

## PLANNING APPLICATION: 06/00378/OUT

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

---

### **The Proposal**

- Outline application to erect office building (new headquarters for Genesis Properties) with associated car parking and separate car park for the Bowling Club at the Tennis Courts, Mount Street, Dufftown.
- Cover letter from the applicant's agent confirms that the building will be a single storey office building, with a rectangular footprint of 80 m<sup>2</sup> in area with the remaining area to the front and rear for car parking. The tennis court fencing surrounding the site will remain in situ, with the nets removed.
- Foul and surface water drainage - public sewer.
- Water supply - public mains.

### **The Site**

- Existing tennis courts located off Mount Street.
- Site is rectangular in shape. Area proposed for office and associated car parking is approx. 1276 m<sup>2</sup>. Area designated for the car park to be used by the bowling club is approx. 429 m<sup>2</sup>.
- Current boundary wire mesh fencing on all four sides.
- Vehicular accesses to be formed onto Mount Street.

### **Policy / Objections-Representations / Consultations - See Appendix**

### **History**

None.

### **Advertisement**

Advertised as a departure from the development plan.

Advertised as being of wider public interest.

## **Observations**

The main determining issues are:

### **Departure from policy designation ENV4 'Playing Fields at Hill Street and Tininver Street' of the Dufftown Settlement Statement of the Moray Local Plan**

The site is identified on the Proposals Map for Dufftown in the adopted Moray Development Plan as ENV1. It can be confirmed that this is a typographical error and the site should be subject to the ENV4 designation "Playing Fields at Hill Street and Tininver Street". This designation seeks to preserve the area for open space and recreational use. Policy L/ENV18 and S/CF2 also presume against the encroachment onto recreation and amenity ground. The proposal to develop the site as an office and car park, whilst not impacting upon the playing fields will encroach upon and result in the loss of the tennis courts, hence the departure from policy ENV4.

Development plan policies covering community facilities, sport and recreation include S/CF1, L/CF1 and L/CF2. These seek the provision of replacement or alternative facilities as part of new proposals, which remove existing ones. In this case, for Dufftown, the local plan contains no specific reference to the 'Tennis Courts', nor are they specifically identified as a community facility and formally designated as such in the development plan. Furthermore, the courts have lain unused for a number of years and with little interest in the facility they have fallen into a semi-derelict condition. Notwithstanding any proposed loss of this community related facility it would be difficult to consider the proposal as a departure from any community facility policy in the absence of any formal 'community facility' designation associated with the existing courts.

Following consultation, sportscotland has advised that it has no objection to the proposal. However they advise the Council to consider the points they raise carefully before allowing the redevelopment of this potentially valuable sporting resource, in particular the need to ascertain the views of the local community and nearby tennis clubs, and the views of the relevant Council sports development team (see Consultations).

The Council's Sports Development staff have been consulted, who in turn have liaised with the Moray Tennis Forum (an 'umbrella' organisation for all tennis clubs in Moray). Contact through the forum has also been made with local primary school, who have stated that they are concerned about the proposal, and perhaps would make use of the courts. Whilst these comments are noted no formal objections have been received from either the Forum or local schools in this regard. Information received from the Bowling Club also reflects the lack of demand/interest in the facility (see Objections/Representations) where the courts appear not to have been used for some years and there is no one currently in a position to run a reformed club. In addition, there have been no local objections to the proposal despite public advertisement of the application.

Sportscotland conclude in their comments by advising that "Should the courts ultimately be redeveloped, it may be reasonable to seek a contribution from the developer to help fund replacement sports facilities within the town. This need not be restricted to tennis: alternatives to consider may be a contribution towards the provision of a multi-court or towards the upgrading of existing sports facilities within Dufftown". Based on the size of the proposed office development this proposal would not be subject to formal assessment under policy L/F1. In addition, the applicant has confirmed that a developer contribution will not be offered for alternative sporting facilities within Dufftown as it is considered that there is no current need.

However, the applicant has confirmed that the sale of the site would result in two benefits to the community; firstly, the provision of a car park for use by the Bowling Club and secondly, that the proceeds from the sale of the land would go to enhancing the Bowling Club's own facilities, thus securing its medium and long term future. There is, of course, no guarantee that the proceeds will be used in this way, although an area within the site is to be made available for parking for the Bowling Club.

Having regard to the above, it is considered that a departure from policy Dufftown ENV4 can be supported for the following reasons:

- a) Approval of the proposal would result in a small loss of the designated area and the remainder of the designation, two playing fields and bowling club would be unaffected by the proposal.
- b) The former tennis courts have been unused for a number of years. The facility is not specifically protected or described as an existing community facility in development plan terms;
- c) In addition to a lack of demand and interest in the current use of the facility there have been no formal objections received from sportscotland, The Moray Council's Sports Development Section, and in response to the public advertisement of the proposal;
- d) There may be benefit to the local community through the proceeds from the sale of the site allowing the Bowling Club to provide a car park and upgrade its facilities which would secure its medium and long term future (see Objections/Representations).

#### **Impact of development on Character of Area (ENV4, S/IMP1 & L/IMP1 and Appendix 4)**

This site is surrounded on two sides by residential properties, with the Bowling Green to the north and the ambulance station to the west. The character of the surrounding area is one of a mixed use. The proposed office building and car park for the Bowling Green would be in keeping with the character and amenities of the surrounding area, including neighbouring property subject to a condition requiring the office building to be single storey. The detailed design of the building is to be a reserved matter, to be considered at the detailed stage. The Environmental Health Manager has been consulted and no objections have been raised over the likely impact of the development on the amenities of the locality.

#### **Access and Car Parking (L/T4 & L/T7)**

Access to the site would be via two new access points onto Mount Street, one to serve the car park and one for the office. The Transportation Manager has been consulted on the proposal and no objections are raised subject to conditions requiring a footpath to be provided across the entire frontage of the site and car parking standards in relation to the gross floor space of the office building being complied with. The proposed car park for the Bowling Club will be a benefit to the immediate surroundings by alleviating congestion in this area on match days.

#### **Recommendation**

Approval.

**Note:** Consideration of this application has been undertaken solely in the context of the current development plan policy, notwithstanding that the site is identified as an opportunity for business or residential use in the Consultation Draft of the Moray Development Plan Review, which is not used in the determination of current applications.

**Author/Contact Officer:** Beverly Smith  
Planning Officer

**Ext:** 01343 563276

*Signature* ..... (*Alan Short, Development Control Manager*)

***R A STEWART***  
***DIRECTOR OF ENVIRONMENTAL SERVICES***

## **APPENDIX**

### **POLICY**

#### **Moray Structure Plan and/or Moray Local Plan 2000**

##### **Policy S/ENV1: Approach to the Environment**

The approach to Environmental Policy is to conserve and enhance Moray's environmental assets, and require that new development is sensitive to siting, location, and design considerations, whether in town or country.

##### **Policy S/T1: Approach to Transportation**

The approach to transportation is to enhance accessibility by improving transport links and services, and to promote sustainability by advancing traffic management, cycling and walking.

##### **Policy L/T4: Provision of Road Access**

The Council will require that a suitable and safe access from the public highway is provided.

##### **Policy S/IMP1: Development Siting, Layout and Design**

New development will require to be sensitively sited, designed and serviced. It should meet the following criteria:-

- i) its, scale, density and character is appropriate to the surrounding area;
- ii) it can be successfully integrated into the surrounding landscape;
- iii) it meets wider transportation and local site energy efficiency objectives;
- iv) adequate infrastructure is available or could be made available in conjunction with the development;
- v) consideration is given to the provision of infrastructure which meets sustainable urban drainage principles using appropriate Sustainable Urban Drainage Systems;
- vi) adequate social and community facilities are available or could be provided in conjunction with the development;
- vii) it does not adversely affect nature, urban or historic conservation resources;
- viii) it seeks to manage flood related issues;
- ix) pollution is avoided, including pollution of ground water.

### **Policy L/IMP1: Development in Built-up Areas**

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

### **Policy L/IMP7: Drainage Impact**

New development must connect to a public sewer for the disposal of foul drainage if one is available within a Town, Village or Rural Community. If it is not available alternative forms of treatment may be considered and must meet with the approval of NOSWA and SEPA. The Council will promote the employment of Sustainable Urban Drainage Systems (Sustainable Urban Drainage Systems) in the disposal of surface water run-off, and unless otherwise advised by SEPA, will operate a presumption against the disposal of surface water directly to a watercourse. Proposals must meet the requirements of policies L/ENV21 (Private Waste Water Treatment and Drainage), L/ENV22 (Pollution Conditions), L/ENV23 (Private Water Supplies), L/ENV24 (Surface Water Drainage) and L/ENV26 (Control of Development in Flood Risk Areas) in Chapter 2, if relevant.

### **ENV4 Playing Fields at Hill Street and Tininver Street**

Reserved for open space and recreational use.

### **Policy S/CF1: Community Facility, Sport and Recreation Provision**

The Council will seek a strategic approach to community facility, sport and recreation provision by:-

- i) assessing needs (including social needs) and local demand (including latent demand);
- ii) promoting wider use of existing facilities in both public and private ownership;
- iii) promoting joint funding of new facilities, or improvements to existing;
- iv) providing new facilities and improving facilities as resources permit.

The Local Plan will identify community facility, sport and recreation sites for protection, enhancement and new provision.

### **Policy L/CF1: Designation of Community Facilities**

Town and Village Statements will identify where local facilities are under provided, or in need of upgrading to meet the demands of that community. Sites designated for community facilities in Proposals Maps will be presumed to be protected from redevelopment unless replacement is included in the development proposal

### **Policy L/CF2: Replacement of Community Facilities**

The Council will presume against development which removes an existing community facility unless it is in need of replacement, or an alternative provision is being made as part of the development proposal.

### **Policy S/CF2: Recreational open space in built up Areas**

The Council will generally presume against development which encroaches onto recreational and amenity ground in towns and villages.

### **Policy L/CF3: Recreation in Built-up Areas**

Sport Scotland standards for sports fields and playing fields will be applied to local provision and there will be a general presumption against redevelopment of these and parks except in the following circumstances:-

- i) where such would not affect sporting potential and amenity value;
- ii) where there is a clearly identified long term excess of facilities in the wider area, taking into account long term strategy, and the recreational and amenity value of such provision;
- iii) where existing facilities will be replaced by new ones of an equivalent or better quality, which are more accessible to the community that was served by the original (see also policy L/H3).

### **Policy L/ENV18: Public Amenity and Open Spaces**

The Council will protect existing 'green' space within its towns and villages which are deemed to contribute to the amenity and environment of built up areas. Within these areas there will be a general presumption against development which threatens to diminish the amenity value of individual locations.

This policy should be read in conjunction with S/ENV6 and L/IMP4.

### **Policy S/F2: Developer Contributions**

The Council will seek to secure from developers, contributions which provide a community benefit commensurate with the potential impact of their development on public facilities and amenities.

### **Policy L/F1: Developer Contributions**

Where a development proposal is considered to have a measurable and potentially negative impact on the infrastructure, community facilities or amenities related to that development, the Council will seek an agreement with the developer that he redress the elements of impact by funding the provision of, or contributing towards, such mitigating works as are reasonably necessary to enable the development to proceed.

If this cannot be achieved by conditions of consent, then agreements must be concluded before a consent is granted.

### **Policy L/F2: Commuted Payments**

Where the Council has planned proposals to provide facilities related to, and in the neighbourhood of a proposed development, contributions by a developer justified under the terms of Policy L/F1 may be made in the form of a commuted payment to a Bond set up for that purpose.

## **OBJECTIONS-REPRESENTATIONS**

### **a) One letter of objection was received from:**

- Mr B Duff, North of Scotland County Lawn Tennis Association, CDO, 19 Marshall Place, Perth, PH2 8AG

The main points of the letter are:-

- On behalf of North of Scotland County LTA and Tennis Scotland, object to the removal of sporting facilities and particularly tennis facilities in Dufftown. Whilst, these courts are apparently derelict, a green-field tennis development is relatively expensive and it might be possible to regenerate these facilities. At a time where there is much attention towards funding activities for young people and much political attention is being paid towards ensuring that as many people as possible in our society are active, it seems unfortunate that a sporting facility is to be removed and replaced with car parking and offices. I urge you to reject this application. If this proposal should proceed, support the suggestion from sportscotland that the developer should be asked to provide a contribution to developing sports facilities somewhere else within Dufftown.

**Applicant's comment:** Our application does not represent the removal of the Tennis facilities within Dufftown, as their removal had already happened prior to our application. The local Tennis club no longer exists and was disbanded due to lack of interest from locals. The plans for this brown field site are in keeping with the Draft Moray Local Plan, which designates the site as OPP3 - suitable for business or residential use. The lack of local objections suggests there is support for the regeneration of this derelict site, thereby nullifying Mr Duff's request that the application be rejected. It is not agreed that the developer should provide a contribution towards developing sports facilities elsewhere in Dufftown. Dufftown is already served well play areas, play parks, a football pitch, golf course as well as being in the heart of the countryside. The sports facilities in Dufftown will not be diminished in anyway shape of form through the erection of an office on the redundant tennis courts.



**Comment:** The draft Moray Development Plan Review (August 2005) identifies this site as an OPP3 site as being suitable for residential or business use. At this time the plan is not used in the determination of applications as a material consideration.

#### **b) Supporting Case/Background from I McDonald, (Treasurer) Dufftown Bowling Club**

Dufftown Bowling Club have been faced with two challenges for a number of years:

- 1 To upgrade the green and replace the banks to comply with legislation would be approximately £20,5620.50. A Lottery Grant was applied for but were rejected.
- 2 Alleviate parking problems in Tininver Street. In 2000, the Moray Council was approached with a view to building a car park at the entrance to Tininver Street playing field to help alleviate parking as the Bowling Club had previously used the vacant field next to the club for a car park but the owner has now built their house on this premises. Due to cost and other factors it was not feasible to proceed with the car park.

At the A.G.M. of the Dufftown Bowling Club in 2002, it was suggested to raise funds by selling off part of the Tennis Club to fund and upgrade the clubhouse and green. A meeting was held between the last Chairperson and secretary of the Dufftown Tennis Club to try and resurrect the Tennis Club. An advert was put out for anyone interested in the future of the Tennis Club to attend but nobody turned up and it was decided to fold the club. In 2004 it was proposed and seconded that, as the Tennis Club had terminated their lease, part of the tennis court should be retained and used for a car park and the rest sold off and income generated would be used to upgrade the banks and clubhouse.

#### **c) Correspondence from applicant, the main points of which are:**

Whilst the application contravenes the existing development plan currently adopted for Moray, it should be recommended for approval having regard to the following policy considerations:-

S/ENV1 - The design and siting of the office will be considered at the detailed stage. A sensitively designed office building would complement the surrounding environment to a much greater degree than the existing wasteland that occupies the site.

S/T1 - The proposed development would enhance the existing traffic management system in operation. At present on match days, the road serving the Bowling Club becomes greatly congested and causes great difficulty for all road users, pedestrians and vehicles alike. The provision of a new car parking facility would enhance the transport infrastructure of the surrounding area and ease congestion on match days at the Bowling Club.

L/T4 - A suitably designed road access onto the public highway will be designed at the detailed stage for both the office and car park. Genesis Properties will liaise with the Road's Department in due course.

S/IMP1 - All points of this policy shall be dealt with at the detailed stage should outline consent be granted.

L/IMP1 - The proposed new use for the land in question will not conflict or detract from the character, amenity or design of the surrounding area. The site in question is bounded on all sides by residential housing, a bowling club and the local hospital. The proposed new use of the land will enhance the amenity of the area through character in design and build.

L/IMP7 - Foul sewer connections are adjacent to the site. A SUDS system shall be designed properly in accordance with SEPA and building warrant guidelines at the detailed stage. The impact of the office building is unlikely to be great.

ENV4 - The proposed development shall not impact upon the playing fields above.

S/CF1 - Whilst the previous use of the site fulfilled the needs of this policy it is apparent through the dissolution of the Dufftown Tennis Club that there isn't any demand for any such provision.

L/CF1 - The site in question is not identified in the adopted local plan, or the draft new plan for community facilities. If it were the dissolution of the tennis club and the desire of the local bowling club to enhance their own facilities would dispute the relevance of this policy.

L/CF2 - No existing community facility is being removed with this new proposal.

S/CF2 - With the dissolution of the Tennis club the land's current use is not recreational and so this policy does not apply. The proposed new development does not impinge on the existing supply of open space within Dufftown. From the Bowling Club's efforts, there is no demand for the tennis courts within Dufftown. It is uncertain whether the tennis courts would conform to sportscotland's standards in construction; indeed they would be determined as unsafe by the HSE in their current condition. The proceeds from the sale of the land shall enhance an existing successful community recreational facility, going some way to securing its medium to long term future. There are other tennis facilities within the local community that are accessible by local transport links, in Craigellachie and clay and hard courts in Aberlour. The demand for these are not high and as a result some are falling into disrepair.

L/CF3 - sportscotland have identified this site as being 'unused and in a state of disrepair...' although '.. a potentially valuable sporting resource and should only be redeveloped if there is no significant demand for courts within the town or no realistic prospect of the courts being refurbished'.

L/ENV18 - The land is not green space so this policy is not applicable.

In summary, whilst the planning application does deviate from the current local plan it should be recommended for approval as the site in question is a derelict brownfield site that is not currently contributing anything to local community or environment. Our proposed development of an office building and car park shall be sensitively designed and sited to add value to the local economy, community and environment. The monies raised through the sale of the land in question by the bowling club (subject to planning being granted) shall be used to enhance their own facilities and the car park created by the planning application and shall ease traffic congestion on Tiniver Street. The site is also identified within the new draft local plan (yet to be adopted) as being suitable for residential or business use. Design, siting and materials used in the construction of the new development will be dealt with at the detailed stage.

## **CONSULTATIONS**

**Sportscotland** - Although the tennis courts on the site are unused and in a state of disrepair, they remain a potentially valuable sporting resource and should only be redeveloped if there is no significant demand for courts within the town or no realistic prospect of the courts being refurbished.

In this regard, sportscotland ran its Facilities Planning Model (FPM) from Moray Council in 2005, covering tennis courts amongst several sports. The FPM predicted that there was currently some unmet demand for tennis within the town but that most demand could be satisfied by the nearby courts at Craigellachie (and to a lesser extent those at Aberlour and Rothes). These courts are, however, at some distance from Dufftown and require a journey by car or by public transport if available. The level of unmet demand predicted by the FPM was not sufficient, on its own, to justify the provision of tennis courts in Dufftown. However, refurbishing the courts in Dufftown would prevent the need to travel to courts out of town and this would be particularly beneficial to young people and those without a car. The provision of a small tennis activity such as existed at this site is not unreasonable for a town the size of Dufftown. Finally it is important to remember that FPM is only a model and that actual demand may be higher or lower than predicted.

Sportscotland has no objection to this proposal but the Council should consider the above points carefully before allowing the redevelopment of this potentially valuable sporting resource. If a community desire exists to retain tennis provision in the town then refurbishing the existing courts may be easier than finding a wholly new site. It may therefore prove worthwhile to undertake local market research to ascertain the views of the local community and nearby tennis clubs in this regard. The views of the relevant Council sports development team should also be given due weight.

Should the courts ultimately be redeveloped, it may be reasonable to seek a contribution from the developer to help fund replacement sports facilities within the town. This need not be restricted to tennis: alternatives to consider may be a contribution towards the provision of a multi-court or towards the up-grading of existing sports facilities within Dufftown.

**Moray Council's Sports Development Section** - Unsuccessful attempts have been made over the last 10 years to revive the tennis club. Consultation with Moray Tennis Forum (umbrella organisation for all tennis clubs in Moray) has been carried out. Primary schools have been spoken to who were concerned about the proposal and would perhaps make use of the courts. Serious concern expressed in the tennis community regarding change of use. Courts have not been used for some years. No one in a position to run a reformed club.

## **CONSULTATIONS**

**Environmental Protection, Environmental Services** - No objections.

**Environmental Health, Development Services** - No objections. Contaminated land condition to be imposed.

**Transportation, Direct Services** - Approve subject to conditions.

**Scottish Water** - No objections subject to conditions.

**Estates** - Approve unconditionally