

### Statement of NPF4 and ALDP Policy Compliance for Review Case

<b>Application Number:</b>	23/00400/PPPL
<b>Description of Development:</b>	Erection of Dwellinghouse
<b>Site Address:</b>	1 Brochie Cottages, Monikie, Dundee, DD5 3QN
<b>Grid Ref:</b>	350979: 738242
<b>Applicant Name:</b>	Mrs Rosemary Watson

At its meeting on 10 May 2024, the Development Management Review Committee requested a statement on National Planning Framework 4 (NPF4) and on the Angus Local Development Plan (2016) (including appropriate Supplementary Guidance) in respect of the proposed development and that the above statement is to include comments on any material considerations relevant to the proposed development, as necessary.

#### Proposal

The proposal seeks planning permission in principle for the erection of a house at 1 Brochie Cottages, Monikie, Dundee, DD5 3QN. The size of the application site area is unclear as the area is not consistently noted. It is stated as 957sqm on the application form and when measured from the scale bar shown on the site plan, the red line application site is measuring around 870sqm. Notwithstanding this, the application form indicates that site related to an uncultivated, walled area of extensive garden grounds, currently weeds and grass. As the application seeks planning permission in principle only, the application drawings show an indicative dwelling location and access point. The indicated access is to be taken from an existing access which services 1 Brochie Cottages. The application forms indicates that private drainage arrangements would be proposed (using an existing septic tank system), a connection to the public water supply is sought and SUDS would be provided to deal with surface water run-off.

#### Planning History

There is no relevant planning history at this site.

#### Applicant's Case

##### Supporting Statement for Application Dated 05/06/23:

- States that the existing cottage is severely limited in its amenity, particularly for the elderly. It has only one bathroom at the top of a steep and narrow staircase. A more modern house in the grounds, designed to modern building standards, could provide the necessary ancillary accommodation for the care of an elderly relative.
- It is applicant's wish to secure planning permission in principle to construct a single or one and a half storey house within a suitably sized plot in the west-most portion of the garden grounds.
- The plot area is already demarcated with drystone walls. That area is currently vacant, growing grass/weeds and has not been cultivated for at least in excess of 30 years. There is a stone-built garage at the North-West corner of the proposed site. The existing cottage, Brochie Cottage 1, would still retain significant grounds of approximately 1200sqm;
- Plot is well screened / invisible.
- Refers to compliance with development plan policies TC2 and TC4;
- Easy reach for public transport;
- States compliance with PV6 and that in terms of PV7 there are no trees on the site;
- In terms of PV12 the site is not within an area of flood risk.
- Refers to a future detailed design characteristics and provides photos of the site.

E-mail from agent regarding policy concerns:

- In regard to settlement/development boundary - notes that there is precedence for allowing development outwith the settlement boundary of Craigton of Monikie. The development at Rowanbank was initially refused (20/00636/PPPL) but later granted permission on review. The ALDP boundary was very tightly drawn and did not include the contiguous existing housing on the opposite side of the road.
- Would contend that the existing houses on the north side of the B965 are clearly part of the settlement of Craigton of Monikie.
- In regard to 'curtilage' – this is defined by the Oxford English Dictionary as “an area of land attached to a house and forming one enclosure with it.” The site is separately enclosed by a stone wall which separately delineates it from the curtilage of 1 Brochie Cottages.
- Site could be considered a gap site, outside the properly defined curtilage of Brochie;
- Note that there have been no objections to the application from statutory consultees or neighbours.

## Consultations

Submitted as Part of the Application (pre non-determination review):

**Scottish Water** – No objections and advise there is no public waste water infrastructure in the vicinity. 24/07/23

**Angus Council Roads (Traffic)** - No objections subject to conditions requiring provision of parking spaces within the proposed plot. 01/08/23

**Archaeology Service** - No objection or comments to make. 19/07/23

Internal Consultee Comments –

**Angus Council Countryside Access Officer** – Notes the adjacent core path is within the boundary of Monikie Country Park, on the reservoir embankment. States that the proposed development will not directly affect public access over the core path. However also notes that the site is very prominent from the path due to the elevated position of the path and that a dwelling in that location will affect the setting of the path and the country park. States that it may also be difficult to provide a reasonable level of privacy for occupants. Also notes that there are mature trees at the southern edge of the site and that if these were removed that this will further open up visibility of the plot from the path. 27/03/24

Additional Comments from Consultees Following Receipt of Request for Statement by the Development Management Review Committee:

**SEPA** – No objections. Notes that the site is located beside Monikie Reservoir and sits immediately adjacent (and slightly below) the raised reservoir path/ embankment, on the eastern edge of this body of water. As per SEPA's published statement, written in 2018, SEPA cannot take any reservoir inundation information they hold into account for land use planning and it is for the Local Planning Authority to decide whether they consider further development around the environs of an impounded water body to be sustainable and acceptable. SEPA however note the site is not shown to be at risk on SEPA's Future Flood Maps from either the reservoir or the Monikie Burn. The burn is located a distance to the north and sits some 4 meters lower than the site elevation (i.e., 139 vs 143m AOD), so SEPA advise there is no fluvial flood risk to the site. 22/05/24

**Angus Council Roads - Flood Prevention Authority** – No objections on the grounds of food risk. States that the Monikie Reservoir is a registered reservoir and is regulated under the Reservoirs (Scotland) Act 2011. In SEPA's position statement on the Assessment of Potential Application of the Reservoir Inundation Maps for Land Use Planning Purposes they state that 'the probability of failure of a reservoir structure managed under the 2011 Act is considered to be so low that it is beyond the scope of likely probabilities considered within the SPP Flood Risk Framework'. The surface water drainage proposals for the site are not detailed, however, any drainage at the site should be designed in accordance with CIRIA's Guidance document C753. 14/05/24

## Representations

None.

## **Development Plan Policies**

### **NPF4 – national planning policies**

Policy 1 Tackling the climate and nature crises  
Policy 2 Climate mitigation and adaptation  
Policy 3 Biodiversity  
Policy 4 Natural places  
Policy 6 Forestry, woodland and trees  
Policy 7 Historic assets and places  
Policy 9 Brownfield, vacant and derelict land and empty buildings  
Policy 13 Sustainable transport  
Policy 14 Design, quality and place  
Policy 16 Quality homes  
Policy 17 Rural homes  
Policy 18 Infrastructure first  
Policy 22: Flood Risk and Water Management

### **Angus Local Development Plan 2016**

Policy DS1 : Development Boundaries and Priorities  
Policy DS3 : Design Quality and Placemaking  
Policy DS4 : Amenity  
Policy TC2 : Residential Development  
Policy PV3: Access and Informal Recreation  
Policy PV6 : Development in the Landscape  
Policy PV7: Woodland, Trees and Hedges  
Policy PV8 : Built and Cultural Heritage  
Policy PV12 : Managing Flood Risk  
Policy PV15 : Drainage Infrastructure

## **Assessment**

Policy DS1 in the Angus Local Development Plan (ALDP) states that proposals for sites outwith but contiguous with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary. Both the ALDP and NPF4 encourage the reuse of brownfield land in preference to the use of greenfield land.

In this case the site is outwith and adjacent to the development boundary for Craigton of Monikie as defined by the ALDP. No information has been submitted to demonstrate that a new house for a private individual on the site would be in the public interest. There are houses, and land available for housing development, within nearby development boundaries. The proposal is therefore contrary to policy DS1.

In circumstances where a proposal is outwith and adjacent to a development boundary normal countryside housing policies in the ALDP do not apply. However, it is relevant to note that the site is located within an area defined as a category 1 rural settlement unit. The local development plan states that in category 1 areas (which are areas that are not remote from towns) the opportunity for new development outwith settlements will be more restricted, as development should be directed towards existing settlements boundaries. This is an area where council policy seeks to restrict new housing development in the countryside with the objective of directing new development to sustainable locations within existing settlements. Notwithstanding this, the proposed application site would not comply with the requirements of this policy as detailed in the supplementary guidance as the proposal would lie within the curtilage of an existing house/ on land that is not clearly defined as being outwith the curtilage of Brochie Cottage and as such would subdivide an existing residential curtilage to artificially create a new build plot.

NPF4 Policy 17 'Rural Homes' considers new homes in rural areas as well as homes in remote rural areas. The considerations in NPF4 policy 17 are not precluded by ALDP policy DS1 and for the purposes of this assessment, the application site is considered to be in a rural area. In these circumstances policy 17 lend supports to proposals for new homes in rural areas where the development is suitably scaled,

sited and designed to be in keeping with the character of the area but only in a number of specified circumstances. Those circumstances include;

- sites which are allocated for housing within the LDP,
- sites which reuse brownfield land where a return to a natural state has not or will not happen without intervention;
- proposal which reuse a redundant or unused building;
- where the proposal relates to an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
- it is demonstrated the proposal is necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;
- the proposal is for a single home for the retirement succession of a viable farm holding;
- the proposal relates to the subdivision of an existing residential dwelling (*the building not the curtilage*), the scale of which is in keeping with the character and infrastructure provision in the area; or
- where the proposal seeks to reinstate a former dwelling house or is a one-for-one replacement of an existing permanent house.

The proposal does not comply with any of the specified circumstances for a new rural home listed above which would be supported by NPF4 policy 17. Therefore, the proposal conflicts with policy 17.

The proposal does not give rise to significant issues in terms of remaining development plan policy and associated issues could be addressed by condition. However, the principle of a new house on land not clearly outwith the curtilage of 1 Borchie Cottage, outwith but adjacent to a defined development boundary and which does not meet any of the specified circumstances for new rural homes supported by NPF4 policy 17 is contrary to the development plan.

However, for completeness, it is noted the principle of the proposed drainage arrangements are acceptable and both SEPA and Angus Council roads service in their role as flood prevention authority, offer no objection to the proposal in terms of potential flood risk. Any detailed site layout and house design would not be considered as part of this planning permission in principle application but there would be no reason to consider that a suitably designed dwelling could not be provided on the site in a manner that would be in keeping with the character of the area or in a manner that would respect the amenity of existing residential properties. There would be potential to provide adequate private garden ground and space for vehicle parking and turning and bin and recycling storage within the site. In terms of the potential residential environment to be provided for any proposed dwelling, a core path is located on elevated ground to west of the site and it may be difficult to provide sufficient screening to protect the privacy of a dwelling in this location. There are existing mature trees located to the south of the site which may provide a degree of screening. However, these would have some impact on the developable area in the southern section of the plot with regards to achieving suitable development stand offs from root protection zones and possible amenity impacts on any proposed house and garden ground from overshadowing / loss of sunlight caused by the trees. The site is not subject of any designation for natural heritage and in terms of the built environment, it is acknowledged that the site is located within an archaeological area. The Archaeology Service has raised no objections to the proposal. The proposal is not of a scale or location where it would require a developer contribution or affordable housing when assessed against the Developer Contributions and Affordable Housing Supplementary Guidance and there is no reason to consider it would result in unacceptable impacts on infrastructure.

In terms of housing need, whilst NPF4 no longer states a requirement for a five-year effective land supply, it still requires planning authorities to establish a deliverable housing land pipeline. The aim of the pipeline is to monitor housing land in Angus against the Minimum All Tenure Housing Land Requirement (MATHLR) figure. The MATHLR for Angus is expressed as 2,550 houses over a 10-year period, which equates to a minimum requirement of 255 houses per annum across Angus. The 'Audit Of Housing Land in Angus 2023' states that for the South Angus Housing Market Area (which includes the application site) there was an established land supply of 966 units. This is well in excess of the average annual minimum land requirement for the entire county. Therefore, there is no clear need for additional housing in the South Angus Housing Market area, especially for proposals which otherwise conflict with relevant local plan policies. Furthermore, a recent appeal decision (ref: [PPA-120-2061](#) refers) for 'residential

development with associated infrastructure, access, landscaping, drainage, SuDS and open space' at land west of Janefield Cottage, Panbride Road, Carnoustie was dismissed by Scottish Ministers, where the Reporter stated that the figures provided as part of that submission were indicative of a very 'healthy surplus in the supply of effective housing land in the 'South Angus HMA'. He concluded that as the proposal was not necessary in order to deliver required levels of housing development, the proposal would not contribute to sustainable development.

With regards to the proposal's potential contribution towards improving local school capacity, a recent legal decision issued in February 2023 by the Court of Session in the case of 'ROBERT BRUCE 'Appellant' against MORAY COUNCIL' discussed the community benefit of redeveloping a small site for housing. The legal decision concluded that a small increase in the school roll from a small housing development cannot be characterised as a "material" consideration sufficient to contribute to a departure from the general principle that planning decisions ought to be made in terms of the development plan. Overall with regards to the current proposal for a single house, it is not considered that any housing need or contribution to the local school role would constitute a sufficient material considerations that would justify a departure from the development plan policy.

In terms of other material considerations, the information submitted by the applicant in support of the application has been reviewed. The applicant suggests that the existing property at 1 Brochie Cottages lacks accessibility and the proposal, designed to modern building standards, could provide accommodation for the care of an elderly relative. Although development plan policies seek to promote accessible development, the lack of accessibility of an existing property would not be sufficient to justify the erection of a new house on a site which does not comply with development plan policy.

The applicant also suggests that the application site is 'separately enclosed by a stone wall which separately delineates it from the curtilage of 1 Brochie Cottages' and the site could be considered a gap site. However, by the applicant's own admission in earlier submissions the application site is referred to as a 'plot in the west-most portion of the garden grounds' which accommodates a stone built garage. Notwithstanding the fact that the countryside housing tests, including consideration of gap sites, listed in TC2 would not apply to this application site outwith but contiguous with the development boundary, the proposal would not meet the definition of a gap site as defined within the associated supplementary guidance. Furthermore, the supplementary guidance states that 'the subdivision of existing residential curtilages to artificially create new build plots will not be supported'. NPF4 policy 17 does not include considerations of gap site for rural housing.

In regard to Craigton of Monikie development boundary, the applicant suggests there is precedence for allowing development outwith but adjacent to this settlement boundary and the ALDP boundary was very tightly drawn. The applicant contends that the existing houses on the north side of the B965 are clearly part of the settlement of Craigton of Monikie [these properties are not within the development boundary as defined within the ALDP]. The development boundaries delineated within the ALDP were considered and approved by full Council and there is no reasonable basis to suggest that the Craigton of Monikie boundary is unreasonable or irrational. Furthermore, there is no binding precedent in planning law, each application is assessed on its own individual merits in accordance with the development plan and any material considerations. The matters raised in support of the application by the applicant do not, in the view of the planning authority, justify approval of the application contrary to the provisions of development plan policy.

There are no other material considerations that would justify approval of planning permission contrary to the provisions of the development plan.

In conclusion, the principle of a new house at this location is contrary to development plan policy as the application site is outwith and adjacent to the development boundary for Craigton of Monikie as defined by the ALDP and no information has been submitted to demonstrate that a new house for a private individual would be in the public interest. There are houses, and land available for housing development, within nearby development boundaries. The proposal is therefore contrary to policy DS1 of the ALDP. The proposal also fails to meet any of the specified instances for new rural housing supported by policy 17 of NPF4. The proposal does not comply with criterion identified in TC2 of the ALDP. The matters raised in support of the application by the applicant do not, in the view of the planning authority, justify approval of the application contrary to the provisions of development plan policy and there are no material

considerations that justify approval of planning permission contrary to the provisions of the development plan.

**Summary of reasons:**

1. The proposal is contrary to policy DS1 of the Angus Local Development Plan as it involves development of a private house on land outwith but contiguous with the Craigton of Monikie development boundary in circumstances where there is no public interest in allowing the development and where the development could be accommodated within a development boundary.
2. The proposal is contrary to policy 17 of National Planning Framework 4, as it does not propose the erection of a rural home which would comply with any of the supported instances listed in policy 17a) and as such would not result in the delivery of a rural home in the right location.
3. The proposal is contrary to policy TC2 of the Angus Local Development Plan and its associated, Countryside Housing Supplementary Guidance as it proposes the construction of a new house on a site which would lie within the curtilage of an existing house/ on land that is not clearly defined as being outwith the curtilage of Brochie Cottage and as such would subdivide an existing residential curtilage to artificially create a new build plot.