the C31c, linking in with internal footpath networks. The layout is to be agreed with Aberdeenshire Council's Roads Development team prior to construction. Once completed the footpath shall be retained in perpetuity.

Reason: To ensure safe access for pedestrians to the existing footpath network.

7. No dwellinghouse hereby approved shall be brought into use unless a Residential Travel Plan for that dwellinghouse has been submitted to and approved in writing by the Planning Authority. The Travel Plan shall encourage more sustainable means of travel and shall include mode share targets. It shall identify measures to be implemented, the system of management monitoring review, reporting and duration of the incorporated measures designed to encourage modes other than the private car. No building shall be brought into use unless the measures set out in its (respective) approved Travel Plan have been implemented in full.

Reason: In the interests of encouraging a more sustainable means of travel to and from the proposed development.

8. An emergency services access via Presly Avenue is to be provided and shall include a physical barrier to prevent any vehicles other than emergency services from using this route. The precise details of the physical barrier shall be submitted to and agreed in writing by the Planning Authority and the emergency access shall thereafter be completed in accordance with the approved details prior to the completion of the 51st house. This access is for emergency services and once complete shall not be used at any time by construction traffic.

Reason: To allow sufficient access for emergency services to the eastern part of this site, as required, and to maintain adherence to Aberdeenshire Council Standards for Roads Construction Consent and Adoption.

9. Prior to occupation of the 80th house within the development hereby approved, the proposed pedestrian link from the east of the site to Braiklay Avenue, which will link in with a path from Presly Gardens shall be provided. The footpath shall be a 3 metres lit link onto Braiklay Avenue, with upgrades to existing links to be undertaken as appropriate. Once completed the footpath will be retained in perpetuity.

Reason: To allow pedestrian permeability in the direction of Tarves amenities.

10. Prior to the completion of the development hereby approved, the road link stubs, linking to the employment land roads are to be constructed to facilitate linkages to this area at a future date.

Reason: To facilitate future development of the OP1 site to its intended potential.

11. No development shall commence until a design to upgrade Braiklay crossroads junction (at B999 and C31c), including a timescale of works, has been submitted to and approved in writing by Aberdeenshire Council. The proposed design should meet current Aberdeenshire Council standards, unless otherwise agreed by Aberdeenshire Council Roads Development Team. Once approved the junction improvement will be carried out in accordance with the approved details and within the agreed timescale.

Reason: To ensure that the improvements to the Braiklay Crossroads have been carried out in accordance with the requirements of the Local Development Plan and in the interests of road safety.

12. No dwellinghouse hereby approved shall be occupied unless the proposed surface water drainage systems have been provided in accordance with the approved plans and the Drainage Assessment Issue 3 dated May 2018 by Fairhurst. The surface water drainage systems shall be permanently retained thereafter in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and retained, in the interests of the amenity of the area.

13. 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.

14. No dwellinghouse hereby approved shall be occupied unless all of its associated means of enclosure have been provided in accordance with the approved scheme. Once erected, the approved means of enclosure shall thereafter be permanently retained in accordance with the approved details.

Reason: In the interests of the residential amenities of the occupiers of the dwellinghouse and the visual amenities of the area.

15. All landscaped areas outwith the curtilages of the dwellinghouses and shown outlined on the landscape drawing to be submitted and approved reference Condition 4 shall be permanently retained as such and shall at no time be used as private garden ground nor incorporated within the curtilage of any of the dwellinghouses hereby approved without the express grant of planning permission by the Planning Authority. 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 no means of enclosure under Class 7 of schedule 1, other than that shown

on the approved plans, shall be erected within the landscaped areas without an express grant of planning permission by the Planning Authority.

Reason: In the interests of the character and appearance of the development.

16. Prior to the commencement of development a drawing of the finished ground levels of the roads and car parking areas shall be submitted and approved in writing by the Planning Authority. Once approved the development will be carried out in accordance with these details and permanently retained.

Reason: To ensure that overland flow route are maintained.

17. Prior to the commencement of development a construction method statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority. The construction method statement shall specify mitigation measures to minimise disturbance and shall include controls for hours of construction work and associated activity. Once approved the development will be carried out in accordance with these details.

Reason: In the interests of safeguarding the residential amenity at nearby properties during construction.