

Local Review Body Decision Notice
Appeal Reference: LRB 440
Planning Reference: APP/2018/2662
Planning Proposal: Erection of dwellinghouse
Address: Site Adjacent to Drumnicol, Meikle Wartle, Inverurie
Summary of Decision: Following a site inspection and clarification of information for similar planning applications, the LRB agreed to reverse the decision of the Appointed Officer and grant planning permission in principle.
Policy Issues: Policy R2: Housing and employment development elsewhere in the countryside
Additional Points: The applicant proposed the dwellinghouse as an addition to an existing cluster or grouping of houses in the RHMA. The LRB having considered the specifics of the dwellings in the area concluded that the group comprised three houses to the north <u>and</u> nine houses to the south with the application site being an infill between two properties. It was noted that, in the period between refusal of this application and determination by the LRB, another dwellinghouse had been granted which effectively used up the 20% capacity available. However, the LRB recognised that there was capacity at the time the decision was initially made and that the erection of a dwellinghouse on this site would not result in significant detriment to the amenity or character of the group. Further discussion was held on achieving a safe access to the public road and thereafter it was agreed to depart from Policy R2 and grant planning permission in principle subject to conditions as developer obligations had already been settled.
Actions: Note Decision

Aberdeenshire Council Local Review Body

Reference LRB 440 APP/2018/2662

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Site Adjacent To Drumnicol, Meikle Wartle, Inverurie
- Application for review by, Paul Coupar on behalf of the applicant, Mr Michael Redford, against the decision by an Appointed Officer.
- Application reference APP/2018/2662 for Planning Permission in Principle for the erection of a dwellinghouse refused by decision notice dated November 2018.
- Application drawings: Site Layout Plan 101 A
- An unaccompanied site inspection took place on the 23rd May 2019.

Date of Decision: 4 July 2019

Decision

The Local Review Body (LRB) agrees to reverse the decision of the Appointed Officer and grant Planning Permission in Principle subject to conditions 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. The Planning Adviser summarised the report of handling, case for the applicant and the consultation and representation received as part of the application.
- 1.4 The LRB gave consideration as to whether a site inspection, a hearing or further information would be helpful. The LRB decided that the nature

of the points raised by the applicant and the particular merits of viewing the application site in the context of the group of houses meant that by virtue of Regulation 13 the LRB required to defer consideration of the Review to allow for further procedure, in the form of:

- (1) An unaccompanied site inspection to the application site surrounding area;
- (2) Feedback from the Planning Service on the points raised in the applicant's supporting statement; and
- (3) To request that the Planning Service confirm the maximum number of houses which could be added to the cluster within the current planning period.

1.5 A site inspection and further meeting took place on the 23 May 2019. The LRB was attended by Councillors F Hood (Chair), P Gibb, P Johnston and I Sutherland. The LRB noted that all of the information requested had been circulated. After further clarification the LRB agreed that they now had sufficient information to resume consideration of the Notice of Review.

2.0 Proposal

2.1 The application is for Planning Permission in Principle for the erection of a single dwellinghouse on a site adjacent to, and south of, the property of Drumnicol which lies on the east side of the B9001 around 1km to the west of Meikle Wartle. A number of houses are located along the B9001 within the vicinity of the site. The dwellinghouse, Drumnicol, and a workshop, both in the ownership of the applicant, are located directly to the north of the site; scrub woodland is located to the east and Dahmar Cottage to the south. A further property Roslyn lies to the north of Drumnicol. Further built development lies along the B9001 with a cluster of 9 dwellings lying roughly 100m south of Dahmar Cottage across a field. These houses straddle the B9001 on both sides.

2.2 As the application is in principle only an indicative location for the house has been provided. This is to the rear of the plot of land with access being taken by way of the existing private access for Drumnicol and the workshop onto the B9001. It is proposed to connect the house to the public water supply and foul water drainage would be via a septic tank with discharge to land via a soakaway.

2.4 The site lies within the Rural Housing Market Area.

2.4 The documents submitted as part of the planning application were:

- Supporting statement

- Drainage details including drainage assessment

3.0 Reasoning

- 3.1 The Local Review Body agreed that the main determining issue for the Notice of Review as presented before them was whether the principle of a house in this location could be considered to comply with any of the policy criteria set out under Policy R2: Housing and employment development elsewhere in the countryside in relation to whether the site could be considered to form an appropriate addition to a group of more than five houses.
- 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;
P4: Hazardous and potentially polluting developments and contaminated land
Policy C1: Using resources in buildings;
Policy C4: Flooding
Policy RD1: Providing suitable services; and
Policy RD2: Developers' obligations.
- 3.3 The LRB acknowledged the Planning Service response for additional information in relation to the planning history for other similar planning applications which had been considered acceptable additions to a cohesive group. The LRB noted the Planning Service's view that each application must be determined on its merits. The LRB also considered the wording of Policy R2: Housing and employment development elsewhere in the countryside which states that there should be no more than an additional 20% growth of a cluster (up to a maximum of 2 homes) during the Plan period. This 20% growth had been taken up by the grant of Planning Permission in Principle for two dwellinghouse in the current planning period 2017-2022.
- 3.4 The LRB noted that the applicant had submitted a comprehensive response to the Planning Service response further outlining their view that the proposal complies with a number of the terms of Policy R2. The LRB noted that one of the permissions granted within this Plan period (APP/2018/3060) had been issued following submission of the Notice of Review to the Planning Authority.
- 3.5 The LRB asked the Planning Adviser a number of questions relating to the Appointed Officer's determination of application APP/2018/3060. The Planning Adviser confirmed that the Officer had not taken into consideration the applicant's Notice of Review as their decision was based on the grouping of houses to the south and therefore had not taken cognisance of the three houses to the north, as these houses had

not been considered as part of the group. As such, it would be for the LRB to determine whether the planning history and timing of the approvals were a material consideration in determining this Review.

- 3.7 The LRB considered that the site visit had been extremely useful and had allowed the LRB to understand the nature of the application site and the relationship between the houses in the area. The LRB considered that, although the site would not meet any of the other criteria permitting a house under Policy R2, in their view the three houses to the north and the nine existing houses to south form a single group of houses for the purposes of Policy R2. As such the LRB considered a dwelling on the site could be considered a suitable addition to the group as the site was effectively infill between two existing properties and followed the established pattern of development.
- 3.4 The LRB recognised that due to the planning history the proposal could not technically be permitted under Policy R2 as the capacity had been used up since submission of the Notice of Review. The Planning Adviser stated that if minded to approve the application the LRB decision would constitute a departure from that Policy. Members considered that given there was capacity under the Policy at the time of the Appointed Officer's decision that this was a material consideration.
- 3.5 After taking further advice from the Planning Adviser the LRB considered that it was unreasonable to dismiss the Notice of Review. This decision was based on the grounds that the proposal would have, in the opinion of the LRB, complied with Policy R2 at the time of the original decision by the Appointed Officer and, the Planning Service had approved the addition to a group for a site to the south which had taken up the remaining 20% growth of a cluster while the Notice of Review was pending consideration. Furthermore, the LRB considered the provision of a single additional dwelling beyond the 2 units permitted for the group would not, in this case, have any significant detriment to the amenity or character of the group.
- 3.6 With respect to the access and servicing of the proposal the LRB gave consideration to the fact that the existing access was directly onto a fast stretch of a busy B road. Given the intensification of use of the access, the LRB considered it would be preferable for conditions to be applied to the permission seeking additional improvements to the access to the public road which should include 20 metres of hand standing tarmac to the edge of the carriageway and an entry/exit capable of accommodating two vehicles entering or exiting the site simultaneously. In all other respects the LRB considered the development acceptable subject to the payment of the required planning obligations towards education and standard conditions.
- 3.7 After due consideration, the Local Review Body agreed, to reverse the determination reviewed by it and GRANT Planning Permission in Principle as a Departure from policy R2: Housing and employment

elsewhere in the countryside for the reasons set out above and subject to standard planning conditions and conditions to address the concerns raised over road access. The required payment for planning obligations was received on 27 June 2019.

4.0 Conditions

- (1) Details of the specified matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No development shall begin on the site unless all of the details listed in this condition have been submitted to and approved in writing by the planning authority. The development shall be carried out in complete accordance with the details approved in relation to this condition.

Specified matters:

- (a) Full details of the layout and siting of the proposed development;
- (b) Full details of the external appearance and finishing materials of the proposed development;
- (c) Full details of all existing and proposed landscape features, including trees to be retained and planted; finished ground and floor levels relative to existing ground levels and a fixed datum point;
- (d) Full details of the proposed means of disposal of foul and surface water from the development;
- (f) Full details of the proposed means of access to the development, including the required visibility splays include provision of access from the public road which is sufficient width to allow two cars to utilise the access at the same time ;
- (g) Full details of the proposed car parking/vehicle turning area for the development;

Reason: Permission for the development has been granted in principle only and subsequent approval is required for these matters in accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

- (2) The dwellinghouse hereby approved shall not 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.

(3) The development shall be served in accordance with the details approved under Condition 1 (f) and shall include the following details, which once provided shall be retained in perpetuity:

- (a) Prior to commencement of development, Visibility Splays, measuring and 2.4m by 215m shall be formed on the south side of the junction of the vehicular access with the public road. The visibility splays so formed shall thereafter be kept free of all permanent obstructions above adjacent carriageway level.
- (b) Prior to occupancy of development the first 20m of the access from the edge of the public road shall be fully paved
- (c) Prior to occupancy of development, parking spaces, surfaced in hard standing materials must be provided within the site in accordance with the Council's Car Parking Standards.
- (d) Prior to occupancy of development a suitable vehicle turning area, measuring not less than 7.6m x 7.6m, must be formed within the site to enable all vehicle movements onto or from the public road to be carried out in a forward gear.
- (e) Prior to the occupancy of development the existing access shall be improved as required to be sufficiently wide to allow for two cars to access and egress the site at the same time.

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.

(4) 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.

- (5) The dwellinghouse hereby approved shall not be occupied unless the foul and surface water drainage systems have been provided in accordance with the details submitted and approved under Condition 1 (d) of this permission. The foul and 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.

Informatives

- (1) Application for approval of all matters specified in conditions to a grant of Planning Permission in Principle must be made before whichever is the latest of the following dates:
- (a) The expiration of three years beginning with the date of the planning permission in principle; or,
 - (b) The expiration of 6 months from the date on which an earlier application (Matters Specified in Condition) for the requisite approval was refused or dismissed following an appeal or review.

In relation to any matter under part (b) above, only one application for approval of matters specified in conditions may be made after the expiration of the planning permission in principle.

The development hereby granted shall be begun before the expiration of two years from the final approval of the matters specified in conditions or, in the case of approval on different dates, the final approval of the last such matters to be approved.

- (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 the development. Failure to do so is a breach of planning control and 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)]. Such notification shall contain the information set out in the 'Notification of Initiation of Development' Notice as appended.
- (3) Notice of the completion of the development: As soon as possible after the development is finished, the person who completed the development must write to the planning authority to confirm that the development has been completed. [See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)]. Such notification shall contain the information set out in the 'Notification of Completion of Development' Notice as appended.
- (4) Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency

(SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter.

- (5) This planning permission has been granted on the basis that the proposed development will be connected to the public water supply. Should the developer wish to connect to a private water supply a fresh planning application would be required for the development to allow the planning authority to consider the implications of using a private water supply to service the development.
- (6) Adequate provision shall be made for internal surface water drainage to ensure that surface water does not run from the site onto the public road or vice versa.
- (7) Adequate precautions shall be taken to protect any Statutory Undertaker's plant which may be affected by the works/development.
- (8) An application for a Road Excavation Permit must be submitted to Infrastructure Services, Area Roads Office at least 15 days prior to the commencement of any excavation works within the boundaries of the public road. Applicants should note that failure to obtain a Permit is an offence in terms of s56 of the Roads (Scotland) Act 1984. Note: The Public Road may incorporate - Carriageway, Verge, Cycleway/ Footway and Visibility Envelopes.

Further details and application forms may be obtained by emailing the relevant Area Roads Office (see below) or on the council's website (<http://www.aberdeenshire.gov.uk/roads-and-travel/roads/residential-streets/application-forms/>):

Banff & Buchan - banffandbuchan.roads@aberdeenshire.gov.uk
Buchan - buchan.roads@aberdeenshire.gov.uk
Formartine - formartine.roads@aberdeenshire.gov.uk
Garioch - garioch.roads@aberdeenshire.gov.uk
Kincardine & Mearns -
kincardineandmearns.roads@aberdeenshire.gov.uk
Marr - marr.roads@aberdeenshire.gov.uk



Karen Wiles
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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.