

Local Review Body Decision Notice
Appeal Reference: LRB 439
Planning Reference: APP/2018/2573
Planning Proposal: Erection of Dwellinghouse
Address: Land adjacent to Clovenstone Lodge, Kintore
Summary of Decision: The LRB agrees with the determination of the Appointed Officer and refuses full planning permission.
Policy Issues: <ul style="list-style-type: none">• Policy R2 Housing and employment development elsewhere in the countryside• Policy PR1 Protecting important resources
Additional Points: The applicant proposed the dwellinghouse as being essential to the efficient running of an existing holiday let business. Two properties are present with another two having planning permission but not yet built. Properties require cleaning, maintenance and a presence at check in / check out time. Having considered the justification for the dwellinghouse as set out in the Notice of Review, the LRB recognised the benefit of a worker living on site. However, it also considered the fact the tourism was not a primary industry, and it was not essential that a worker be on site, as evidenced by the current position whereby the business manages to operate. No details of the proposed expansion of the business were put forward. Looking at the second reason for refusal regarding loss of trees, the LRB was satisfied that if granted, the felling and protection of trees and compensatory planting could be secured by way of planning condition(s). Therefore reason 2 of the Appointed Officer's refusal should be removed.
Action: Note Decision

Aberdeenshire Council Local Review Body

Reference LRB 439 APP/2018/2573

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Land Adjacent To Clovenstone Lodge Kintore.
- Application for review by Lippe Architects and Planners, on behalf of their client, WKL Properties, against the decision by an Appointed Officer.
- Application reference APP/2018/2573 for Full Planning Permission for the erection of a dwellinghouse refused by decision notice dated 6 December 2018.
- Application drawings: Location Plan (drawing no: 5432/LOC), Floor plan and elevations (drawing no: 5432/23 revision C), Site Section Plan (drawing no: 5432/24 revision C) and Site Plan (drawing no: 5432/22 revision C).
- No site inspection took place.

Date of Decision: 18 June 2019

Decision

The Local Review Body (LRB) agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision as set out in paragraph 4.0 below.

1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The LRB reviewed the determination of the above application for planning permission at its meeting held on 29 March 2019. The LRB was attended by Councillors F Hood (Chair), P Gibb, P Johnston and I Sutherland.
- 1.3 The LRB was shown projected plans and photographs by the Planning Adviser. These showed the application site and its relationship to the surroundings.

2.0 Proposal

- 2.1 The site at Clovenstone is located between Inverurie and Kintore. The site is within an area of recently planted small deciduous woodland situated immediately west of the existing holiday lodges.
- 2.2 The application was for the erection of a single storey dwelling house. The house was of a contemporary design with a large south facing glazed elevation punctuated with weatherboard style cladding and sections of smooth render which would also be used on the external walls. The house would feature a rear link to a double garage finished in smooth render and fronting the driveway and turning area. Solar panels would be positioned on the roof of the garage. The applicant proposed to connect to the public water infrastructure. Foul and surface water drainage would be channelled to soakaways located in a field to the south east of the site and the existing lodges.
- 2.3 The applicant promoted this development as being required to be close to the existing holiday lets at Clovenstone. The applicant considers it is essential for the efficient running of the business to live on site. There are currently two let properties located to the east of the site and planning permission for a further two units which have not yet been constructed. The properties require cleaning, maintenance, and someone needs to be available at check in/out at all times.
- 2.4 The documents submitted as part of the planning application were:
- Supporting statement
 - Drainage Assessment
- 2.5 The site lies within the defined Aberdeen Housing Market Area (AHMA).

3.0 Reasoning

- 3.1 The main determining issue for the Review was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development within the countryside.
- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ADLP) policies and those were as follows:

Policy R2: Housing and employment development elsewhere in the countryside;

Policy P1: Layout, siting and design;

Policy E1: Natural heritage;

Policy PR1: Protecting important resources;

Policy C1: Using resources in buildings;

Policy RD1: Providing suitable services; and

Policy RD2: Developers' obligations.

- 3.3 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful but agreed they had sufficient information before them to proceed to determine the Notice of Review.
- 3.4 Consideration was given by the LRB to the case set out by the applicant regarding their justification for having a house next to the holiday let business for the operation and sustainable future expansion of that business, as stated within their Notice of Review submissions. In addition, detailed discussions took place regarding the potential for compensatory tree planting.
- 3.5 During discussion, the LRB, having considered the issues raised within the Report of Handling, gave consideration to the definition of primary industry in the countryside. The LRB acknowledged that the applicant had accepted that holiday lets are not a "primary industry" in the countryside. A member of the LRB expressed sympathy for the applicant's position. That was because the business was a significant investment and that to better manage and expand that investment a manager should be on site. However, the majority of the members recognised that the Appointed Officer had correctly identified that tourism was not a named primary industry in accordance with Policy R2 Housing and employment development elsewhere in the countryside. In addition, the majority of the LRB considered that it was not essential to the operation of the business that a worker live on site, as the business was currently managed without a worker living on site. The LRB noted that no further information on the expansion of the business had formed part of the planning application. As such the proposal was not considered to be for an essential worker employed in a primary industry in the countryside and did not comply with Policy R2.
- 3.6 It was acknowledged that a number of trees would be removed on the site to accommodate the proposed dwelling house. The Planning Adviser confirmed that the trees located within what would be the garden area of the proposed house would remain. However, one member of the LRB expressed concern that the trees to be retained within a garden area might be felled at a later date. As part of their submission, the applicant provided a plan that identified a 0.2 hectare area of land that could be used for compensatory planting, although that plan was not available during consideration of the planning application. The Planning Adviser advised that the compensatory planting plan had not been scrutinised by an Aberdeenshire Council Environment Planner. However, the Planning Adviser confirmed that felling of trees, protection of trees and securing compensatory planting could be addressing by appropriately worded planning conditions. As such the LRB was satisfied that reason 2 of the Appointed Officer's refusal should be removed.

3.7 In the circumstances, and in the absence of any other over-riding material considerations, the LRB agreed to dismiss the Notice of Review in part and uphold the Appointed Officer's decision to Refuse Full Planning Permission, for the reason 1 contained in the Decision Notice issued on 6 December 2018.

4.0 Reasons for refusal

- (1) The proposal the proposal is not considered to be for a worker employed in a primary industry, nor is it considered essential to the operation of the business that a worker resides onsite and therefore the proposal cannot be supported under the terms of Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017



A handwritten signature in black ink, appearing to be 'KW'.

Karen Wiles
Head of Legal and Governance

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A (8)

Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.