

APPEAL DECISION (LRB)
Appeal Reference
LRB 462 APP/2018/2880
Planning Reference
APP/2018/2880
Planning Proposal
Full Planning Permission for Erection of Dwellinghouse at Loch Meaup, Moss of Rothmaise, Meikle Wartle, Inverurie
Summary of Decision
<p>The Local Review Body (LRB) partially agrees with the determination reviewed by it and refuses Full Planning Permission in accordance with the Appointed Officer's decision.</p> <p>The main determining issue for the review was the principle of development, layout, siting and design and technical matters.</p> <p>The LRB agreed that the relevant criteria of Policy R2 does not allow for new dwellinghouses such as this when they are not connected to an appropriate primary industry.</p> <p>The LRB agreed the proposed house design was suburban in nature and failed to comply with Policy P1.</p> <p>The LRB noted that other technical matters regarding impact upon woodland, prime agricultural land and roads concerns were potentially capable of being resolved, however in the absence of evidence the reasons for refusal against Policies PR1 and RD1 remained valid.</p> <p>Overall, the LRB concluded that the proposal failed to comply with the relevant policies and partially upheld the decision thereby reusing Full Planning Permission.</p>
Policy Issues
None
Additional Points
N/A

Actions

None

Note Decision

Refuse Full Planning Permission

Aberdeenshire Council Local Review Body

Reference LRB462 APP/2018/2880

Review Decision Notice

Decision by Aberdeenshire Council Local Review Body (LRB)

- Site address: Loch Meaup, Moss of Rothmaise, Meikle Wartle, Inverurie, Aberdeenshire, AB51 5DE
- Application for review by Mr Douglas Bolton against the decision by an Appointed Officer.
- Application reference APP/2018/2880 for Full Planning Permission (FPP) for the erection of a dwellinghouse refused by decision notice dated 28 May 2019.
- Application drawings: Location Plan @ 1/10000, Site Plan @ 1/200, Sections and Elevations (including floor plan) @ 1/100, 1/200 and 1/250, Existing Location @ 1/2500, Existing Site Layout @ 1/200.
- No site inspection took place

Date of Decision: 26 September 2019

Decision

The Local Review Body (LRB) partially agrees with the determination reviewed by it and refuses Full Planning Permission for the reasons 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 30 August 2019. The LRB was attended by Councillors F C P Hood (Chair), R Cassie, P Gibb, I Sutherland and J Hutchison.
- 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.

- 1.4 The LRB agreed that there was sufficient information before it to consider the application and that no further information was required.

2.0 Proposal

- 2.1 Full Planning Permission is sought for erection of dwellinghouse on Land to South of the A920 between Colpy and Wartle.

- 2.2 The site is currently kept grassland with a loose agricultural or recreational use, under the same ownership as nearby private recreational fishing ponds. The site is elongated in shape, in a N-S orientation along its length stretching alongside the public road to the east. The site is also bounded to the west by mature trees, to the south by agricultural land and to the north by part of the recreational fishing site.

- 2.3 The application site is to be accessed from the unclassified public road which serves a small number of properties along its length between the A920 and the western edge of the settlement of North Rayne. The proposed access is in use, serving the private fishery. A public water supply would be utilised on site while drainage is to be addressed through foul and surface water soakaway systems.

- 2.4 The proposed dwellinghouse would be single storey in scale, with an attached garage and of symmetrical design with feature gable and bay windows. This would be finished in render and slate. The house would be orientated at a NE-SW angle on the site.

- 2.5 The adjacent private recreational fishing ponds were approved in 2012 (APP/2012/2920) while an agricultural building was approved across the public road in 2017 (APP/2017/1479). In addition to these, an application to change the use of the wider recreational site to residential was refused in 2016 (APP/2015/3123) and a further application to change the use of the wider site to a commercial enterprise was submitted but then withdrawn in 2019 (APP/2018/2772). The wider site therefore remains under private, recreational use

- 2.6 The site lies within the defined Rural Housing Market Area (RHMA).

3 Reasoning

- 3.1 The main determining issue in this Review was whether the proposal was in accordance with the policy criteria that would normally apply to the erection of new development in the countryside which in this case is the RHMA.

- 3.2 The LRB agreed that the Appointed Officer had identified the relevant Aberdeenshire Local Development Plan 2017 (ADLP) policies and these were as follows:

Policy R2: Housing and employment development in the countryside;

Policy P1: Layout, Siting and Design;

Policy PR1: Protecting Important Resources

Policy RD1: Providing suitable services; and

Policy RD2: Developer's obligations.

- 3.3 The LRB agreed that given the location of the site outwith the Green Belt and Coastal Zone, that Policy R1 as referenced in the Report of Handling and Decision was not relevant in this case. It was agreed that Policy R2 covered the principles of development in the countryside in this instance.
- 3.4 The LRB gave consideration as to whether a site inspection, hearing session or further information would be helpful but agreed that this was unnecessary considering the well-defined issues that had been presented in the Notice of Review paperwork, coupled with the Planning Adviser's presentation and series of photographs of the site and surrounding area.
- 3.5 Clarification was sought from members of the LRB regarding the nature of the wider site, with confirmation provided by the Planning Adviser that this was under recreational or private use and thus did not represent an existing business. Confirmation was also sought as to whether a fishing business would represent an appropriate primary industry – the Planning Adviser highlighted the pre application advice offered by the Planning Service which suggested in this instance that a fishing enterprise was not a primary industry and would not provide sufficient justification for a new dwellinghouse. Acknowledgement was however made of the fact that should a business be in operation, that this would require to be a consideration alongside any assessment of the need for a new dwellinghouse.
- 3.6 During discussion, some members of the LRB expressed sympathy for allowing opportunities for this type of development in the rural areas. However, the LRB agreed that the relevant criteria of Policy R2 does not allow for new dwellinghouses such as this when they are not connected to an appropriate primary industry.
- 3.7 It is stated in the Notice of Review submissions that the dwellinghouse would represent development in connection with agriculture, horticulture, recreation and nature conservation. The LRB did not agree as the proposal is for the erection of a dwellinghouse which is of a residential use. The LRB agreed that none of the relevant criterion in Policy R2 had been met.
- 3.8 Further justification had been offered within the Notice of Review submission concerning the potential impact upon woodland, prime

agricultural land and roads or access arrangements with regard to non-compliance with Policies PR1 and RD1. The LRB however agreed that in the absence of formal surveys supporting these aspects that the proposal could not at this time be accepted as complying with these policies. It was noted that these matters were potentially capable of resolution, but in the absence of evidence of such resolution these reasons for refusal remained valid.

- 3.9 It was also added that Members were in agreement that the proposed house design was of a suburban nature, as per the Appointed Officer's assessment. As such there was a failure to comply with Policy P1.
- 3.10 The LRB were of the view that it was clear from the Applicant's agent's submissions and the assessment contained in the Appointed Officer's Report of Handling that the principle of the development could not be supported as it failed to comply with the qualifying criteria specified in Policy R2 of the ALDP 2017. Furthermore, there was agreement (subject to the removal to the reference to Policy R1) that the proposal did not comply with Policies P1, PR1 or RD1.
- 3.11 In conclusion, and in the absence of any over-riding 'other material considerations', the LRB resolved to partially uphold the decision issued by the Appointed Officer thereby refusing Full Planning Permission for the reasons set out below.

4.0 Reasons for refusal

01. The proposal fails to meet any of the criteria for a new residential dwelling in the countryside and therefore fails to comply with Policy R2 Housing and Employment Development Elsewhere in the Countryside of the Aberdeenshire Local Development Plan 2017.
02. The applicant has failed to demonstrate that the proposed development would not result in the detrimental loss of a valuable woodland and there are no economic or social benefits which would outweigh this, contrary to Policy PR1 Protecting important resources of the Aberdeenshire Local Development Plan 2017.
03. The applicant has failed to demonstrate that the proposed development would not result in the loss of prime agricultural land and there are no economic or social benefits which would outweigh this, contrary to Policy PR1 Protecting important resources of the Aberdeenshire Local Development Plan 2017.
04. The proposed development would have an adverse visual impact on the rural character of the area due to its design, and therefore does not accord with Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan 2017

05. The proposal fails to demonstrate that it can be accessed in a safe manner and therefore fails to comply with Policy RD1 Providing suitable services of the Aberdeenshire Local Development Plan 2017.



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.