

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 3 MAY 2024

SITE OF FORMER SEAFORTH HOTEL, DUNDEE ROAD, ARBROATH

REPORT BY JACKIE BUCHANAN, DIRECTOR OF LEGAL, GOVERNANCE & CHANGE

**1. ABSTRACT**

This Report seeks Committee clarification of its decision at the meeting on the 4 March 2024 to uphold an appeal and grant planning permission for a mixed-use development comprising café and drive thru, application No. 23/0558/FULL at Site of Former Seaforth Hotel, Dundee Road, Arbroath.

**2. ALIGNMENT TO THE COUNCIL PLAN AND COUNCIL POLICIES**

This Report contributes to the following local outcomes contained within the Angus Council Plan 2023-2028:

- Caring for our people
- Caring for our place

**3. RECOMMENDATION**

It is recommended that the Committee:-

- (i) Provides clarification of the decision of the Development Management Review Committee of 4 March 2024 in accordance with Section 43A (12)(a) of the Town and Country Planning (Scotland) Act 1997 and Regulation 22(2)(viii) of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

**4. BACKGROUND**

The DMRC at their meeting of the 4 March 2024 considered an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission for a mixed-use development comprising café and drive thru, application No. 23/0558/FULL at Site of Former Seaforth Hotel, Dundee Road, Arbroath.

Section 25 of the Town and Country Planning (Scotland) Act 1997 (hereinafter “the 1997 Act”) requires a planning authority: *“Where in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan”.*

Section 37(2) of the 1997 Act further requires the planning authority, when dealing with an application, to: *“... have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”*

Section 37(2A) of the 1997 Act also requires a planning authority to provide a statement in its decision notice as to whether it considers the application for a development is in accordance with the development plan, together with an explanation of why the authority has reached that decision.

Section 43A(12) of the 1997 Act, along with Regulation 22(2)(viii) of the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2013,

requires a decision notice to give the reasons for a decision of a review board, as well as details of the provisions of the development plan, and any other material considerations, to which the local review body had regard, when determining the application.

A decision notice therefore requires to be clear whether the proposal accords with the development plan or not and set out any material considerations considered by the review in arriving at that decision. All such reasons must be proper, adequate and intelligible.

## **5. CURRENT POSITION**

The DMRC at the meeting of the 4 March 2024 determined to uphold the appeal and grant planning permission for the reasons as outlined. It was however not clear from the deliberations as to whether the committee determined the proposal to be in accordance with the development plan or not. Reference was made by the proposer to both a departure from the development plan and also compliance with Policies 1, 2, 9 and 13 of National Planning Framework 4.

The development plan comprises National Planning Framework 4 and the Angus Local Development Plan 2016 and its associated Supplementary Planning Guidance.

## **6. PROPOSALS**

Clarification is therefore required as to whether the Committee:

- Determined the proposal to be in accordance with the development plan, and if so, which provisions, and any relevant material considerations; or
- Determined the proposal to be contrary to the development and if so, the relevant material considerations it considered appropriate to allow it to depart from the development plan.

## **7. FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from the recommendations of this report.

## **8. RISK MANAGEMENT**

There are no issues arising from the recommendations of this Report.

## **9. ENVIRONMENTAL IMPLICATIONS**

There are no direct environmental implications arising from the recommendations of this report".

## **10. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY**

An Equality Impact Assessment is not required.

## **11. CONSULTATION**

The Service Leader – Planning and Sustainable Growth/Chief Planning Officer has been consulted in the preparation of this Report.

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List of Appendices:

APPENDIX 1 – [Report 81/24](#) to Committee on 4 March 2024